

NORTH CAROLINA GENERAL ASSEMBLY
1969 SESSION

CHAPTER 904
HOUSE BILL 1100

1 AN ACT TO PROVIDE FOR THE ACQUISITION OF CERTAIN LAND ON THE OUTER
2 BANKS OF NORTH CAROLINA TO ASSIST IN THE CREATION OF THE
3 FEDERALLY SPONSORED CAPE LOOKOUT NATIONAL SEASHORE.
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5 WHEREAS, the Outer Banks of North Carolina provide an area of unique
6 recreational potential, and provide a buffer for the North Carolina coastline against the ravages
7 of the open sea; and

8 WHEREAS, the Outer Banks are in danger of being lost through erosion; and

9 WHEREAS, the Congress of the United States has authorized the creation of the
10 Cape Lookout National Seashore in order to preserve for public use and enjoyment an area in
11 the State of North Carolina possessing outstanding natural and recreational values; and

12 WHEREAS, the State of North Carolina has offered the Federal Government
13 suitable land for the establishment of this facility; and

14 WHEREAS, it is in the best interest of the people of the State of North Carolina that
15 this land be acquired by the State and conveyed to the Federal Government for the purpose of
16 establishing the Cape Lookout National Seashore;

17 NOW, THEREFORE,

18
19 The General Assembly of North Carolina do enact:
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21 **Section 1.** The Department of Administration, an agency of the State of North
22 Carolina, is vested with full power and authority to acquire in the name of and on behalf of the
23 State of North Carolina, by donation, purchase, or condemnation, all those lands and
24 marshlands within an area on the Outer Banks of North Carolina bounded on the north by
25 Ocracoke Inlet, on the south by Cape Lookout Point and the Atlantic Ocean, on the east by the
26 Atlantic Ocean, and on the west by Core Sound, Barden Inlet and Lookout Bight and any lands,
27 marshlands, or islands contiguous thereto necessary for the creation and maintenance of Cape
28 Lookout National Seashore, the necessity for, the public interest in, and the public use of, being
29 hereby declared as a matter of legislative determination. Provided, however, those lands
30 specifically excluded from inclusion in the boundaries of the proposed Cape Lookout National
31 Seashore by the terms of Public Law 89-366, passed by the 89th Congress on March 10, 1966,
32 are also excluded from the authority to acquire herein above granted.

33 **Sec. 2.** If negotiations for the purchase of the land are unsuccessful, or if the State
34 cannot obtain a good and sufficient title thereto by purchase from the owners, the Department
35 of Administration may request permission of the Governor and Council of State to exercise the
36 right of eminent domain and acquire any such land by condemnation. The condemnation
37 procedure to be followed shall be that prescribed in Chapter 40, Article 2; Provided that the
38 commissioners appointed to appraise the land involved in this Act shall be appointed by the
39 resident judge of the superior court from among persons who are residents of counties
40 adjoining Carteret County. Upon approval by the Governor and Council of State, the
41 Department may proceed to exercise the right of eminent domain. Approval by no other State
42 agency shall be required as a prerequisite to the exercise of the power of eminent domain by the
43 Department.

1 **Sec. 3.** All lands acquired under this Act may be conveyed in fee to the United
2 States of America upon nominal consideration in compliance with an Act of the Congress of
3 the United State in 1966 designated as Public Law 89-366 and entitled "An Act to provide for
4 the establishment of the Cape Lookout National Seashore in the State of North Carolina, and
5 for other purposes." Provided, however, that such conveyance shall be in the manner prescribed
6 by Chapter 146 of the General Statutes; provided, further that such conveyance shall be
7 conditioned upon the lands conveyed being used for public park purposes.

8 **Sec. 4.** In carrying out the provisions of this Act, the Department of Administration
9 may use funds which have been or may be appropriated for the acquisition of land on the Outer
10 Banks and may accept and use funds derived from gifts, devises, donations, bequests or other
11 sources for such purposes.

12 **Sec. 5.** Any number of parcels of land under one ownership may be condemned
13 under the provisions of this Act, whether contiguous or not, and may be included and
14 condemned in one proceeding. If there is no apparent owner of any land, condemnation
15 proceedings may be instituted for the purpose of acquiring the same and such action shall be
16 against the land itself and unknown parties, such parties to be served by publication as provided
17 by law. Any person, firm, or corporation owning property which is developed and used for non-
18 commercial purposes may reserve the exclusive right to use and occupy for non-commercial
19 purposes any residence or other building used for non-commercial purposes together with not
20 in excess of three acres of the parcel of land being acquired, for a term ending at the death of
21 the owner or the death of his spouse, which ever is later, or, in case of non-individual
22 ownership, for a definite term of twenty-five years; and the acquisition of property pursuant to
23 this Act shall be subject to such reserved right of use and occupancy. In addition to the
24 foregoing, the property owner shall be entitled to reserve for such periods the unrestricted right
25 to use aircraft landing strips, and boat piers. However, any hunting ponds that have been
26 developed and used by the property owner prior to the enactment of this Act shall be subject to
27 the agreement of the Federal Government and the property owner as to their use. Provided,
28 however, that no land within seven hundred fifty (750) feet inland from the mean high water
29 line of the Atlantic Ocean may be included in the reservation and use and occupancy herein
30 provided, and provided further, that the land subject to such use and occupancy shall be
31 preserved and maintained in its natural state.

32 **Sec. 6.** The power of eminent domain granted by this Act shall be in addition to and
33 not in derogation of any powers of eminent domain already possessed by the North Carolina
34 Department of Administration as an agency of the State of North Carolina.

35 **Sec. 7.** This Act shall not apply to pending litigation.

36 **Sec. 8.** All laws and clauses of laws in conflict with this Act are hereby repealed.

37 **Sec. 9.** This Act shall become effective upon its ratification.

38 In the General Assembly read three times and ratified, this the 17th day of June,
39 1969.