

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

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HOUSE BILL 227*

Short Title: Inactive Haz. Sites Recordation.

(Public)

Sponsors: Representatives Hackney; Hightower and Culp.

Referred to: Environment.

February 17, 1997

A BILL TO BE ENTITLED

1 AN ACT TO PROVIDE THAT RECORDATION OF AN INACTIVE HAZARDOUS
2 SUBSTANCE OR WASTE DISPOSAL SITE IS NOT REQUIRED IN CERTAIN
3 CASES, AS RECOMMENDED BY THE ENVIRONMENTAL REVIEW
4 COMMISSION.
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6 The General Assembly of North Carolina enacts:

7 Section 1. G.S. 130A-310.8 reads as rewritten:

8 "**§ 130A-310.8. Recordation of inactive hazardous substance or waste disposal sites.**

9 (a) After determination by the Department of the existence and location of an
10 inactive hazardous substance or waste disposal site, the owner of the real property on
11 which the site is located, within 180 days after official notice to him to do so, shall
12 submit to the Department a survey plat of areas designated by the Department which has
13 been prepared and certified by a professional land surveyor, and entitled "NOTICE OF
14 INACTIVE HAZARDOUS SUBSTANCE OR WASTE DISPOSAL SITE". The Notice
15 shall include a legal description of the site that would be sufficient as a description in an
16 instrument of conveyance, shall meet the requirements of G.S. 47-30 for maps and plats,
17 and shall identify:

18 (1) The location and dimensions of the disposal areas with respect to
19 permanently surveyed benchmarks; and

1 (2) The type, location, and quantity of hazardous substances disposed of on
2 the site, to the best of the owner's knowledge.

3 Where an Inactive Hazardous Substance or Waste Disposal Site is located on more than
4 one parcel or tract of land, a composite map or plat showing all such sites may be
5 recorded.

6 (b) After the Department approves and certifies the Notice, the owner of the site
7 shall file the certified copy of the Notice in the register of deeds' office in the county or
8 counties in which the land is located.

9 (c) The register of deeds shall record the certified copy of the Notice and index it
10 in the grantor index under the names of the owners of the lands.

11 (d) In the event that the owner of the site fails to submit and file the Notice
12 required by this section within the time specified, the Secretary may prepare and file such
13 Notice. The costs thereof may be recovered by the Secretary from any responsible party.
14 In the event that an owner of a site who is not a responsible party submits and files the
15 Notice required by this section, he may recover the reasonable costs thereof from any
16 responsible party.

17 (e) When an inactive hazardous substance or waste disposal site is sold, leased,
18 conveyed, or transferred, the deed or other instrument of transfer shall contain in the
19 description section, in no smaller type than that used in the body of the deed or
20 instrument, a statement that the property has been used as a hazardous substance or waste
21 disposal site and a reference by book and page to the recordation of the Notice.

22 (f) A Notice of Inactive Hazardous Substance or Waste Disposal Site shall be
23 cancelled by the Secretary after the hazards have been eliminated. The Secretary shall
24 send to the register of deeds of the county where the Notice is recorded a statement that
25 the hazards have been eliminated and request that the Notice be cancelled of record. The
26 Secretary's statement shall contain the names of the landowners as shown in the Notice
27 and reference the plat book and page where the Notice is recorded. The register of deeds
28 shall record the Secretary's statement in the deed books and index it on the grantor index
29 in the name of the landowner as shown in the Notice and on the grantee index in the
30 name 'Secretary of Environment, Health, and Natural Resources'. The register of deeds
31 shall make a marginal entry on the Notice showing the date of cancellation and the book
32 and page where the Secretary's statement is recorded, and the register shall sign the entry.
33 If a marginal entry is impracticable because of the method used to record maps and plats,
34 the register of deeds shall not be required to make a marginal entry.

35 (g) ~~This section shall apply with respect to any facility, structure, or area where~~
36 ~~disposal of any hazardous substance or waste has occurred which~~ Recordation under this
37 section is not required for any inactive hazardous substance or waste disposal site that is
38 undergoing voluntary remedial action pursuant to this Part. ~~Part~~ unless the Secretary
39 determines that either:

40 (1) A concentration of a hazardous substance or hazardous waste that poses
41 a danger to public health or the environment will remain following
42 implementation of the voluntary remedial action program.

1 (2) The voluntary remedial action program is not being implemented in a
2 manner satisfactory to the Secretary and in compliance with the
3 agreement between the Secretary and the owner, operator, or other
4 responsible party.

5 (h) The Secretary may waive recordation under this section with respect to any
6 residential real property that is contaminated solely because a hazardous substance or
7 hazardous waste migrated to the property from other property by means of groundwater
8 flow if disclosure of the contamination is required under Chapter 47E of the General
9 Statutes. An owner of residential real property whose recordation requirement is waived
10 by the Secretary under this subsection and who fails to disclose contamination as required
11 by Chapter 47E of the General Statutes is subject to both the penalties and remedies
12 under this Chapter applicable to a person who fails to comply with the recordation
13 requirements of this section as though those requirements had not been waived and to the
14 remedies available under Chapter 47E of the General Statutes."

15 Section 2. This act is effective when it becomes law.