

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2011**

**SESSION LAW 2011-78
HOUSE BILL 415**

**AN ACT PRESERVING LITTORAL RIGHTS IN THE TOWNS OF TOPSAIL BEACH AND
NAGS HEAD AFTER PUBLICLY FINANCED BEACH NOURISHMENT PROJECTS.**

Whereas, the majority of properties in the Towns of Topsail Beach and Nags Head abutting and fronting on the Atlantic Ocean have been developed; and

Whereas, during the course of many years, much of the land abutting and fronting on the Atlantic Ocean in the Towns of Topsail Beach and Nags Head and belonging to various property owners has been and is now being washed away by successive storms, tides, and winds; and

Whereas, the Town of Topsail Beach with aid from the State of North Carolina, the United States Government, and the federal agencies thereunder, and with its own funds, has made available, is making available, and will make available, from time to time, funds with which to control the erosion caused by the storms, tides, winds, and other causes; and

Whereas, the Town of Nags Head with its own funds is making available, and will make available, from time to time, funds with which to control the erosion caused by the storms, tides, winds, and other causes; and

Whereas, a means of erosion control employed by the Town of Topsail Beach has been beach nourishment projects whereby lands are raised or constructed on the ocean beach through hydraulic pumping, hauling of sand, or by other means from the waters or from other sources within the nearby or immediate area onto the seaward side of the Town of Topsail Beach; and

Whereas, a means of erosion control to be employed by the Town of Nags Head will be beach nourishment projects whereby lands are raised or constructed on the ocean beach through hydraulic pumping, hauling of sand, or by other means from the waters or from other sources within the nearby or immediate area onto the seaward side of the Town of Nags Head; and

Whereas, to that end, the Towns of Topsail Beach and Nags Head have entered into contracts and intend in the future to enter into contracts for the beach nourishment projects; and

Whereas, as a result of the beach nourishment projects, there have been made, and are now being made, constructed, or raised, new lands on the oceanfront of the Town of Topsail Beach which have, may, or will change the location of the mean high-water mark or the waters of the Atlantic Ocean along the seaward boundary of the Town of Topsail Beach; and

Whereas, as a result of the beach nourishment projects, there will be made, constructed, or raised, new lands on the oceanfront of the Town of Nags Head which may, or will change the location of the mean high-water mark or the waters of the Atlantic Ocean along the seaward boundary of the Town of Nags Head; and

Whereas, before and after the beach nourishment projects, a question has arisen in the Town of Topsail Beach as to the effect of the projects on the littoral rights of the owners of property along the oceanfront where the new lands have been, are being, and will be raised, and the question will continue to arise unless the matter is clarified; and

Whereas, a question has arisen in the Town of Nags Head as to the effect of the projects on the littoral rights of the owners of property along the oceanfront where the new



lands are being and will be raised, and the question will continue to arise unless the matter is clarified; and

Whereas, the willingness of the oceanfront property owners in the Towns of Topsail Beach and Nags Head to support and fund the beach nourishment projects will be enhanced and uncertainty will be avoided if oceanfront property owners' littoral rights, including the right of direct access from oceanfront property to the waters of the Atlantic Ocean, are preserved and clarified; and

Whereas, the Towns of Topsail Beach and Nags Head desire to resolve any ambiguity on the littoral rights and to define and provide for the littoral rights of the property owners abutting on the oceanfront as they existed prior to the beach nourishment projects; Now, therefore,

The General Assembly of North Carolina enacts:

SECTION 1.(a) Where land in or immediately along the Atlantic Ocean in the Town of Topsail Beach has been raised above the mean high-water mark by publicly financed beach nourishment projects which involve hydraulic dredging or deposition of spoil materials or sand by other means, the owners of the property abutting the newly raised lands before the beach nourishment projects shall, in front of their property, possess and keep the littoral rights they possessed prior to the raising of lands by the beach nourishment projects, including direct access to and in, as if littoral owners, the waters of the Atlantic Ocean bordering on the newly raised lands.

SECTION 1.(b) Where land in or immediately along the Atlantic Ocean in the Town of Nags Head is raised above the mean high-water mark by publicly financed beach nourishment projects which involve hydraulic dredging or deposition of spoil materials or sand by other means, the owners of the property abutting the newly raised lands before the beach nourishment projects shall, in front of their property, possess and keep the littoral rights they possessed prior to the raising of lands by the beach nourishment projects, including direct access to and in, as if littoral owners, the waters of the Atlantic Ocean bordering on the newly raised lands.

SECTION 2. Nothing herein shall otherwise affect or restrict title to or public trust rights in lands raised by the beach nourishment projects.

SECTION 3. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 17th day of May, 2011.

s/ Walter H. Dalton
President of the Senate

s/ Thom Tillis
Speaker of the House of Representatives