



SENATE BILL 367: Clarify Property Owners' Rights.

**This Bill Analysis
reflects the contents
of the bill as it was
presented in
committee.**

2019-2020 General Assembly

Committee:	Senate State and Local Government. If favorable, re-refer to Judiciary. If favorable, re-refer to Rules and Operations of the Senate	Date:	April 9, 2019
Introduced by:	Sens. McInnis, Krawiec, B. Jackson	Prepared by:	Brad Krehely
Analysis of:	First Edition		Committee Co-Counsel

OVERVIEW: *Senate Bill 367 provides that counties and cities must not adopt ordinances regulating the removal of trees without the express authorization of the General Assembly. The act is effective when it becomes law.*

CURRENT LAW: Under Section 1 of Article VII of the NC Constitution, the General Assembly is empowered to "provide for the organization and government and the fixing of boundaries of counties, cities and towns, and other governmental subdivisions, and, except as otherwise prohibited by this Constitution, may give such powers and duties to counties, cities and towns, and other governmental subdivisions as it may deem advisable." The general police power is delegated to counties and cities in Chapter 153A and Chapter 160A of the General Statutes. In particular, counties and cities are permitted to enact ordinances governing "acts, omissions, or conditions detrimental to the health, safety, or welfare of [their] citizens and the peace and dignity of [their jurisdictions]." This power also includes the authority to define and abate nuisances. G.S. 153A-121(a) and G.S. 160A-174(a). However, the police power is subject to certain limitations. For example, a county or city may not authorize acts that are expressly prohibited by State or federal law.

Under current law, local governments have adopted provisions dealing with removal of trees from private property by acting under the general police power or by receiving express authorization of the General Assembly through the adoption of a local act.

BILL ANALYSIS:

Sections 1 and 2 prohibit counties and cities from adopting ordinances regulating the removal of trees from private property within the local government's jurisdiction without the express authorization of the General Assembly. Neither the general police powers, nor any other powers given to local governments except a general or local law expressly authorizing a county or city to adopt ordinances regulating the removal of trees from private property, must be used as the basis for adopting ordinances regulating the removal of trees from private property.

Under these sections, any ordinance regulating the removal of trees from private property must provide that the owner of the property may remove any tree on the property that interferes with a construction or renovation project so long as the owner replaces the tree with a sapling of the same or similar type. A "sapling" means any tree between 1 and 4 inches in diameter at breast height.

Section 3 lists a number of local acts authorizing ordinances regulating the removal of trees from private property. Those local acts would remain in effect after this act becomes law, but the governing body of the county or city must amend its ordinances to include a provision that the owner of the property may

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remove any tree on the property that interferes with a construction or renovation project so long as the owner replaces the tree with a sapling of the same or similar type.

Section 4 repeals ordinances regulating the removal of trees from private property that were adopted before the date this act becomes law without the express authorization of the General Assembly.

EFFECTIVE DATE: The act is effective when it becomes law.