

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

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HOUSE BILL 227\*

Senate Agriculture/Environment/Natural Resources Committee Substitute Adopted  
6/16/97

Short Title: Inactive Haz. Sites Recordation.

(Public)

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Sponsors:

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Referred to:

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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 AND TO EXPEDITE THE PERMANENT CLOSURE OF LOW-  
5 RISK SITES UNDER THE LEAKING PETROLEUM UNDERGROUND  
6 STORAGE TANK CLEANUP ACT OF 1988.  
7

8 The General Assembly of North Carolina enacts:

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

10 **"§ 130A-310.8. Recordation of inactive hazardous substance or waste disposal sites.**

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

1 instrument of conveyance, shall meet the requirements of G.S. 47-30 for maps and plats,  
2 and shall identify:

- 3 (1) The location and dimensions of the disposal areas with respect to  
4 permanently surveyed benchmarks; and  
5 (2) The type, location, and quantity of hazardous substances disposed of on  
6 the site, to the best of the owner's knowledge.

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

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

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

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

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

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

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

- 1           (1) A concentration of a hazardous substance or hazardous waste that poses  
2           a danger to public health or the environment will remain following  
3           implementation of the voluntary remedial action program.
- 4           (2) The voluntary remedial action program is not being implemented in a  
5           manner satisfactory to the Secretary and in compliance with the  
6           agreement between the Secretary and the owner, operator, or other  
7           responsible party.
- 8           (h) The Secretary may waive recordation under this section with respect to any  
9           residential real property that is contaminated solely because a hazardous substance or  
10           hazardous waste migrated to the property from other property by means of groundwater  
11           flow if disclosure of the contamination is required under Chapter 47E of the General  
12           Statutes. An owner of residential real property whose recordation requirement is waived  
13           by the Secretary under this subsection and who fails to disclose contamination as required  
14           by Chapter 47E of the General Statutes is subject to both the penalties and remedies  
15           under this Chapter applicable to a person who fails to comply with the recordation  
16           requirements of this section as though those requirements had not been waived and to the  
17           remedies available under Chapter 47E of the General Statutes."