

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

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SENATE DRS15139-LH-153A (3/6)

Short Title: CRC May Permit Terminal Groin.

(Public)

Sponsors: Senator Boseman.

Referred to:

A BILL TO BE ENTITLED

AN ACT TO PROVIDE THAT THE COASTAL RESOURCES COMMISSION MAY AUTHORIZE THE CONSTRUCTION OF A TERMINAL GROIN BY VARIANCE IF CERTAIN CRITERIA ARE MET.

Whereas, the State of North Carolina has 320 miles of coastline and 19 inlets that are both a public trust and a significant economic resource; and

Whereas, shifting inlets have resulted in enormous losses of public beach access, property, business, and infrastructure, costing counties and cities all along North Carolina's coast tens of millions of dollars in reconstruction cost and lost tax revenue; and

Whereas, every coastal state in the U.S. except North Carolina and Oregon allow for some manner of protection from the problem of shifting inlets; and

Whereas, a terminal groin, also known as a terminal structure, is a structure that is built on one side of an inlet shoreline to prevent movement of sand into the inlet or on an isolated segment of shoreline where it will not interrupt the natural movement of sand along the shoreline; and

Whereas, inlets in North Carolina at Fort Macon and Pea Island are already successfully protected by terminal structures; and

Whereas, a terminal structure is unobtrusive and permeable, basically placing a template back where the land and beach was, allowing it to fill again with sand without detrimental consequences to the coastline; and

Whereas, a terminal structure differs both in form and in function from other erosion control structures such as seawalls or jetties; and

Whereas, it is reasonable to allow the Coastal Resources Commission to consider authorizing the construction of a terminal structure by variance or by rule making if the Commission finds that the criteria for issuance of a variance are met or adopts rules allowing construction; Now, therefore,

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 113A-115.1 reads as rewritten:

"§ 113A-115.1. Limitations on erosion control structures.

(a) As used in this section:

(1) "Erosion control structure" means a breakwater, bulkhead, groin, jetty, revetment, seawall, or any similar structure.

(1a) "Littoral cell" means any section of coastline that has its own sediment sources and sediment sinks and is isolated from adjacent coastal reaches in terms of sediment movement.



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- 1 (2) "Ocean shoreline" means the Atlantic Ocean, the oceanfront beaches, and
2 frontal dunes. The term "ocean shoreline" includes an ocean inlet and lands
3 adjacent to an ocean inlet but does not include that portion of any inlet and
4 lands adjacent to the inlet that exhibits characteristics of estuarine shorelines.
- 5 (3) "Temporary erosion control structure" means sandbags placed above mean
6 high water and parallel to the ocean shoreline regardless of time limits
7 imposed on any permit.
- 8 (4) "Terminal groin" means a groin that is constructed at the end of a littoral cell
9 or on the side of an inlet to limit or control sediment passage into the inlet
10 channel.

11 (b) No person shall construct a permanent erosion control structure in an ocean
12 shoreline. The Commission shall not permit the construction of a temporary erosion control
13 structure that consists of anything other than sandbags in an ocean shoreline. This section shall
14 not apply to (i) any permanent erosion control structure that is approved pursuant to an
15 exception set out in a rule adopted by the Commission prior to 1 July 2003 or (ii) any
16 permanent erosion control structure that was originally constructed prior to 1 July 1974 and that
17 has since been in continuous use to protect an inlet that is maintained for navigation. This
18 section shall not be construed to limit the authority of the Commission to adopt rules to
19 designate or protect areas of environmental concern, to govern the use of sandbags, or to
20 govern the use of erosion control structures in estuarine shorelines.

21 (c) The Commission may renew a permit for an erosion control structure issued
22 pursuant to a variance granted by the Commission prior to 1 July 1995. The Commission may
23 authorize the replacement of a permanent erosion control structure that was permitted by the
24 Commission pursuant to a variance granted by the Commission prior to 1 July 1995 if the
25 Commission finds that: (i) the structure will not be enlarged beyond the dimensions set out in
26 the original permit; (ii) there is no practical alternative to replacing the structure that will
27 provide the same or similar benefits; and (iii) the replacement structure will comply with all
28 applicable laws and with all rules, other than the rule or rules with respect to which the
29 Commission granted the variance, that are in effect at the time the structure is replaced.

30 (d) In addition to the exceptions set out in subsection (b) of this section, the
31 Commission may approve a permit for construction of a terminal groin as a sediment
32 management device pursuant to a variance under G.S. 113A-120.1 or through rule making. A
33 permit may be issued under this section notwithstanding Commission rules or policies that
34 would otherwise prohibit such construction. Every application for a permit to construct a
35 terminal groin under this section shall be accompanied by an environmental impact statement
36 that meets the requirements of G.S. 113A-4. A permit issued for a terminal groin pursuant to
37 this section may require any permittee other than a State agency, federal agency, or unit of local
38 government to provide financial assurance, in the form of a bond, insurance policy, escrow
39 account, or other financial instrument, that is adequate to cover the cost of removal of the
40 terminal groin if the Commission determines through monitoring results that the terminal groin
41 project has an adverse impact on the environment or on other properties that cannot be
42 sufficiently mitigated. The Commission may require the permittee to maintain financial
43 assurance provided under this subsection for no more than five years after construction of the
44 terminal groin."

45 **SECTION 2.** This act is effective when it becomes law and expires July 1, 2013.