

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2017

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SENATE BILL 434

Agriculture/Environment/Natural Resources Committee Substitute Adopted 4/21/17

Short Title: Amend Environmental Laws 2.

(Public)

Sponsors:

Referred to:

March 29, 2017

1 A BILL TO BE ENTITLED  
2 AN ACT TO AMEND CERTAIN ENVIRONMENTAL AND NATURAL RESOURCES  
3 LAWS.

4 The General Assembly of North Carolina enacts:

5  
6 **REPEAL YARD WASTE PERMITTING REQUIREMENTS**

7 **SECTION 1.(a)** G.S. 130A-290(a) reads as rewritten:

8 **"§ 130A-290. Definitions.**

9 (a) Unless a different meaning is required by the context, the following definitions shall  
10 apply throughout this Article:

11 ...

12 (45) "Yard trash" means solid waste ~~consisting solely of vegetative matter~~  
13 resulting from landscaping ~~maintenance~~ and yard maintenance, including  
14 brush, grass, tree limbs, and similar vegetative material.

15 (46) "Yard waste" means yard trash and land-clearing debris, including stumps,  
16 limbs, leaves, grass, and untreated wood."

17 **SECTION 1.(b)** G.S. 130A-294 is amended by adding a new subsection to read:

18 "(v) Yard waste diverted from the waste stream or collected as source separated material  
19 is not subject to a solid waste permit for transfer, treatment, processing, storage, or disposal in a  
20 permitted solid waste management facility. Operators of facilities where yard waste is subject  
21 to transfer, treatment, processing, storage, or disposal shall, however, comply with all other  
22 federal, State, or local laws, ordinances, rules, regulations, or orders, including zoning, flood  
23 plain, and wetland restrictions, sedimentation and erosion control requirements, and mining  
24 regulations. Nothing in this subsection shall be construed as limiting the authority of any local  
25 government to manage the transfer, treatment, processing, storage, or disposal of yard waste."

26 **SECTION 1.(c)** This section becomes effective July 1, 2017, and applies to the  
27 transfer, treatment, processing, storage, or disposal of yard waste occurring on or after that  
28 date.

29  
30 **REPEAL PLASTIC BAG BAN**

31 **SECTION 1.1.(a)** Part 2G of Article 9 of Chapter 130A of the General Statutes is  
32 repealed.

33 **SECTION 1.1.(b)** G.S. 130A-22(a) reads as rewritten:

34 "(a) The Secretary of Environmental Quality may impose an administrative penalty on a  
35 person who violates Article 9 of this Chapter, rules adopted by the Commission pursuant to  
36 Article 9, or any term or condition of a permit or order issued under Article 9. Each day of a



1 continuing violation shall constitute a separate violation. The penalty shall not exceed fifteen  
 2 thousand dollars (\$15,000) per day in the case of a violation involving nonhazardous waste.  
 3 The penalty shall not exceed thirty-two thousand five hundred dollars (\$32,500) per day in the  
 4 case of a first violation involving hazardous waste as defined in G.S. 130A-290 or involving  
 5 the disposal of medical waste as defined in G.S. 130A-290 in or upon water in a manner that  
 6 results in medical waste entering waters or lands of the State; and shall not exceed fifty  
 7 thousand dollars (\$50,000) per day for a second or further violation involving the disposal of  
 8 medical waste as defined in G.S. 130A-290 in or upon water in a manner that results in medical  
 9 waste entering waters or lands of the State. The penalty shall not exceed thirty-two thousand  
 10 five hundred dollars (\$32,500) per day for a violation involving a voluntary remedial action  
 11 implemented pursuant to G.S. 130A-310.9(c) or a violation of the rules adopted pursuant to  
 12 G.S. 130A-310.12(b). ~~The penalty shall not exceed one hundred dollars (\$100.00) for a first~~  
 13 ~~violation; two hundred dollars (\$200.00) for a second violation within any 12-month period;~~  
 14 ~~and five hundred dollars (\$500.00) for each additional violation within any 12-month period for~~  
 15 ~~any violation of Part 2G of Article 9 of this Chapter.~~ For violations of Part 7 of Article 9 of this  
 16 Chapter and G.S. 130A-309.10(m): (i) a warning shall be issued for a first violation; (ii) the  
 17 penalty shall not exceed two hundred dollars (\$200.00) for a second violation; and (iii) the  
 18 penalty shall not exceed five hundred dollars (\$500.00) for subsequent violations. If a person  
 19 fails to pay a civil penalty within 60 days after the final agency decision or court order has been  
 20 served on the violator, the Secretary of Environmental Quality shall request the Attorney  
 21 General to institute a civil action in the superior court of any county in which the violator  
 22 resides or has his or its principal place of business to recover the amount of the assessment.  
 23 Such civil actions must be filed within three years of the date the final agency decision or court  
 24 order was served on the violator."

