

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

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SENATE BILL 117

Short Title: Clarifying Development Moratoria Authority. (Public)

Sponsors: Senators Hoyle; Blake and Jenkins.

Referred to: Commerce.

February 11, 2009

A BILL TO BE ENTITLED

AN ACT TO CLARIFY THAT A LOCAL GOVERNMENT MAY NOT IMPOSE A MORATORIUM ON DEVELOPMENT APPROVALS FOR THE PURPOSE OF DEVELOPING AND ADOPTING A NEW OR REVISED DEVELOPMENT ORDINANCE.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 153A-340(h) reads as rewritten:

"(h) As provided in this subsection, counties may adopt temporary moratoria on any county development approval required by ~~law~~-law, except for the purpose of developing and adopting new or amended ordinances. The duration of any moratorium shall be reasonable in light of the specific conditions that warrant imposition of the moratorium and may not exceed the period of time necessary to correct, modify, or resolve such conditions. Except in cases of imminent and substantial threat to public health or safety, before adopting an ordinance imposing a development moratorium with a duration of 60 days or any shorter period, the board of commissioners shall hold a public hearing and shall publish a notice of the hearing in a newspaper having general circulation in the area not less than seven days before the date set for the hearing. A development moratorium with a duration of 61 days or longer, and any extension of a moratorium so that the total duration is 61 days or longer, is subject to the notice and hearing requirements of G.S. 153A-323. Absent an imminent threat to public health or safety, a development moratorium adopted pursuant to this section shall not apply to any project for which a valid building permit issued pursuant to G.S. 153A-357 is outstanding, to any project for which a conditional use permit application or special use permit application has been accepted, to development set forth in a site-specific or phased development plan approved pursuant to G.S. 153A-344.1, to development for which substantial expenditures have already been made in good faith reliance on a prior valid administrative or quasi-judicial permit or approval, or to preliminary or final subdivision plats that have been accepted for review by the county prior to the call for public hearing to adopt the moratorium. Any preliminary subdivision plat accepted for review by the county prior to the call for public hearing, if subsequently approved, shall be allowed to proceed to final plat approval without being subject to the moratorium.

Any ordinance establishing a development moratorium must expressly include at the time of adoption each of the following:

- (1) A clear statement of the problems or conditions necessitating the moratorium and what courses of action, alternative to a moratorium, were considered by the county and why those alternative courses of action were not deemed adequate.



- 1 (2) A clear statement of the development approvals subject to the moratorium
2 and how a moratorium on those approvals will address the problems or
3 conditions leading to imposition of the moratorium.
- 4 (3) An express date for termination of the moratorium and a statement setting
5 forth why that duration is reasonably necessary to address the problems or
6 conditions leading to imposition of the moratorium.
- 7 (4) A clear statement of the actions, and the schedule for those actions, proposed
8 to be taken by the county during the duration of the moratorium to address
9 the problems or conditions leading to imposition of the moratorium.

10 No moratorium may be subsequently renewed or extended for any additional period unless
11 the city shall have taken all reasonable and feasible steps proposed to be taken by the county in
12 its ordinance establishing the moratorium to address the problems or conditions leading to
13 imposition of the moratorium and unless new facts and conditions warrant an extension. Any
14 ordinance renewing or extending a development moratorium must expressly include, at the
15 time of adoption, the findings set forth in subdivisions (1) through (4) of this subsection,
16 including what new facts or conditions warrant the extension.

17 Any person aggrieved by the imposition of a moratorium on development approvals
18 required by law may apply to the appropriate division of the General Court of Justice for an
19 order enjoining the enforcement of the moratorium, and the court shall have jurisdiction to
20 issue that order. Actions brought pursuant to this section shall be set down for immediate
21 hearing, and subsequent proceedings in those actions shall be accorded priority by the trial and
22 appellate courts. In any such action, the county shall have the burden of showing compliance
23 with the procedural requirements of this subsection."

24 **SECTION 2.** G.S. 160A-381(e) reads as rewritten:

25 "(e) As provided in this subsection, cities may adopt temporary moratoria on any city
26 development approval required by ~~law-law~~, except for the purpose of developing and adopting
27 new or amended ordinances. The duration of any moratorium shall be reasonable in light of the
28 specific conditions that warrant imposition of the moratorium and may not exceed the period of
29 time necessary to correct, modify, or resolve such conditions. Except in cases of imminent and
30 substantial threat to public health or safety, before adopting an ordinance imposing a
31 development moratorium with a duration of 60 days or any shorter period, the governing board
32 shall hold a public hearing and shall publish a notice of the hearing in a newspaper having
33 general circulation in the area not less than seven days before the date set for the hearing. A
34 development moratorium with a duration of 61 days or longer, and any extension of a
35 moratorium so that the total duration is 61 days or longer, is subject to the notice and hearing
36 requirements of G.S. 160A-364. Absent an imminent threat to public health or safety, a
37 development moratorium adopted pursuant to this section shall not apply to any project for
38 which a valid building permit issued pursuant to G.S. 160A-417 is outstanding, to any project
39 for which a conditional use permit application or special use permit application has been
40 accepted, to development set forth in a site-specific or phased development plan approved
41 pursuant to G.S. 160A-385.1, to development for which substantial expenditures have already
42 been made in good faith reliance on a prior valid administrative or quasi-judicial permit or
43 approval, or to preliminary or final subdivision plats that have been accepted for review by the
44 city prior to the call for public hearing to adopt the moratorium. Any preliminary subdivision
45 plat accepted for review by the city prior to the call for public hearing, if subsequently
46 approved, shall be allowed to proceed to final plat approval without being subject to the
47 moratorium.

48 Any ordinance establishing a development moratorium must expressly include at the time
49 of adoption each of the following:

- 50 (1) A clear statement of the problems or conditions necessitating the moratorium
51 and what courses of action, alternative to a moratorium, were considered by

- 1 the city and why those alternative courses of action were not deemed
2 adequate.
- 3 (2) A clear statement of the development approvals subject to the moratorium
4 and how a moratorium on those approvals will address the problems or
5 conditions leading to imposition of the moratorium.
- 6 (3) An express date for termination of the moratorium and a statement setting
7 forth why that duration is reasonably necessary to address the problems or
8 conditions leading to imposition of the moratorium.
- 9 (4) A clear statement of the actions, and the schedule for those actions, proposed
10 to be taken by the city during the duration of the moratorium to address the
11 problems or conditions leading to imposition of the moratorium.

12 No moratorium may be subsequently renewed or extended for any additional period unless
13 the city shall have taken all reasonable and feasible steps proposed to be taken by the city in its
14 ordinance establishing the moratorium to address the problems or conditions leading to
15 imposition of the moratorium and unless new facts and conditions warrant an extension. Any
16 ordinance renewing or extending a development moratorium must expressly include, at the
17 time of adoption, the findings set forth in subdivisions (1) through (4) of this subsection,
18 including what new facts or conditions warrant the extension.

19 Any person aggrieved by the imposition of a moratorium on development approvals
20 required by law may apply to the appropriate division of the General Court of Justice for an
21 order enjoining the enforcement of the moratorium, and the court shall have jurisdiction to
22 issue that order. Actions brought pursuant to this section shall be set down for immediate
23 hearing, and subsequent proceedings in those actions shall be accorded priority by the trial and
24 appellate courts. In any such action, the city shall have the burden of showing compliance with
25 the procedural requirements of this subsection."

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