

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2019

H.B. 761
Apr 15, 2019
HOUSE PRINCIPAL CLERK

H

D

HOUSE BILL DRH40343-MH-123

Short Title: Clarify Wastewater Permitting Liability. (Public)

Sponsors: Representatives Yarborough, McElraft, Carney, and Corbin (Primary Sponsors).

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO CLARIFY THAT THE LOCAL PERMITTING AUTHORITY BEARS NO
3 LIABILITY FOR CERTAIN EVALUATIONS AND VERIFICATIONS OF LICENSED
4 PROFESSIONALS.

5 The General Assembly of North Carolina enacts:

6 **SECTION 1.** G.S. 130A-336(b1) reads as rewritten:

7 "(b1) An improvement permit or authorization for wastewater system construction issued
8 by a local health department from January 1, 2000, to January 1, 2015, which has not been acted
9 on and would have otherwise expired, shall remain valid until January 1, 2020, without penalty,
10 unless there are changes in the hydraulic flows or wastewater characteristics from the original
11 local health department evaluation. Permits are transferrable with ownership of the property.
12 Permits shall retain the site, soil evaluations, and construction conditions of the original permit.
13 Site activities begun or completed pursuant to requirements from the local health department
14 under the original permit, however, shall not be construed to be altered conditions and shall not
15 constitute a basis for refusal of the permit extension. The property owner may contract with a
16 person licensed pursuant to Chapter 89F of the General Statutes as a licensed soil scientist to
17 conduct a site verification to determine whether the conditions of the original permit are
18 unchanged. Written verification by the licensed soil scientist shall be accepted by the local health
19 department, used in lieu of verification by the local health department, and be attached to the
20 permit. The local health department shall have no liability for causes of action arising from
21 wastewater improvements or systems designed, constructed, and installed in reliance upon the
22 site verification performed by a licensed soil scientist under this subsection."

23 **SECTION 2.** G.S. 130A-335(a2) reads as rewritten:

24 "(a2) Evaluations conducted by a licensed soil scientist or a licensed geologist pursuant to
25 subsection (a1) of this section to produce design and construction features for a new proposed
26 wastewater system or a proposed repair project for an existing wastewater system, including the
27 addressing of any special hydrologic conditions that may be required under the applicable rules
28 for an authorization to construct or for permitting, shall be approved by the applicable permitting
29 authorities under G.S. 130A-336 and G.S. 130A-336.1, provided both of the following
30 conditions are met:

- 31 (1) The ~~evaluation~~ evaluation of soil conditions, site features, or geologic and
32 hydrogeologic conditions satisfies all requirements of this Article. The
33 evaluation shall not cover areas outside the scope of the applicable license.
34 (2) The licensed soil scientist or licensed geologist conducting the evaluation
35 maintains an errors and omissions liability insurance policy issued by an



* D R H 4 0 3 4 3 - M H - 1 2 3 *

1 insurer licensed under Chapter 58 of the General Statutes in an amount
2 commensurate with the risk.
3 The applicable permitting authority shall have no liability for causes of action which arise from
4 wastewater systems constructed or repaired based on evaluations conducted by a licensed soil
5 scientist or licensed geologist pursuant to this subsection."

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