

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

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SENATE BILL 1399
House Committee Substitute Favorable 6/29/10

Short Title: Zoning/Durham County Protest Petitions.

(Local)

Sponsors:

Referred to:

May 26, 2010

A BILL TO BE ENTITLED

AN ACT TO AMEND THE PROTEST PETITION REQUIREMENT FOR DURHAM COUNTY.

The General Assembly of North Carolina enacts:

SECTION 1. Sections 1(a) and (b) of S.L. 2003-83 reads as rewritten:

"SECTION 1.(a) Zoning regulations and restrictions and zone boundaries may from time to time be amended, supplemented, changed, modified, or repealed. In case, however, of a qualified protest against such change, signed by the owners of twenty percent (20%) or more of the area either of the lots included in a proposed change or of those immediately adjacent thereto either in the rear thereof or on either side thereof, extending 100 feet therefrom, or of those directly opposite thereto extending 100 feet from the street frontage of the opposite lots, an amendment shall not become effective except by favorable vote of three fourths of all members of the board of commissioners. The foregoing provisions concerning protests shall not be applicable to any amendment which initially zones property added to the territorial coverage of the ordinance. They also shall not apply to an amendment to an adopted special use district or conditional use district if the amendment does not: (i) change the types of uses that are permitted within the district or increase the approved density for residential development, (ii) increase the total approved size of nonresidential development, or (iii) reduce the size of any buffers or screening approved for the special use or conditional use district. a zoning map amendment, that amendment shall not become effective except by favorable vote of three-fourths of all the members of the Board of County Commissioners. For the purposes of this subsection, vacant positions on the board and members who are excused from voting shall not be considered "members of the board" for calculation of the requisite supermajority.

To qualify as a protest under this section, the petition must be signed by the owners of either (i) twenty percent (20%) or more of the area included in the proposed change or (ii) five percent (5%) of a 100-foot-wide buffer extending along the entire boundary of each discrete or separate area proposed to be rezoned. A street right-of-way shall not be considered in computing the 100-foot-wide buffer area as long as that street right-of-way is 100 feet wide or less. When less than an entire parcel of land is subject to the proposed zoning map amendment, the 100-foot-wide buffer shall be measured from the property line of that parcel. In the absence of evidence to the contrary, the county may rely on the county tax listing to determine the "owners" of potentially qualifying areas.

The foregoing provisions concerning protests shall not be applicable to an amendment to an adopted (i) special use district, (ii) conditional use district, or (iii) conditional district if the amendment does not change the types of uses that are permitted within the district or increase the approved density for residential development, or increase the total approved size of



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1 nonresidential development, or reduce the size of any buffers, or screening approved for the
2 special use district, conditional use district, or conditional district.

3 ~~"SECTION 1.(b) Protest petitions must be received by the Clerk to the Board of~~
4 ~~Commissioners in sufficient time to allow the county at least four normal work days, excluding~~
5 ~~Saturdays, Sundays, and legal holidays, before the date established for a public hearing on the~~
6 ~~proposed charge or amendment to determine the sufficiency and accuracy of the petition. No~~
7 ~~protest against any change in or amendment to a zoning ordinance or zoning map shall be valid~~
8 ~~or effective unless it be in the form of a written petition actually bearing the signatures of the~~
9 ~~requisite number of property owners and stating that the signers do protest the proposed change~~
10 ~~or amendment, and unless it shall have been received by the Clerk to the Board of~~
11 ~~Commissioners in sufficient time to allow the county at least four normal workdays, excluding~~
12 ~~Saturdays, Sundays, and legal holidays, before the date established for a public hearing on the~~
13 ~~proposed change or amendment to determine the sufficiency and accuracy of the petition. The~~
14 ~~Board of County Commissioners may by ordinance require that all protest petitions be on a~~
15 ~~form prescribed and furnished by the county, and such form may prescribe any reasonable~~
16 ~~information deemed necessary to permit the county to determine the sufficiency and accuracy~~
17 ~~of the petition. A person who has signed a protest petition may withdraw his or her name from~~
18 ~~the petition at any time prior to the vote on the proposed zoning amendment. Only those~~
19 ~~protest petitions that meet the qualifying standards set forth above at the time of the vote on the~~
20 ~~zoning amendment shall trigger the supermajority voting requirement."~~

21 **SECTION 2.** This act applies to the County of Durham only.

22 **SECTION 3.** This act is effective when it becomes law.