

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2011

H

1

HOUSE BILL 806

Short Title: Zoning St. of Limit./Ag. Dist. Change. (Public)

Sponsors: Representatives Jordan, Stam, Moffitt, and Stevens (Primary Sponsors).  
For a complete list of Sponsors, see Bill Information on the NCGA Web Site.

Referred to: Judiciary Subcommittee B.

April 7, 2011

A BILL TO BE ENTITLED

AN ACT CHANGING THE STATUTE OF LIMITATIONS AND REPOSE FOR  
CHALLENGING ZONING ORDINANCES AND TO PROHIBIT SPECIFIED ZONING  
ORDINANCES AFFECTING SINGLE-FAMILY DETACHED RESIDENTIAL USES  
ON LOTS GREATER THAN TEN ACRES IN AGRICULTURAL ZONING DISTRICTS.

The General Assembly of North Carolina enacts:

**SECTION 1.** G.S. 1-53 reads as rewritten:

"§ 1-53. **Two years.**

Within two years -

- (1) An action against a local unit of government upon a contract, obligation or liability arising out of a contract, express or implied. Unless otherwise provided by law, if the preceding sentence of this subsection would bar commencement of a cause of action arising out of a contract to improve real property: (i) such an action may be brought no later than 90 days after substantial completion, provided proper notice of the claim has been given if required by contract, or (ii) if prior to substantial completion the contract was terminated by either party, such an action may be brought no later than 90 days after the date of termination of the contract. As used in this subdivision, "substantial completion" has the same meaning as in G.S. 1-50(a)(5)c. This subdivision shall not apply to actions based upon bonds, notes and interest coupons or when a different period of limitation is prescribed by this Article.
- (2) An action to recover the penalty for usury, including an action regarding the financing of usurious points, usurious fees, or other usurious charges; the two-year period shall accrue with each payment made and accepted on the loan.
- (3) The forfeiture of all interest for usury.
- (4) Actions for damages on account of the death of a person caused by the wrongful act, neglect or fault of another under G.S. 28A-18-2; the cause of action shall not accrue until the date of death. Provided that, whenever the decedent would have been barred, had he lived, from bringing an action for bodily harm because of the provisions of G.S. 1-15(c) or 1-52(16), no action for his death may be brought.
- (5) Actions contesting the validity of any zoning or unified development ordinance or any provision thereof adopted under Part 3 of Article 18 of



1 Chapter 153A or Part 3 of Article 19 of Chapter 160A of the General  
2 Statutes or other applicable law, other than an ordinance adopting or  
3 amending a zoning map or approving a special use, conditional use, or  
4 conditional zoning district rezoning request. Such an action accrues when  
5 the party bringing such action first has standing to challenge the ordinance."

6 **SECTION 2.** G.S. 1-54.1 reads as rewritten:

7 **"§ 1-54.1. Two months.**

8 Within two months an action contesting the validity of any ~~zoning~~ ordinance adopting or  
9 amending a zoning map or approving a special use, conditional use, or conditional zoning  
10 district rezoning request amendment thereto adopted by a county under Part 3 of Article 18 of  
11 Chapter 153A of the General Statutes or other applicable law or adopted by a city under or Part  
12 3 of Article 19 of Chapter 160A of the General Statutes or other applicable law. Such an action  
13 accrues upon adoption of such ordinance or amendment."

14 **SECTION 3.** G.S. 153A-348 reads as rewritten:

15 **"§ 153A-348. Statute of limitations.**

16 (a) A cause of action as to the validity of any ~~zoning ordinance, or amendment thereto,~~  
17 ordinance adopting or amending a zoning map or approving a special use, conditional use, or  
18 conditional zoning district rezoning request adopted under this Part or other applicable law  
19 shall accrue upon adoption of the ordinance, or amendment thereto, such ordinance and shall be  
20 brought within two months as provided in G.S. 1-54.1.

21 (b) Except as otherwise provided in subsection (a) of this section, an action challenging  
22 the validity of any zoning or unified development ordinance or any provision thereof adopted  
23 under this Part or other applicable law shall be brought within two years of the accrual of such  
24 action. Such an action accrues when the party bringing such action first has standing to  
25 challenge the ordinance.

26 (c) Nothing in this section or in G.S. 1-53(5) or G.S. 1-54.1 shall bar a party in an  
27 action involving the enforcement of a zoning or unified development ordinance from raising as  
28 a defense to such enforcement action the invalidity of the ordinance."

29 **SECTION 4.** G.S. 160A-364.1 reads as rewritten:

30 **"§ 160A-364.1. Statute of limitations.**

31 (a) A cause of action as to the validity of any ~~zoning ordinance, or amendment thereto,~~  
32 ordinance adopting or amending a zoning map or approving a special use, conditional use, or  
33 conditional zoning district request adopted under this Article or other applicable law shall  
34 accrue upon adoption of the ordinance, or amendment thereto, such ordinance and shall be  
35 brought within two months as provided in G.S. 1-54.1.

36 (b) Except as otherwise provided in subsection (a) of this section, an action challenging  
37 the validity of any zoning or unified development ordinance or any provision thereof adopted  
38 under this Article or other applicable law shall be brought within two years of the accrual of  
39 such action. Such an action accrues when the party bringing such action first has standing to  
40 challenge the ordinance.

41 (c) Nothing in this section or in G.S. 1-53(5) or G.S. 1-54.1 shall bar a party in an  
42 action involving the enforcement of a zoning or unified development ordinance from raising as  
43 a defense to such enforcement action the invalidity of the ordinance."

44 **SECTION 5.** G.S. 153A-340 is amended by adding a new subsection to read:

45 "(j) An ordinance adopted pursuant to this section shall not prohibit single-family  
46 detached residential uses constructed in accordance with the North Carolina State Building  
47 Code on lots greater than 10 acres in size in zoning districts where more than fifty percent  
48 (50%) of the land is in use for agricultural or silvicultural purposes, except that this restriction  
49 shall not apply to commercial or industrial districts where a broad variety of commercial or  
50 industrial uses are permissible. An ordinance adopted pursuant to this section shall not require  
51 that a lot greater than 10 acres in size have frontage on a public road or county approved private

1 road, or be served by public water or sewer lines, in order to be developed for single-family  
2 residential purposes."

3         **SECTION 6.** This act becomes effective July 1, 2011, but the provisions of  
4 Sections 1 through 4 of this act shall not apply to litigation pending on that date. Upon the  
5 effective date, any ordinance provision that is inconsistent with the provisions of Section 5 of  
6 this act shall be void and unenforceable.