

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2007**

H

3

**HOUSE BILL 89
Committee Substitute Favorable 3/14/07
Senate Commerce, Small Business and Entrepreneurship Committee Substitute
Adopted 7/27/07**

Short Title: Oak Island Construction Limitations.

(Local)

Sponsors:

Referred to:

February 7, 2007

A BILL TO BE ENTITLED

1 AN ACT RELATING TO LIMITATIONS ON CONSTRUCTION IN THE TOWN OF
2 OAK ISLAND.
3

4 The General Assembly of North Carolina enacts:

5 **SECTION 1.** For the purposes of this act, "USACE" means United States
6 Army Corps of Engineers.

7 **SECTION 2.** All land filled in, restored, and made and all land to be filled
8 in, restored, and made as a result of a beach fill project undertaken by or at the direction
9 of the Town of Oak Island shall be within the corporate limits of the Town of Oak
10 Island, and so much of the lands filled in, restored, and made, that will be north of the
11 "January 2000 USACE Line," to be defined and determined by the provisions of Section
12 3 of this act, is hereby granted and conveyed in fee simple to the landowner, to the
13 extent that his land abuts thereon, and the balance of the land lying south of the
14 "January 2000 USACE Line," to be fixed and determined by the provisions of Section 3
15 of this act, is hereby granted and conveyed in fee simple to the Town of Oak Island. For
16 the purposes of this act, "beach fill" shall be defined as the placement of sediment along
17 the oceanfront shoreline. The "January 2000 USACE Line" shall be the line from which
18 building setbacks will be determined pursuant to regulations of the Town of Oak Island.

19 **SECTION 3.** Within 120 days from the date this act becomes law, the Town
20 of Oak Island shall, at its own cost, survey or have surveyed by a duly licensed surveyor
21 the "January 2000 USACE Line" and have monuments installed at reasonable intervals
22 marking reference points on the "January 2000 USACE Line" which shall run the full
23 length of the nourished beachfront referred to in the preamble of this act. The
24 governing body of the Town of Oak Island shall cause to be prepared a map showing,
25 fixing, and defining the "January 2000 USACE Line." The map showing, fixing, and
26 defining the "January 2000 USACE Line" shall be recorded in the Office of the Register
27 of Deeds of Brunswick County in a Map Book kept for recording purposes after the

1 surveyor has appended an oath to the effect that the line has been truly and properly
2 surveyed and laid out and marked on the map. The Register of Deeds shall properly
3 index and cross-index the map, and when the map is recorded in the Map Book or
4 entered or placed therein, instead of inserting a transcript thereof, and indexed, the map
5 shall be competent and prima facie evidence of the facts thereon, without other or
6 further proof of the milking of the map, and the map shall conclusively fix and
7 determine the "January 2000 USACE Line" in perpetuity. All made and constructed
8 land lying south of the "January 2000 USACE Line" shall be at all times kept open for
9 public purposes and, if any property that is granted and conveyed to the Town of Oak
10 Island under this act shall cease to be used for the purposes or in the manner prescribed
11 in this act, it shall revert and become the property of the State of North Carolina.

12 **SECTION 4.** The "Actual Vegetation Line" shall be the line from which the
13 erosion setback is measured for the purposes of the Coastal Area Management Act of
14 1974, Article 7 of Chapter 113A of the General Statutes, and administrative regulations
15 promulgated pursuant to the Act. To this end: (i) the erosion setback line for buildings
16 or structures less than 5,000 square feet shall be set at a distance of 60 feet from the
17 "Actual Vegetation Line" so that all the buildings or structures shall be built and erected
18 60 feet landward of the "Actual Vegetation Line"; and (ii) the erosion setback line for
19 buildings or structures greater than 5,000 square feet shall be set a distance of 120 feet
20 from the "Actual Vegetation Line" so that all the buildings or structures shall be built or
21 erected 120 feet landward of the "Actual Vegetation Line."

22 **SECTION 5.** Any property owner who claims that the terms and conditions
23 of this act so restrict the use of his or her real property so as to constitute a taking
24 without just compensation in violation of the North Carolina Constitution or the United
25 States Constitution, and who does not assert the claim against the State of North
26 Carolina in a court of competent jurisdiction within six months after the monuments are
27 installed as provided in Section 3 of this act shall be conclusively presumed to have
28 acquiesced in and to have accepted the terms and conditions of this act and to have
29 abandoned the claim, and shall be forever bound from maintaining any action for
30 redress upon the claim.

31 **SECTION 6.** All laws and clauses of laws in conflict with the provisions of
32 this act are repealed.

33 **SECTION 7.** This act is effective when it becomes law.