25 **SECTION 1.1.(c)** Section 13.10(c) of S.L. 2010-31 is repealed.

26 **SECTION 1.1.(d)** This section becomes effective July 1, 2017.

## 27

### 28 LOCAL GOVERNMENT RIPARIAN BUFFER UNIFORMITY

29 **SECTION 2.(a)** The General Assembly finds the following:

- 30 (1) The State has declared certain water bodies to be nutrient-sensitive due to  
 31 the high levels of nitrogen, phosphorus, sediment, or any combination of  
 32 those pollutants.
- 33 (2) As a means for reducing the amount of nitrogen, phosphorous, and sediment  
 34 that enters these nutrient-sensitive surface waters, the State has initiated a  
 35 program to maintain existing riparian buffers that is a part of a complete and  
 36 integrated regulatory scheme for the protection and improvement of water  
 37 quality that may be delegated for enforcement to qualifying units of local  
 38 government.
- 39 (3) When the enforcement of the buffer program is delegated to qualifying units  
 40 of local government, those units of local government should apply riparian  
 41 buffer standards that do not exceed established State or federal standards in  
 42 order to assure uniformity of regulation throughout the State.

43 **SECTION 2.(b)** G.S. 143-214.23A reads as rewritten:

44 **"§ 143-214.23A. Limitations on local government riparian buffer requirements.**

45 (a) As used in this section:

- 46 (1) "Local government ~~ordinance~~"-action" means any action by a local  
 47 government carrying the effect of law approved before or after October 1,  
 48 2015, whether by ~~ordinance~~, ordinance, including, but not limited to, zoning,  
 49 subdivision control, flood control, or water supply watershed protection  
 50 ordinances, comprehensive plan, policy, resolution, condition of approval

1 imposed on an applicant for approval of a development plan, or special or  
2 conditional permit, or other measure.

3 (2) "Protection of water quality" means nutrient removal, pollutant removal,  
4 stream bank protection, or protection of an endangered species as required  
5 by federal law.

6 (3) "Riparian buffer area" means an area subject to a riparian buffer  
7 requirement.

8 (4) "Riparian buffer requirement" means a landward setback from surface  
9 ~~waters.~~ water bodies or any other hydrologic bodies to which a riparian  
10 buffer may be applied.

11 (a1) The provisions of this section apply to all enacted or proposed local government  
12 actions that include or impose riparian buffer requirements violating subsection (b) of this  
13 section, even if the local government action has been approved by the Commission, the  
14 Department, or other State agency.

15 (b) Except as provided in this section, a local government may not enact, implement, or  
16 enforce a local government ~~ordinance action or apply for or renew a permit issued by any State~~  
17 ~~or federal agency that requires a local government action that establishes a riparian buffer~~  
18 ~~requirement that exceeds riparian buffer requirements necessary to comply with or implement~~  
19 ~~federal or State law or a condition of a permit, certificate, or other approval issued by a federal~~  
20 ~~or State agency.~~ riparian buffer requirements directly imposed by State or federal law. This  
21 subsection shall not apply to a permit required by a federal agency as a condition of federal  
22 funding or of federal approval for a project initiated prior to the effective date of this section.

23 (c) Subsection (b) of this section shall not apply to any local government ~~ordinance~~  
24 ~~action~~ that establishes a riparian buffer requirement enacted prior to August 1, 1997, if (i) the  
25 ~~ordinance action~~ included findings that the requirement was imposed for purposes that include  
26 the protection of aesthetics, fish and wildlife habitat, and recreational use by maintaining water  
27 temperature, healthy tree canopy and understory, and the protection of the natural shoreline  
28 through minimization of erosion and potential chemical pollution in addition to the protection  
29 of water quality and the prevention of excess nutrient runoff, and (ii) the ~~ordinance action~~  
30 would permit small or temporary structures within 50 feet of the water body and docks and  
31 piers within and along the edge of the water body under certain circumstances.

