

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2011**

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SENATE BILL 954

Short Title: Municipalities Enforce Public Trust Rights. (Local)

Sponsors: Senator Rabon (Primary Sponsor).

Referred to: State and Local Government.

June 4, 2012

A BILL TO BE ENTITLED

AN ACT PROVIDING THE TOWNS OF TOPSAIL BEACH, SURF CITY, AND NORTH
TOPSAIL BEACH AUTHORITY TO CONDEMN AND REMOVE ESPECIALLY
DANGEROUS BUILDINGS AND STRUCTURES ON THE PUBLIC TRUST OCEAN
AND ESTUARINE BEACHES WITHIN THEIR RESPECTIVE JURISDICTIONS.

The General Assembly of North Carolina enacts:

SECTION 1. Subject to the powers of the State under Section 5 of Article XIV of the North Carolina Constitution and statutes and regulations thereunder, a city may take actions authorized by G.S. 160A-426, 160A-427, 160A-428, 160A-429, 160A-430, 160A-431, and 160A-432 with respect to buildings or structures or portions thereof located on ocean and estuarine public trust beaches within its territorial jurisdiction that, due to damage by forces of the ocean or estuarine waters, appear to be especially dangerous to life. Provided, however, a city may not take actions under this section that are merely convenient to public health, sanitation or to abate a mere nuisance that does not rise to the level of being especially dangerous to life. Nor may a city enforce a lien as provided in G.S. 160A-432 in a manner that (i) purports to change or effect the title of the State to beaches held in trust for the public or (ii) interferes or limits the public trust rights of the people of this State.

SECTION 2. In any civil action brought under this act, the city shall serve the summons and complaint upon the Attorney General of this State in the manner provided in G.S. 1A-4(j)(3), and the State may intervene in such action to protect public trust rights in lands that are the subject of the action.

SECTION 3. Nothing in this act limits the powers of the State and its political subdivisions under Section 5 of Article XIV of the North Carolina Constitution and statutes and regulations promulgated thereunder, including, but not limited to, the bringing of civil actions under G.S. 113-131 to enforce public trust rights in ocean and estuarine beaches within any city territorial jurisdiction.

SECTION 4. Nothing in this act authorizes a city to adopt an ordinance that (i) conflicts with a State or federal rule, regulation, or statute or (ii) interferes or limits the public trust rights of the people of this State.

SECTION 5. Nothing in this act authorizes a city to take an enforcement action that interferes or limits (i) public trust rights of the people of this State or (ii) littoral or riparian rights as they existed prior to ratification of this act.

SECTION 6. Nothing in this act is to be construed to mean that cities with territorial jurisdiction encompassing or abutting the ocean and estuarine beaches of this State do not otherwise or already (i) enjoy those powers as expressly enumerated and limited herein



1 or (ii) have standing to enforce the public trust rights of the people of this State to those ocean
2 and estuarine beaches.

3 **SECTION 7.** This act applies only to the Towns of Topsail Beach, Surf City, and
4 North Topsail Beach.

5 **SECTION 8.** This act is effective when it becomes law.