

NORTH CAROLINA GENERAL ASSEMBLY
1975 SESSION

CHAPTER 456
HOUSE BILL 1016

AN ACT TO AMEND SECTION 229 CHAPTER 113 OF THE GENERAL STATUTES
RELATING TO PERMITS TO DREDGE OR FILL IN OR ABOUT ESTUARINE
WATERS OR STATE OWNED LAKES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 113-229(a) is amended by placing between the terms "(a)" and "Before" the following: "Except as hereinafter provided."

Sec. 2. G.S. 113-229(e) is amended by placing between the sentence ending "to protect the public interest with respect to the factors enumerated in this subsection." and the sentence beginning "The department shall act ", the following: "Permits may allow for projects granted a permit the right to maintain such project for a period of up to 10 years. The right to maintain such project shall be granted subject to such conditions as may be reasonably necessary to protect the public interest. The Marine Fisheries Commission shall by rule, after at least two public hearings, enumerate such conditions as it deems necessary to carry out the purposes of this subsection. Maintenance work as defined in this subsection shall be limited to such activities as are required to maintain the project dimensions as found in the permit granted."

Sec. 3. G.S. 113-229(e) is amended by placing between the words "permits" and "shall" in the first sentence the following: "except special emergency permit applications,".

Sec. 4. G.S. 113-229(e) is further amended by placing between the words "filed" and "and" in the last sentence the following: "except for applications for a special emergency permit in which case the department shall act within two working days after an application is filed."

Sec. 5. G.S. 113-229(d) is amended by placing between the terms "(d)" and "The applicant" the following: "Except in the case of an application for a Special Emergency Dredge or Fill Permit."

Sec. 6. G.S. 113-229(d) is further amended by adding the following: "In this case of a Special Emergency Dredge or Fill Permit the applicant must certify that he took all reasonable steps to notify adjacent riparian owners of the application for a Special Emergency Dredge and Fill Permit prior to submission of the application. Upon receipt of this certification, the secretary shall issue or deny the permit within the time period specified in (e) of this section, upon the express understanding from the applicant that he will be entirely liable and hold the State harmless for all damage to adjacent riparian landowners directly and proximately caused by the dredging or filling for which approval may be given."

Sec. 7. G.S. 113-229 is further amended by inserting a new subsection (f) to be placed after present subsection (e) as follows: "(f) The Secretary of the Department of Natural and Economic Resources is empowered to issue special Emergency Dredge or Fill Permits upon application. Emergency permits may be issued only when life or structural property is in imminent danger as a result of rapid recent erosion or sudden failure of a man-made structure. The Marine Fisheries Commission may, after public hearings, elaborate by rule on upon what conditions the secretary may issue a Special Emergency Dredge or Fill Permit. The secretary may condition the Emergency Permit upon any reasonable conditions, consistent with the

emergency situation, he feels are necessary to reasonably protect the public interest. Where an application for a Special Emergency Permit includes work beyond which the secretary, in his discretion, feels necessary to reduce imminent dangers to life or property he shall issue the Emergency Permit only for that part of the proposed work necessary to reasonably reduce the imminent danger. All further work must be applied for by application for an ordinary dredge or fill permit. The secretary shall deny an application for a Special Dredge or Fill Permit upon a finding that the detriment to the public, which would occur on issuance of the permit measured by the five factors in 113-229(e), clearly outweigh the detriment to the applicant if such permit application should be denied."

Sec. 8. Section 229 is further amended by redesignating the existing subsection "(f)" as subsection "(g)"; subsection "(g)" as subsection "(h)" and subsection "(n)" as subsection "(o)".

Sec. 9. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 2nd day of June, 1975.