32 (d) ~~A local government may request from the Commission the authority to enact,~~  
33 ~~implement, and enforce a local government ordinance that establishes a riparian buffer~~  
34 ~~requirement for the protection of water quality that exceeds riparian buffer requirements for the~~  
35 ~~protection of water quality necessary to comply with or implement federal or State law or a~~  
36 ~~condition of a permit, certificate, or other approval issued by a federal or State agency. To do~~  
37 ~~so, a local government shall submit to the Commission an application requesting this authority~~  
38 ~~that includes the local government ordinance, including the riparian buffer requirement for the~~  
39 ~~protection of water quality, scientific studies of the local environmental and physical conditions~~  
40 ~~that support the necessity of the riparian buffer requirement for the protection of water quality,~~  
41 ~~and any other information requested by the Commission. Within 90 days after the Commission~~  
42 ~~receives a complete application, the Commission shall review the application and notify the~~  
43 ~~local government whether the application has been approved, approved with modifications, or~~  
44 ~~disapproved. The Commission shall not approve a local government ordinance that establishes~~  
45 ~~a riparian buffer requirement for the protection of water quality unless the Commission finds~~  
46 ~~that the scientific evidence presented by the local government supports the necessity of the~~  
47 ~~riparian buffer requirement for the protection of water quality.~~

48 (d1) Local government actions violating subsection (b) of this section that are required  
49 by a permit issued by a State or federal agency, including, but not limited to, an NPDES or a  
50 permit condition imposed to meet a TMDL, shall remain in place and may be enforced until the  
51 permit upon which they are based expires. Upon the expiration of the permit that is the basis for

1 an existing local government action violating subsection (b) of this section, the existing local  
2 government action shall be unenforceable.

3 ...."

4 **SECTION 2.(c)** This section is effective when this act becomes law.

5  
6 **AMEND THE RULE FOR PROTECTION OF EXISTING BUFFERS TO EXEMPT**  
7 **CERTAIN APPLICABILITY REQUIREMENTS FOR PUBLIC SAFETY**

8 **SECTION 2.1.(a)** Definitions. – "Protection of Existing Buffers Rule" means 15A  
9 NCAC 02B .0267 (Jordan Water Supply Nutrient Strategy: Protection of Existing Riparian  
10 Buffers) for purposes of this section and its implementation.

11 **SECTION 2.1.(b)** Protection of Existing Buffers Rule. – Until the effective date of  
12 the revised permanent rule that the Environmental Management Commission is required to  
13 adopt pursuant to subsection (d) of this section, the Commission and the Department of  
14 Environmental Quality shall implement the Protection of Existing Buffers Rule, as provided in  
15 subsection (c) of this section.

16 **SECTION 2.1.(c)** Implementation. – The Commission shall exempt from the  
17 applicability requirements of the Protection of Existing Buffers Rule any publicly owned  
18 spaces where it has been determined by the head of the local law enforcement agency with  
19 jurisdiction over that area that the buffers pose a risk to public safety.

20 **SECTION 2.1.(d)** Additional Rule-Making Authority. – The Commission shall  
21 adopt a rule to amend the Protection of Existing Buffers Rule consistent with subsection (c) of  
22 this section. Notwithstanding G.S. 150B-19(4), the rule adopted by the Commission, pursuant  
23 to this section, shall be substantively identical to the provisions of subsection (c) of this section.  
24 Rules adopted pursuant to this section are not subject to Part 3 of Article 2A of Chapter 150B  
25 of the General Statutes. Rules adopted pursuant to this section shall become effective as  
26 provided in G.S. 150B-21.3(b1) as though 10 or more written objections had been received as  
27 provided by G.S. 150B-21.3(b2).

28 **SECTION 2.1.(e)** Sunset. – This section expires when permanent rules adopted as  
29 required by subsection (d) of this section become effective.

30  
31 **SHELLFISH ENTERPRISE AREAS**

32 **SECTION 3.(a)** G.S. 113-201 is amended by adding a new subsection to read:

33 "(d) The Marine Fisheries Commission may adopt rules to establish Shellfish  
34 Aquaculture Enterprise Areas to facilitate shellfish aquaculture opportunities through advanced  
35 siting and preapprovals from relevant federal and State agencies. The Secretary shall only issue  
36 nontransferrable leases within designated Shellfish Aquaculture Enterprise Areas. Any leased  
37 parcel within a Shellfish Aquaculture Enterprise Area that is relinquished or terminated shall  
38 revert to the State and be made available to other applicants."

