

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1993

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SENATE BILL 1437

Short Title: Submerged Lands Extension.

(Public)

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Sponsors: Senators Albertson, Lee, Perdue, and Shaw.

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Referred to: Agriculture, Marine Resources and Wildlife

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May 25, 1994

A BILL TO BE ENTITLED

AN ACT TO EXTEND TIME FOR THE RESOLUTION OF CLAIMS TO LAND  
UNDER NAVIGABLE WATERS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 113-206(a1) reads as rewritten:

"(a1) If a claim is based on an oyster or other shellfish grantor a perpetual franchise for shellfish cultivation, ~~the Marine Fisheries Commission, upon the recommendation of the Secretary,~~ the Secretary may, to resolve the claim, grant a shellfish lease to the claimant for part or all of the area claimed. If a claim of exclusive shellfishing rights was registered based upon a conveyance by the Literary Fund, the North Carolina Literary Board or the State Board of Education, and the claimant shows that the area had been cultivated by the claimant or his predecessor in title for the seven-year period prior to registration of the claim, ~~the Marine Fisheries Commission, upon recommendation of the Secretary,~~ the Secretary may, to resolve the claim, grant a shellfish lease to the claimant for all or part of the area claimed, not to exceed ten acres. A shellfish lease granted under this subsection is subject to the restrictions imposed on shellfish leases in G.S. 113-202, except the prohibition against leasing an area that contains a natural shellfish bed in G.S. 113-202(a)(2). This restriction is waived because, due to the cultivation efforts of the claimant, the area is likely to contain a natural shellfish bed."

Sec. 2. G.S. 113-206(e) reads as rewritten:

"(e) A person who claims that the application of G.S. 113-205 or this section has deprived him of his private property rights in land under navigable waters or his right of fishery in navigable waters without just compensation may file a complaint in the superior court of the county in which the property is located to contest the application of

1 G.S. 113-205 or this section. If the plaintiff prevails, the trier of fact shall fix the  
2 monetary worth of the claim, and the Department may condemn the claim upon  
3 payment of this amount to him if the Secretary considers condemnation appropriate and  
4 necessary to conserve the marine and estuarine resources of the State. The Department  
5 may pay for a condemned claim from available funds. An action under this subsection  
6 is considered a condemnation action and is therefore subject to G.S. 7A-248.

7 The limitation period for an action brought under this subsection is three years. This  
8 period is tolled during the disability of the plaintiff. No action, however, may be  
9 instituted under this subsection after ~~31 December 1997~~. December 31, 2001."

10 Sec. 3. G.S. 113-206(f) reads as rewritten:

11 "(f) In evaluating claims registered pursuant to G.S. 113-205, the Secretary shall  
12 favor public ownership of submerged lands and public trust rights. The Secretary's  
13 action does not alter or affect in any way the rights of a claimant or the State.

14 To facilitate resolution of claims registered pursuant to G.S. 113-205, the Secretary,  
15 in cooperation with the Secretary of Administration and the Attorney General, shall  
16 establish a plan to resolve these claims by ~~31 December 1994~~. December 31, 1998. The  
17 Secretary shall notify the Secretary of Administration and the Attorney General of the  
18 resolution of each claim. In addition, on or before October 1 of each year, the Secretary  
19 shall submit a report to the Joint Legislative Commission on Governmental Operations  
20 stating the following:

- 21 (1) The number of claims registered pursuant to G.S. 113-205 that were  
22 resolved during the preceding year;  
23 (2) The cost of resolving these claims;  
24 (3) The number of unresolved claims; and  
25 (4) Payments made to acquire claims by condemnation."

26 Sec. 4. G.S. 105-151.12(e) reads as rewritten:

27 "(e) In the case of marshland for which a claim has been filed pursuant to G.S.  
28 113-205, the offer of donation must be made before ~~December 31, 1994~~, December 31,  
29 1998, to qualify for the credit allowed by this section."

30 Sec. 5. This act is effective upon ratification.