

SENATE BILL 1473

By Henry

AN ACT to amend Tennessee Code Annotated, Title 43 and Title 68, relative to the "Rural, Agricultural and Natural Resources Act".

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 68, is amended by adding Sections 2 through 8 as a new, appropriately designated chapter.

SECTION 2.

(a) This chapter shall be known and may be cited as the "Rural, Agricultural and Natural Resources Act".

(b) This chapter is established for the purpose of safeguarding the rural character and unique beauty of each of the three (3) grand divisions of this state against the rapid expansion of urban development and the loss of thousands of acres of agricultural land each year. The general assembly desires to maintain the rural character of some communities on behalf of the citizens of this state. The intent of this chapter is to provide such protection by authorizing the designation of a predominately rural community as a Rural, Agricultural, and Natural Resources Act (RANRA) community when the majority of the owners of real property in such community agree to apply for such designation.

SECTION 3.

(a) For the purposes of this chapter:

(1) "Commissioner" means the commissioner of environment and conservation; and

(2) "Department" means the department of environment and conservation.

(b) The department shall promulgate rules establishing requirements that a community must meet in order to be designated as a RANRA community including that the community has the following features:

- (1) Steep slopes and ridgelines;
- (2) Woodlands;
- (3) Natural areas for open space;
- (4) Narrow country roads;
- (5) Limited urban services;
- (6) Low population density;
- (7) Deep housing setbacks surrounded by natural areas and working farms, grasslands and pastures;
- (8) View sheds;
- (9) Wildlife habitat and wildlife;
- (10) Wildflowers, plants, and trees; and
- (11) Significant water resources, including flood plains, wetlands, springs and wells, swamps, streams, rivers, lakes and riparian areas.

SECTION 4.

(a) A community designated by the department as a RANRA community shall comply with the following requirements:

(1) Any residence constructed on or after the date a community is designated a RANRA community shall:

- (A) Be situated on real property of no less than ten (10) acres of land;

(B) Utilize a subsurface sewage disposal system as defined by § 68-221-402;

(C) Be set back at least two-hundred fifty feet (250') from any water of the state; and

(D) Utilize minimal outdoor lighting as prescribed by the department and shall utilize lighting that has received the Fixture Seal of Approval of the International Dark-Sky Association.

(2)

(A) Any residence in existence upon the date the community is designated as a RANRA community shall not be required to comply with subsection (a).

(B) An additional residence constructed for the purpose of housing an immediate family member may be constructed in proximity to an original residence described in subdivision (2)(A) if such additional residence is located no less than five hundred feet (500') from the current residence; provided, however, that if ownership of the original residence is transferred for any reason, including death of the owner, from the person owning the residence at the time the community is designated as a RANRA community, then this subdivision (2)(B) shall no longer apply.

(b) No development shall occur in an area designated as a RANRA community on or after the date the area is designated as a RANRA community without prior approval by the department. The department shall not approve development that the department determines would have an adverse impact on the RANRA community's rural character including an adverse impact on the natural, scenic, aesthetic, ecological,

wildlife habitat and wildlife, plant life and trees, air, soil, water, agricultural land, recreational, and open space resources in the RANRA community.

SECTION 5.

(a) The department shall promulgate a RANRA designation application form and shall establish an application process for communities seeking RANRA designation.

(b) In order to be designated a RANRA community, a community shall demonstrate that:

(1) Persons owning real property in the area to be designated a RANRA community have been informed of this chapter, and any rules promulgated by the department pursuant to the authority granted by this chapter; and

(2) Two-thirds (2/3) of such persons approve seeking designation as a RANRA community.

(c) The commissioner, upon determining that the petitioners in fact own real property in the proposed district, shall so certify upon which such certification a RANRA community comes into existence. Any aggrieved party may appeal under the Uniform Administrative Procedures Act, compiled in title 4, chapter 5 the determination of the commissioner with regard to ownership of real property by the petitioners within the proposed RANRA.

(d) The community shall submit a map illustrating the area to be designated a RANRA community and any other information or documentation evidencing the community's eligibility for RANRA community designation requested by the department at the time the application form is submitted. The community shall also pay an application fee which shall be set by the department at an amount sufficient to defray the usual costs of administering the application process.

(e) The department may hold one (1) or more public hearings prior to approval or denial of the application. Public notice of any such hearing shall be published at least fourteen (14) days prior to such hearing on the department's web site and in a major news publication of the area under consideration for RANRA community designation.

(f) An application shall be approved or denied by the department within ninety (90) days of the department's receipt of a completed application. The department shall specify in writing why an application has been approved or denied.

SECTION 6.

(a) On or after the effective date of this chapter, persons owning real property in each of the following areas may apply for RANRA community designation as provided in Section 5:

- (1) The Wolf River Corridor;
- (2) The Beaman Park to Bells Bend Corridor; and
- (3) The French Broad River Corridor.

(b) On or after the date one (1) year from the effective date of this chapter, additional communities in this state may apply with the department to be designated as a RANRA community.

SECTION 7.

(a)

(1) Whenever the commissioner has reason to believe that a violation of SECTION 4 or regulations promulgated pursuant to this chapter has occurred, is occurring, or is about to occur, the commissioner may cause a written complaint to be delivered to the alleged violator or violators. The complaint shall specify the provision or provisions of this chapter, regulation, or order alleged to be violated or about to be violated, the facts alleged to constitute a violation of this

chapter, regulation, or order, may order that corrective action be taken within a reasonable time to be prescribed in such order, and shall inform the violators of the opportunity for a hearing.

(2) Any such order shall become final and not subject to review unless the person or persons named in the order request by written petition a hearing no later than thirty (30) days after the date such order is delivered; provided, that the commissioner may review such final order, on the same grounds upon which a court of the state may review default judgments.

(b) The commissioner, upon finding that the public health, safety or welfare imperatively requires immediate action, may, without prior notice, or without preceding the action with a hearing, issue an order requiring that such action be taken as the commissioner deems necessary under the circumstances. A person to whom such an order is directed shall comply immediately pending the opportunity for a prompt hearing.

(c) Except as otherwise expressly provided, any notice, complaint, order, or other instrument issued by or under authority of this chapter may be served on any person by the commissioner, by certified mail, or in accordance with Tennessee statutes authorizing service of process in civil actions.

(d) The commissioner is authorized to initiate proceedings seeking injunctive relief against an alleged violator or violators whenever the commissioner has reason to believe that a violation of SECTION 4 or regulations promulgated pursuant to this chapter has occurred, is occurring, or is about to occur.

(e) Proceedings under subsection (d) may be initiated in the chancery court of Davidson County or the chancery court of the county in which all or part of the activities complained of occur.

SECTION 8. The department is authorized to promulgate rules to effectuate the provisions of this chapter in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5.

SECTION 9. For the purposes of promulgating rules and publishing forms, this act shall take effect upon becoming a law, the public welfare requiring it. For all other purposes, this act shall take effect January 1, 2010, the public welfare requiring it.