39 **SECTION 3.(b)** G.S. 113-201.1 is amended by adding a new subdivision to read:

40 "(3a) "Shellfish Aquaculture Enterprise Area" means an area designated and  
41 permitted by the Department that is subdivided into parcels and made  
42 available for shellfish aquaculture leasing."

43  
44 **MARINE FISHERIES CLARIFYING CHANGES**

45 **SECTION 4.(a)** G.S. 113-203 reads as rewritten:

46 **"§ 113-203. Transplanting of oysters and clams.**

47 ...

48 (a2) It is unlawful to do any of the following:

- 49 (1) Transplant oysters or clams taken from public grounds to private beds except  
50 when lawfully taken during open season and transported directly to a private  
51 bed in accordance with rules of the Marine Fisheries Commission.

1 (2) Transplant oysters or clams taken from permitted aquaculture operations to  
2 private beds except from waters in the approved classification.  
3 (3) Transplant oysters or clams from public grounds or permitted aquaculture  
4 operations utilizing waters in the prohibited, restricted or conditionally  
5 approved classification to private beds except when the transplanting is done  
6 in accordance with the provisions of this section and implementing rules.

7 (a3) ~~It~~ Unless the Secretary determines that the nursery of shellfish in an area will  
8 present a risk to public health, it is lawful to transplant seed oysters or seed clams taken from  
9 permitted aquaculture operations that use waters in the prohibited, restricted or conditionally  
10 approved classification to private beds pursuant to an Aquaculture Seed Transplant Permit  
11 issued by the Secretary that sets times during which transplant is permissible and other  
12 reasonable restrictions imposed by the Secretary under either of the following circumstances:

- 13 (1) When transplanting seed clams less than 12 millimeters in their largest  
14 dimension.  
15 (2) When transplanting seed oysters less than 25 millimeters in their largest  
16 dimension.

17 ...."

18 **SECTION 4.(b)** G.S. 113-168.4(b) reads as rewritten:

19 "(b) Except as otherwise provided in this section, it is unlawful for any person licensed  
20 under this Article to sell fish taken outside the territorial waters of the State or to sell fish taken  
21 from coastal fishing waters. A person licensed under this Article may sell fish taken outside the  
22 territorial waters of the State or sell fish taken from coastal fishing waters under any of the  
23 following circumstances:

- 24 (1) The sale is to a fish dealer licensed under G.S. 113-169.3.  
25 (2) The sale is to the public and the seller is a licensed fish dealer under  
26 G.S. 113-169.3.  
27 (3) The sale is of ~~oysters or clams from~~ fish reared in a hatchery or aquaculture  
28 operation to the holder of an Aquaculture Operation Permit, an Under Dock  
29 Culture Permit, or a shellfish cultivation lease for further grow out."  
30

## 31 RIVER HERRING FISHERIES MANAGEMENT

32 **SECTION 5.** The Division of Marine Fisheries shall review its Fishery  
33 Management Plan for river herring (blueback herring, *Alosa aestivalis*, and alewife, *Alosa*  
34 *pseudoharengus*) and report no later than December 15, 2017, to the Joint Legislative Oversight  
35 Committee on Agriculture and Natural and Economic Resources regarding the continuing  
36 validity and scientific basis for the continued status of both species as "overfished." If the  
37 Division does not have an adequate scientific basis to review the status of both species, then the  
38 report should include cost estimates for the restoration of spawning and nursery area surveys  
39 and age composition work for all coastal streams within the State that historically contained  
40 significant river herring fisheries.  
41

## 42 STATE PARTICIPATION IN SITING OF ATLANTIC INTRACOASTAL 43 WATERWAY DREDGED MATERIAL DISPOSAL EASEMENTS

44 **SECTION 6.(a)** The Division of Coastal Management of the Department of  
45 Environmental Quality and the State Property Office are authorized to negotiate with  
46 appropriate agencies of the federal government an agreement for the State to assume  
47 responsibility for acquiring dredged material easement sites appropriate for maintenance  
48 dredging of the Atlantic Intracoastal Waterway between Beaufort Inlet and the border with the  
49 Commonwealth of Virginia in exchange for the reduction in size and possible change in  
50 location of dredged material disposal easement sites currently held by the federal government.  
51 The agreement shall provide for the federal government to relinquish certain dredged material

1 disposal easements that are excess to maintenance project needs in exchange for the acquisition  
2 and furnishing to the federal government other easements that are sited and permitted by the  
3 Division of Coastal Management and acquired by the State Property Office under its powers of  
4 condemnation or otherwise using such funds as may be appropriated by the General Assembly  
5 from the Shallow Draft Navigation Channel Dredging and Aquatic Weed Fund established  
6 under Part 8B of Article 21 of Chapter 143 of the General Statutes for that purpose.

