COMMITTEE REPORT

April 22, 2009

**H. 3651**

Introduced by Reps. Duncan, Umphlett, Anthony, Knight, Forrester and Hayes

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Read the first time March 3, 2009.

**THE COMMITTEE ON AGRICULTURE, NATURAL**

**RESOURCES AND ENVIRONMENTAL AFFAIRS**

To whom was referred a Bill (H. 3651) to amend the Code of Laws of South Carolina, 1976, by adding Section 48‑23‑205 so as to limit the authority of counties and municipalities to restrict or regulate, etc., respectfully

**REPORT:**

That they have duly and carefully considered the same and recommend that the same do pass with amendment:

Amend the bill, as and if amended, by striking all after the enacting words and inserting:

/SECTION 1. Chapter 23, Title 48 of the 1976 Code is amended by adding:

“Section 48‑23‑300. (A) For purposes of this section, the following definitions apply to this section:

(1) ‘Development’ means any activity, including timber harvesting, that is associated with the conversion of forestland to nonforest or nonagricultural use.

(2) ‘Forestland’ means land supporting a stand or potential stand of trees that may be utilized for timber products, watershed or wildlife protection, recreational uses, or for other purposes.

(3) ‘Forestry service’ means any professional service relating to a forestry management plan or activity including, but not limited to, consultation, investigation, evaluation, planning, or responsible supervision of forest management, protection, silviculture, measurements, utilization, economics, education, or other forestry activities in connection with any public or private lands.

(4) ‘Forest management plan’ means a document or documents prepared or approved by a forester registered in this State that defines a landowner’s forest management objectives and describes specific measures to be taken to achieve those objectives. A management plan shall include silvicultural practices, objectives, and measures to achieve them, that relate to a stand or potential stand of trees that may be utilized for timber products, watershed or wildlife protection, recreational uses, or for other purposes.

(5) ‘Forestry activity’ means any activity associated with the growing, managing, harvesting, and related transportation, reforestation, or protection of trees and timber, provided that these activities comply with existing regulations pertaining to forestry.

(B) A county or municipality shall not adopt or enforce any ordinance, rule, regulation, resolution, or permit related to forestry activities on forestland:

(1) that is taxed on the basis of its present‑use value as forestland under Section 12‑43‑220(d);

(2) that are conducted in accordance with a forest management plan;

(3) certified under the Sustainable Forestry Initiative, the Forest Stewardship Council, the American Forest Foundations Tree Farm System, or other nationally recognized forest certification system; or

(4) that is covered by a legally binding conservation easement under which the owner limits the right to develop or subdivide the land.

(C) This section does not limit, expand, or otherwise alter the authority of a county or municipality to:

(1) regulate activities associated with development, provided that:

(a) a county or municipality may only defer a building permit, a site disturbance or subdivision plan, or any other approval for development that if implemented would result in a change from forestland to nonforest or nonagricultural use, for a period of up to:

(i) two years after the completion of a timber harvest if the harvest results in the removal of all or substantially all of the trees from the area included in the building permit, site disturbance or subdivision plan in item (a) that were protected under county or municipal regulations governing development from the portion of the tract of land for which the permit or approval is sought; or

(ii) five years after the completion of a timber harvest if the harvest results in the removal of all or substantially all of the trees from the area included in the building permit, site disturbance, or subdivision plan in item (a) that were protected under county or municipal regulations governing development from the portion of the tract of land for which the permit or approval is sought and the harvest was a wilful violation of the county regulations;

(b) a county or municipality may not defer a permit pursuant to item (a) if ownership of the tract of land for which the permit is sought transfers through inheritance;

(2) regulate trees pursuant to any local act of the General Assembly;

(3) adopt ordinances that are necessary to comply with any federal or state law, regulation, or rule; or

(4) exercise its development permitting, planning, or zoning authority as provided by law.

(D) A person whose application for a building permit, a site disturbance or subdivision plan, or any other approval for development is deferred pursuant to the provisions contained in this section may appeal the decision to the appropriate governmental authority or court of competent jurisdiction.”

SECTION 2. This act takes effect upon approval by the Governor. /

Renumber sections to conform.

Amend title to conform.

JEFF D. DUNCAN for Committee.

**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 48‑23‑205 SO AS TO LIMIT THE AUTHORITY OF COUNTIES AND MUNICIPALITIES TO RESTRICT OR REGULATE CERTAIN FORESTRY ACTIVITIES, AND TO PROVIDE THE TERMS AND CONDITIONS OF CERTAIN PERMITTED REGULATIONS.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Chapter 23, Title 48 of the 1976 Code is amended by adding:

“Section 48‑23‑205. (A) The following definitions apply to this section:

(1) ‘Development’ means any activity, including timber harvesting, that is associated with the conversion of forestland to nonforest or nonagricultural use.

(2) ‘Forest land’ means land supporting a stand or potential stand of trees valuable for timber products, watershed or wildlife protection, recreational uses, or for other purposes.

(3) ‘Forestry’ means any professional service relating to forestry, such as consultation, investigation, evaluation, planning or responsible supervision of forest management, protection, silviculture, measurements, utilization, economics, education, or other forestry activities in connection with any public or private lands.

(4) ‘Forest management plan’ means a document prepared or approved by a South Carolina registered forester that defines a landowner’s forest management objectives and describes specific measures to be taken to achieve those objectives. A forest management plan shall include silvicultural practices that both ensure forest productivity and environmental protection of land by either commercially growing timber through the establishment of forest stands or by ensuring the proper regeneration of forest stands in accordance with the management plan after the harvest of timber.

(5) ‘Forestry activity’ means any activity associated with the growing, managing, harvesting, and related transportation, reforestation, or protection of trees and timber, provided that such activities comply with existing state regulations pertaining to forestry.

(6) ‘Registered forester’ means a person who has registered and qualified to engage in professional forestry practices as defined by state law.

(B) A county or municipality shall not adopt or enforce any ordinance, rule, regulation, or resolution that regulates either:

(1) forestry activity on forestland that is taxed on the basis of its present use value as forest land under Section 12‑43‑220(d); or

(2) forestry activity that is conducted in accordance with a forest management plan.

(C) This section shall not be construed to limit, expand, or otherwise alter the authority of a county or municipality to:

(1) regulate activity associated with development. A county or municipality may deny a building permit or refuse to approve a site disturbance or subdivision plan that if implemented would result in a change from forestland to nonforest or nonagricultural use for either a period of up to:

(a) three years after the completion of a timber harvest if the harvest results in the removal of all or substantially all of the trees that were protected under county or municipal regulations governing development from the tract of land for which the permit or approval is sought; or

(b) five years after the completion of a timber harvest if the harvest results in the removal of all or substantially all of the trees that were protected under county or municipal regulations governing development from the tract of land for which the permit or approval is sought and the harvest was a wilful violation of the county or municipal regulations.

Three or five year moratorium on permit approval shall terminate upon transfer of ownership through inheritance;

(2) regulate trees pursuant to any local act of the General Assembly;

(3) adopt ordinances that are necessary to comply with any federal or state law or regulation;

(4) exercise its planning or zoning authority as provided by law.”

SECTION 2. This act takes effect upon approval by the Governor.

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