

**GENERAL ASSEMBLY OF NORTH CAROLINA**  
**SESSION 2007**

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**HOUSE BILL 1154**

Short Title: Oak Island/Erosion Setback Line.

(Local)

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Sponsors: Representative Stiller.

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Referred to: Local Government II.

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March 29, 2007

A BILL TO BE ENTITLED

1 AN ACT RELATING TO THE EROSION SETBACK LINE IN THE TOWN OF OAK  
2 ISLAND AS A RESULT OF CERTAIN SPOIL DEPOSITION IN THE TOWN.

3  
4 Whereas, during the course of many years in the Town of Oak Island in  
5 Brunswick County, North Carolina, much of the land abutting and fronting on the  
6 Atlantic Ocean in the Town, formerly belonging to various property owners, was  
7 washed away by successive storms, tides, and winds; and

8 Whereas, beginning in or around 2001, a spoil deposition project was  
9 conducted by the United States Army Corps of Engineers in conjunction with the  
10 dredging of the Wilmington Harbor; and

11 Whereas, beginning in or around 2001, a turtle habitat restoration project was  
12 conducted by the United States Army Corps of Engineers; and

13 Whereas, in January 2000, the United States Army Corps of Engineers  
14 determined the mean high-water mark on the Oak Island oceanfront for purposes of  
15 construction of the spoil deposition project and the turtle habitat restoration project, and  
16 the line is hereinafter referred to as the "January 2000 USACE Line"; and

17 Whereas, subsequent to the spoil deposition and the turtle habitat restoration  
18 projects, the first line of stable natural vegetation, hereinafter referred to as the "Actual  
19 Vegetation Line," was established and has remained significantly seaward of the  
20 previous line of vegetation that had been affected by successive storms, tides, and  
21 winds; and

22 Whereas, the Town of Oak Island will secure sufficient funds with which to  
23 maintain and preserve the areas of beachfront nourished by the spoil deposition and  
24 turtle habitat restoration projects and the "Actual Vegetation Line" established  
25 following the projects; and

26 Whereas, it is the desire of the Town of Oak Island and the State of North  
27 Carolina to fix and define the line to be used to determine building setback for the  
28 purposes of local regulations and to establish the "Actual Vegetation Line" as the line to  
29 be utilized in determining erosion setbacks pursuant to the Coastal Area Management

1 Act of 1974, Article 7 of Chapter 113A of the General Statutes, and administrative  
2 regulations promulgated pursuant to the Act, in order to ensure sufficient beachfront for  
3 public purposes, to preserve the economic vitality of the Town of Oak Island, and to  
4 protect the private property rights of the Town's citizens; Now, therefore,  
5 The General Assembly of North Carolina enacts:

6 **SECTION 1.** That all land filled in, restored, and made, and all land to be  
7 filled in, restored, and made as the result of the recitals in the preamble of this act, that  
8 will exist after the work referred to in the preamble is completed, shall be within the  
9 corporate limits of the Town of Oak Island, and so much of the lands filled in, restored,  
10 and made, that will be north of the "January 2000 USACE," to be defined and  
11 determined by the provisions of Section 2 of this act, is hereby granted and conveyed in  
12 fee simple to the landowner, to the extent that his land abuts thereon, and the balance of  
13 the land lying south of the "January 2000 USACE Line," to be fixed and determined by  
14 the provisions of Section 2 of this act, is hereby granted and conveyed in fee simple to  
15 the Town of Oak Island. The "January 2000 USACE Line" shall be the line from which  
16 building setbacks will be determined pursuant to regulations of the Town of Oak Island.

17 **SECTION 2.** Within 120 days from the date this act becomes law, the Town  
18 of Oak Island shall, at its own cost, survey or have surveyed by a duly licensed surveyor  
19 the "January 2000 USACE Line" and have monuments installed at reasonable intervals  
20 marking reference points on the "January 2000 USACE Line" which shall run the full  
21 length of the nourished beachfront referred to in the preamble of this act. The  
22 governing body of the Town of Oak Island shall cause to be prepared a map showing,  
23 fixing, and defining the "January 2000 USACE Line." The map showing, fixing, and  
24 defining the "January 2000 USACE Line" shall be recorded in the Office of the Register  
25 of Deeds of Brunswick County in a Map Book kept for recording purposes after the  
26 surveyor has appended an oath to the effect that the line has been truly and properly  
27 surveyed and laid out and marked on the map. The Register of Deeds shall properly  
28 index and cross-index the map, and when the map is recorded in the Map Book or  
29 entered or placed therein, instead of inserting a transcript thereof, and indexed, the map  
30 shall be competent and prima facie evidence of the facts thereon, without other or  
31 further proof of the milking of the map, and the map shall conclusively fix and  
32 determine the "January 2000 USACE Line" in perpetuity. All made and constructed  
33 land lying south of the "January 2000 USACE Line" shall be at all times kept open for  
34 public purposes and, if any property that is granted and conveyed to the Town of Oak  
35 Island under this act shall cease to be used for the purposes or in the manner prescribed  
36 in this act, it shall revert and become the property of the State of North Carolina.

37 **SECTION 3.** The "Actual Vegetation Line" shall be the line from which the  
38 erosion setback is measured for the purposes of the Coastal Area Management Act of  
39 1974, Article 7 of Chapter 113A of the General Statutes, and administrative regulations  
40 promulgated pursuant to the act. To this end: (i) the erosion setback line for buildings  
41 or structures less than 5,000 square feet shall be set at a distance of 60 feet from the  
42 "Actual Vegetation Line" so that all the buildings or structures shall be built and erected  
43 60 feet landward of the "Actual Vegetation Line"; and (ii) the erosion setback line for  
44 buildings or structures greater than 5,000 square feet shall be set a distance of 120 feet

1 from the "Actual Vegetation Line" so that all the buildings or structures shall be built or  
2 erected 120 feet landward of the "Actual Vegetation Line."

3           **SECTION 4.** Any property owner who claims that the terms and conditions  
4 of this act so restrict the use of his real property so as to constitute a taking without just  
5 compensation in violation of the North Carolina Constitution or the United States  
6 Constitution, and who does not assert the claim against the State of North Carolina in a  
7 court of competent jurisdiction within six months after the monuments are installed as  
8 provided in Section 2 of this act shall be conclusively presumed to have acquiesced in  
9 and to have accepted the terms and conditions of this act and to have abandoned the  
10 claim, and shall be forever bound from maintaining any action for redress upon the  
11 claim.

12           **SECTION 5.** All laws and clauses of laws in conflict with the provisions of  
13 this act are repealed.

14           **SECTION 6.** This act is effective when it becomes law.