7 **SECTION 6.(b)** G.S. 143-215.73F(b) is amended by adding a new subdivision to  
8 read:

9 "(4) To provide funding for siting and acquisition of dredged disposal easement  
10 sites associated with the maintenance of the Atlantic Intracoastal Waterway  
11 north of Beaufort Inlet and south of the border with the Commonwealth of  
12 Virginia, under a Memorandum of Agreement between the State and the  
13 federal government."

#### 14

### 15 ENERGY POLICY COUNCIL CLARIFICATION

16 **SECTION 7.** G.S. 113B-4(a) reads as rewritten:

17 "(a) The Lieutenant Governor or the Lieutenant Governor's designee shall serve as chair  
18 of the Council."

### 19

### 20 NUTRIENT MANAGEMENT REGULATORY FRAMEWORK REVISIONS

21 **SECTION 7.1.(a)** Section 14.13(c)(2) of S.L. 2016-94 reads as rewritten:

22 "(2) With respect to Falls Lake, the final results of its study and  
23 recommendations for further action (including any statutory or regulatory  
24 changes necessary to implement the recommendations) no later than  
25 December 31, ~~2021~~, 2023, with interim updates no later than December 31,  
26 2019, and December 31, ~~2020-2021~~."

27 **SECTION 7.1.(b)** Section 14.13(d) of S.L. 2016-94 reads as rewritten:

28 "**SECTION 14.13.(d)** As part of the periodic review and re adoption of rules required by  
29 G.S. 150B-21.3A, the Environmental Management Commission shall, based on the study  
30 required by subsection (c) of this section and any monitoring or modeling study conducted  
31 pursuant to existing regulations as defined in this section, review the following Nutrient  
32 Strategies:

- 33 (1) The Falls Water Supply Nutrient Strategy, 15A NCAC 2B .0275 through  
34 .0282 and .0315.
- 35 (2) The Jordan Lake Water Supply Nutrient Strategy, 15A NCAC 2B .0263  
36 through .0273 and .0311.
- 37 (3) Any changes to these regulations imposed by acts of the General Assembly.

38 The schedule set forth in this subsection shall modify the review and re adoption schedule  
39 set by the Rules Review Commission under G.S. 150B-21.3A to the extent the schedules  
40 conflict. No later than December 31, 2016, the Department of Environmental Quality shall  
41 report to the Environmental Review Commission a list of any other rules and any acts of the  
42 General Assembly changing the rules identified in this subsection, and the Environmental  
43 Management Commission's review shall include the rules identified in this section and in that  
44 report. As part of its rule review process, the Environmental Management Commission shall (i)  
45 hold public hearings in the upstream and downstream portions of the Falls Lake and Jordan  
46 Lake river basins and subbasins and (ii) no later than December 31, 2016, convene a  
47 stakeholder working group that represents all classes of users and all geographic parts of the  
48 impacted river basins and subbasins and that will provide input to the Environmental  
49 Management Commission regarding the revision to the Nutrient Strategies. The Environmental  
50 Management Commission shall ~~issue recommendations for revisions of the Nutrient Strategies~~  
51 ~~based on its review and begin rule re adoption required by G.S. 150B-21.3A no later than March~~

1 ~~15, 2019.~~ begin rule readoption for the Jordan Lake Water Supply Nutrient Strategy no later  
2 than six months after it receives the completed study and final recommendations prepared in  
3 response to subsection (c) of this section. The Environmental Management Commission shall  
4 begin rule readoption for the Falls Water Supply Nutrient Strategy on the earlier of the  
5 following: (i) upon receipt of the completed study and final recommendations prepared in  
6 response to subsection (c) of this section and any monitoring or modeling study conducted  
7 pursuant to existing regulations for nutrient management in Falls Lake or (ii) December 31,  
8 2024. For purposes of the G.S. 150B-21.3A readoption process, the Nutrient Strategies shall be  
9 considered "necessary with substantive public interest."

