

GENERAL ASSEMBLY OF NORTH CAROLINA
1985 SESSION

CHAPTER 762
HOUSE BILL 114

AN ACT TO PROVIDE THAT CLAIMS TO LAND UNDER NAVIGABLE
WATERS MAY BE LITIGATED IN SUPERIOR COURT.

The General Assembly of North Carolina enacts:

Section 1. G.S. 113-206 is amended as follows:

(1) by rewriting subsection (e) to read:

"(e) A person who claims that the application of G.S. 113-205 or this section has deprived him of his private property rights in land under navigable waters or his right of fishery in navigable waters without just compensation may file a complaint in the superior court of the county in which the property is located to contest the application of G.S. 113-205 or this section. If the plaintiff prevails, the trier of fact shall fix the monetary worth of the claim, and the Department may condemn the claim upon payment of this amount to him if the Secretary considers condemnation appropriate and necessary to conserve the marine and estuarine resources of the State. The Department may pay for a condemned claim from available funds. An action under this subsection is considered a condemnation action and is therefore subject to G.S. 7A-248.

The limitation period for an action brought under this subsection is three years. This period is tolled during the disability of the plaintiff. No action, however, may be instituted under this subsection after December 31, 1993."; and

(2) By adding a new subsection to read:

"(f) In evaluating claims registered pursuant to G.S. 113-205, the Secretary shall favor public ownership of submerged lands and public trust rights. The Secretary's action does not alter or affect in any way the rights of a claimant or the State.

To facilitate resolution of claims registered pursuant to G.S. 113-205, the Secretary, in cooperation with the Secretary of Administration and the Attorney General, shall establish a plan to resolve these claims by December 31, 1990. The Secretary shall notify the Secretary of Administration and the Attorney General of the resolution of each claim. In addition, on or before October 1 of each year, the Secretary shall submit a report to the Joint Legislative Commission on Governmental Operations stating the following:

- (1) The number of claims registered pursuant to G.S. 113-205 that were resolved during the preceding year;
- (2) The cost of resolving these claims;
- (3) The number of unresolved claims; and
- (4) Payments made to acquire claims by condemnation."

(3) By deleting the word "court" from the third sentence of subsection (d) and substituting the words "trier of fact".

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 15th day of July, 1985.