

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2011

S

3

SENATE BILL 110  
Agriculture/Environment/Natural Resources Committee Substitute Adopted 3/9/11  
Third Edition Engrossed 3/14/11

Short Title: Permit Terminal Groins.

(Public)

Sponsors:

Referred to:

February 24, 2011

1 A BILL TO BE ENTITLED  
2 AN ACT TO AUTHORIZE THE PERMITTING AND CONSTRUCTION OF TERMINAL  
3 GROINS AT INLETS UNDER CERTAIN CONDITIONS.

4 The General Assembly of North Carolina enacts:

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

6 "§ 113A-115.1. Limitations on erosion control structures.

7 (a) As used in this section:

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

10 (1a) "Estuarine shoreline" means all shorelines that are not ocean shorelines that  
11 border estuarine waters as defined in G.S. 113A-113(b)(2).

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

16 (3) "Terminal groin" means a structure that is constructed on the side of an inlet  
17 at the terminus of an island generally perpendicular to the shoreline to limit  
18 or control sediment passage into the inlet channel.

19 (b) No person shall construct a permanent erosion control structure in an ocean  
20 shoreline. The Commission shall not permit the construction of a temporary erosion control  
21 structure that consists of anything other than sandbags in an ocean shoreline. This section shall  
22 not apply to ~~(i) any~~ any of the following:

23 (1) Any permanent erosion control structure that is approved pursuant to an  
24 exception set out in a rule adopted by the Commission prior to ~~1 July 2003~~  
25 or ~~(ii) any July 1, 2003.~~

26 (2) Any permanent erosion control structure that was originally constructed  
27 prior to ~~1 July 1974~~ July 1, 1974, and that has since been in continuous use to  
28 protect an inlet that is maintained for navigation.

29 (3) Any terminal groin permitted pursuant to this section.

30 (b1) This section shall not be construed to limit the authority of the Commission to adopt  
31 rules to designate or protect areas of environmental concern, to govern the use of sandbags, or  
32 to govern the use of erosion control structures in estuarine shorelines.

33 (c) The Commission may renew a permit for an erosion control structure issued  
34 pursuant to a variance granted by the Commission prior to ~~1 July~~ July 1, 1995. The Commission  
35 may authorize the replacement of a permanent erosion control structure that was permitted by



1 the Commission pursuant to a variance granted by the Commission prior to ~~4 July 1995~~ July 1,  
2 1995 if the Commission finds that: (i) the structure will not be enlarged beyond the dimensions  
3 set out in the original permit; (ii) there is no practical alternative to replacing the structure that  
4 will provide the same or similar benefits; and (iii) the replacement structure will comply with  
5 all applicable laws and with all rules, other than the rule or rules with respect to which the  
6 Commission granted the variance, that are in effect at the time the structure is replaced.

7 (d) Any rule that prohibits permanent erosion control structures shall not apply to  
8 terminal groins permitted pursuant to this section.

9 (e) In addition to the requirements of Part 4 of Article 7 of Chapter 113A of the General  
10 Statutes, an applicant for a permit for the construction of a terminal groin shall submit all of the  
11 following to the Commission:

12 (1) Information to demonstrate that structures or infrastructure are imminently  
13 threatened by erosion and nonstructural approaches to erosion control,  
14 including relocation of threatened structures, are impractical.

15 (2) An environmental impact statement that satisfies the requirements of  
16 G.S. 113A-4.

17 (3) A list of property owners and local governments that may be affected by the  
18 construction of the proposed terminal groin and its accompanying beach fill  
19 project and proof that the property owners and local governments have been  
20 notified of the application for construction of the terminal groin and its  
21 accompanying beach fill project.

22 (4) A plan for the construction and maintenance of the terminal groin and its  
23 accompanying beach fill project prepared by a professional engineer  
24 licensed to practice pursuant to Chapter 89C of the General Statutes and  
25 reviewed by an independent third-party professional engineer licensed to  
26 practice pursuant to Chapter 89C of the General Statutes.

27 (5) A plan for the management of the inlet and the estuarine and ocean  
28 shorelines immediately adjacent to and under the influence of the inlet. The  
29 inlet management plan shall do all of the following relative to the terminal  
30 groin and its accompanying beach fill project:

31 a. Describe the post-construction activities that the applicant will  
32 undertake to monitor the impacts on coastal resources.

33 b. Define the baseline for assessing any adverse impacts and the  
34 thresholds for when the adverse impacts must be mitigated.

35 c. Provide for mitigation measures to be implemented if adverse  
36 impacts reach the thresholds defined in the plan.

37 d. Provide for modification or removal of the terminal groin if the  
38 adverse impacts cannot be mitigated.

39 (6) Proof of financial assurance, in the form of a bond, insurance policy, escrow  
40 account, or other financial instrument, that is adequate to cover the cost of:

41 a. Long-term maintenance and monitoring of the terminal groin.

42 b. Implementation of mitigation measures as provided in the inlet  
43 management plan.

44 c. Modification or removal of the terminal groin as provided in the inlet  
45 management plan.

46 d. Restoration of public, private, or public trust property if the groin has  
47 an adverse impact on the environment or property.

48 (f) The Commission shall issue a permit for the construction of a terminal groin if the  
49 Commission finds no grounds for denying the permit under G.S. 113A-120 and the  
50 Commission finds all of the following:

- 1           (1) The applicant has complied with all of the requirements of subsection (e) of  
2           this section.
- 3           (2) The applicant has demonstrated that structures or infrastructure are  
4           imminently threatened by erosion and that nonstructural approaches to  
5           erosion control, including relocation of threatened structures, are  
6           impractical.
- 7           (3) The terminal groin will be accompanied by a concurrent beach fill project to  
8           prefill the groin.
- 9           (4) Construction and maintenance of the terminal groin will not result in  
10           significant adverse impacts to private property or to the public recreational  
11           beach. In making this finding, the Commission shall take into account  
12           mitigation measures, including the accompanying beach fill project, that will  
13           be incorporated into the project design and construction and the inlet  
14           management plan.
- 15           (5) The inlet management plan is adequate for purposes of monitoring the  
16           impacts of the proposed terminal groin and mitigating any adverse impacts  
17           identified as a result of the monitoring.
- 18           (6) Except to the extent expressly modified by this section, the project complies  
19           with State guidelines for coastal development adopted by the Commission  
20           pursuant to G.S. 113A-107.
- 21           (g) Only one terminal groin may be placed on each ocean shoreline immediately  
22           adjacent to an inlet for a maximum of two groins per inlet."

23           **SECTION 2.** The Department of Environment and Natural Resources shall amend  
24 the management program it adopted pursuant to the federal Coastal Zone Management Act, 16  
25 U.S.C. § 1451, et seq., to ensure the management program is consistent with G.S. 113A-115.1,  
26 as amended by Section 1 of this act, and shall seek approval of the proposed amended  
27 management plan by the United States Secretary of Commerce or the Secretary's authorized  
28 designee no later than six months after the effective date of this act.

29           **SECTION 3.** The Department shall adopt any rules necessary to implement this  
30 act.

31           **SECTION 4.** No State funds may be spent for any activities related to a terminal  
32 groin and its accompanying beach fill project permitted pursuant to G.S. 113A-115.1, as  
33 amended by Section 1 of this act, unless the General Assembly enacts legislation appropriating  
34 funds explicitly for such purpose. This section shall not apply to any beach fill or beach  
35 nourishment project initiated prior to the effective date of this act.

36           **SECTION 5.** This act is effective when it becomes law.