10 **SECTION 7.1.(c)** Section 14.13(h) of S.L. 2016-94 reads as rewritten:

11 **"SECTION 14.13.(h)** The rules described below shall not take effect and are subject to the  
12 review and readoption required by subsection (d) of this section:

- 13 (1) With respect to the Jordan Lake rules, as defined by subdivisions (2) and (3)  
14 of subsection (d) of this section, any rules with effective dates between the  
15 effective date of this act and October 15, 2019.
- 16 (2) With respect to the Falls Lake rules, as defined by subdivisions (1) and (3)  
17 of subsection (d) of this section, any rules with effective dates between the  
18 effective date of this act and October 15, ~~2022.~~2022, provided that  
19 provisions of the Falls Lake rules which establish Stage I reduction actions  
20 and goals shall remain in effect until the Falls Lake rules, as modified under  
21 subsection (d) of this section, become effective. The due dates for reduction  
22 actions and goals set to be completed by December 31, 2020, and the  
23 reduction actions and goals identified as Stage II in the Falls Lake rules are  
24 delayed until the Falls Lake rules, as modified under subsection (d) of this  
25 section, become effective."

## 26 **REPEAL CATAWBA BUFFER RULES**

27 **SECTION 7.2.(a)** Section 7.1 of S.L. 1999-329 reads as rewritten:

28 "Section 7.1. Notwithstanding G.S. 150B-21.1(a)(2) and Section 8.6 of S.L. 1997-458, the  
29 Environmental Management Commission may adopt temporary rules as provided in this  
30 section to protect water quality standards and uses as required to implement basinwide water  
31 quality management plans for the ~~Cape Fear, Catawba, Cape Fear~~ and Tar-Pamlico River  
32 Basins pursuant to G.S. 143-214.1, 143-214.7, 143-215.3, and 143B-282. Prior to the adoption  
33 of a temporary rule under this subsection, the Commission shall:

- 34 (1) Consult with persons who may be interested in the subject matter of the  
35 temporary rule during the development of the text of the proposed temporary  
36 rule.  
37
- 38 (2) Publish a notice of intent to adopt a temporary rule in the North Carolina  
39 Register. The notice shall set out the text of the proposed temporary rule and  
40 include the name of the person to whom questions and written comment on  
41 the proposed rule may be submitted. The Commission shall accept written  
42 comment on the proposed temporary rule for at least 30 days after the notice  
43 of intent to adopt the temporary rule is published in the North Carolina  
44 Register.
- 45 (3) Hold a public hearing on the proposed temporary rule in the river basin to  
46 which the proposed temporary rule applies."

47 **SECTION 7.2.(b)** The Environmental Management Commission shall repeal 15A  
48 NCAC 02B .0243 (Catawba River Basin: Protection and Maintenance of Existing Riparian  
49 Buffers) on or before December 1, 2017. Until the effective date of the repeal of the rule  
50 required pursuant to this section, the Environmental Management Commission, the Department  
51 of Environmental Quality, or any other political subdivision of the State shall not implement or

1 enforce 15A NCAC 02B .0243 (Catawba River Basin: Protection and Maintenance of Existing  
2 Riparian Buffers).

3  
4 **COASTAL STORMWATER PROGRAM VARIANCE**

5 **SECTION 7.3.** Notwithstanding S.L. 2008-211 and rules issued under the  
6 authority of that act (collectively, the "Coastal Stormwater Requirements"), the director of the  
7 Division of Energy, Mineral, and Land Resources of the Department of Environmental Quality  
8 shall, no later than 30 days after the date this act becomes law, issue a Director's Certification  
9 in fulfillment of coastal stormwater permitting requirements for any subdivision meeting all of  
10 the following requirements:

- 11 (1) The subdivision's declaration of covenants was recorded with the Register of  
12 Deeds in 1993.  
13 (2) The development exceeds the low-density impervious surface limitations  
14 provided in the Coastal Stormwater Requirements, but the developer of the  
15 subdivision is financially unable to bring the development into compliance  
16 with the Requirements.  
17 (3) The developer of the subdivision transferred the stormwater permit to the  
18 homeowners association for the subdivision.  
19

20 **GENERAL PROVISIONS**

21 **SECTION 8.(a)** If any section or provision of this act is declared unconstitutional  
22 or invalid by the courts, it does not affect the validity of this act as a whole or any part other  
23 than the part declared to be unconstitutional or invalid.

24 **SECTION 8.(b)** Except as otherwise provided, this act is effective when it  
25 becomes law.