

**GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2007**

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**HOUSE BILL 1770**

Short Title: Fees/Future Conveyance/Conserv. Agreements. (Public)

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Sponsors: Representative McComas.

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Referred to: Judiciary III, if favorable, Finance.

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April 19, 2007

1 A BILL TO BE ENTITLED  
2 AN ACT TO CLARIFY THE AUTHORITY OF THE PARTIES TO  
3 CONSERVATION AND PRESERVATION AGREEMENTS TO INCLUDE  
4 PROVISIONS IN THE AGREEMENTS FOR THE PAYMENT OF FEES UPON  
5 FUTURE CONVEYANCE OF PROPERTY SUBJECT TO THE AGREEMENTS.

6 The General Assembly of North Carolina enacts:

7 **SECTION 1.** G.S. 121-38 reads as rewritten:

8 "**§ 121-38. Validity of agreements.**

9 (a) No conservation or preservation agreement shall be unenforceable because of

10 (1) Lack of privity of estate or contract, or

11 (2) Lack of benefit to particular land or person, or

12 (3) The assignability of the benefit to another holder as defined in this  
13 Article.

14 (b) ~~Such~~ These agreements are interests in land and may be acquired by any  
15 holder in the same manner as it may acquire other interests in land.

16 (c) ~~Such~~ These agreements may be effective perpetually or for shorter stipulated  
17 periods of time.

18 (d) ~~Such~~ These agreements may impose present, future, or continuing obligations  
19 on either party to the agreement, or their successors, in furtherance of the purposes of  
20 the agreement.

21 (e) These agreements may contain provisions which require the payment of a fee  
22 upon a future conveyance of the property which is subject to the agreement. The fee  
23 shall be paid by the grantor in the future conveyance to the holder as defined in this  
24 Article. The fee may be in an amount set forth in the agreement, or it may be a  
25 percentage of the consideration or value of the interest conveyed. If the fee is based  
26 upon a percentage of the value, it shall not exceed two percent (2%). If the conveyance  
27 includes in one deed property that is subject to an agreement and property that is not  
28 subject to an agreement, the grantor shall specify the amount of consideration or value  
29 received for the portion of the property that is subject to the agreement. The fee shall be

1 paid at the time of the conveyance and shall be the obligation of the grantor. This  
2 subsection shall not apply to conveyances for which no excise tax is payable under  
3 Article 8E of Chapter 105 of the General Statutes. The fee shall be payable for all future  
4 conveyances subject to limitations set forth herein or limitations specified in the  
5 agreement. Any provision in an agreement which requires the payment of a fee upon  
6 future conveyances shall terminate the earlier of the time specified in the agreement or  
7 90 years from the date of the agreement."

8           **SECTION 2.** This act is effective when it becomes law.