

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003**

**SESSION LAW 2003-427
HOUSE BILL 1028**

AN ACT TO AUTHORIZE THE COASTAL RESOURCES COMMISSION TO ADOPT TEMPORARY AND PERMANENT RULES TO ESTABLISH A GENERAL PERMIT FOR THE CONSTRUCTION OF RIPRAP SILLS FOR WETLAND ENHANCEMENT AND SHORELINE PROTECTION IN ESTUARINE AND PUBLIC TRUST WATERS, TO PROHIBIT THE CONSTRUCTION OF PERMANENT EROSION CONTROL STRUCTURES IN OCEAN SHORELINES, AND TO PROVIDE THAT TEMPORARY EROSION CONTROL STRUCTURES IN OCEAN SHORELINES SHALL BE LIMITED TO SANDBAGS.

The General Assembly of North Carolina enacts:

SECTION 1. Pursuant to G.S. 113A-118.1, the Coastal Resources Commission may adopt temporary and permanent rules to establish a general permit to allow the construction of offshore parallel sills made of stone or other suitable riprap materials for shoreline protection in conjunction with existing, created, or restored wetlands. The permit shall be applicable only where a shoreline is experiencing erosion in public trust areas and estuarine waters. The permit shall not apply to oceanfront shorelines or to waters and shorelines adjacent to the ocean hazard areas of environmental concern except that the permit may apply to those shorelines that exhibit characteristics of estuarine shorelines. Characteristics of estuarine shorelines include the presence of wetland vegetation, lower wave energy, and lower erosion rates than are generally characteristic of ocean erodible areas. Notwithstanding G.S. 150B-21.1(a), the authorization to adopt temporary rules pursuant to this section shall continue in effect until 1 July 2004. Reference to this section shall satisfy the requirement for a statement of finding of need for a temporary rule set out in G.S. 150B-21.1.

SECTION 2. The fee for a general permit established by temporary rules pursuant to Section 1 of this act shall be one hundred dollars (\$100.00). In adopting permanent rules pursuant to Section 1 of this act, the Coastal Resources Commission shall set a fee for the general permit as provided in G.S. 113A-119.1.

SECTION 3. Part 3 of Article 7 of Chapter 113A of the General Statutes is amended by adding a new section to read:

"§ 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.
- (2) 'Ocean shoreline' means the Atlantic Ocean, the oceanfront beaches, and frontal dunes. The term 'ocean shoreline' includes an ocean inlet and lands adjacent to an ocean inlet but does not include that portion of any inlet and lands adjacent to the inlet that exhibits characteristics of estuarine shorelines.

(b) No person shall construct a permanent erosion control structure in an ocean shoreline. The Commission shall not permit the construction of a temporary erosion control structure that consists of anything other than sandbags in an ocean shoreline. This section shall not apply to (i) any permanent erosion control structure that is approved pursuant to an exception set out in a rule adopted by the Commission prior to

1 July 2003 or (ii) any permanent erosion control structure that was originally constructed prior to 1 July 1974 and that has since been in continuous use to protect an inlet that is maintained for navigation. This section shall not be construed to limit the authority of the Commission to adopt rules to designate or protect areas of environmental concern, to govern the use of sandbags, or to govern the use of erosion coastal structures in estuarine shorelines.

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

SECTION 4. Sections 1 and 2 of this act become effective 1 July 2003. Sections 3 and 4 of this act become effective when this act becomes law.

In the General Assembly read three times and ratified this the 19th day of July, 2003.

s/ Beverly E. Perdue
President of the Senate

s/ James B. Black
Speaker of the House of Representatives

s/ Michael F. Easley
Governor

Approved 11:09 a.m. this 19th day of August, 2003