

P.L. 2008, CHAPTER 82, *approved September 10, 2008*
Senate Committee Substitute for
Senate, No. 1553

1 AN ACT concerning public access requirements for marinas and
2 supplementing Title 13 of the Revised Statutes.

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4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

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7 1. This act shall be known and may be cited as the “Public
8 Access and Marina Safety Task Force Act.”

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10 2. The Legislature finds and declares that:

11 a. The Public Trust Doctrine is an important legal principle that
12 establishes the right of the public to use tidal waterways and their
13 shores, including the ocean, bays, and tidal rivers;

14 b. As interpreted today, the Public Trust Doctrine upholds that
15 public rights to tidal waterways and their shores are held by the
16 State in trust for the benefit of all of the people, and recognizes and
17 protects natural resources as well as recreational uses such as
18 swimming, sunbathing, fishing, boating and walking along tidal
19 waterways and their shores;

20 c. Marinas are a unique and essential part of the State’s
21 waterfront community, providing access to a variety of recreational
22 activities, and providing important boating infrastructure and
23 services, that should be encouraged;

24 d. In December 2007, the Department of Environmental
25 Protection adopted rules and regulations, and issued a concurrent
26 regulatory proposal, governing public access at marinas, which
27 rules and regulations are both economically destructive and
28 practically unworkable for the marina industry; and

29 e. It is therefore in the public interest to conduct a study of the
30 efficacy, practicability and feasibility of these rules and regulations
31 and to impose a moratorium on their implementation until such time
32 as the affected parties have had the opportunity to address the many
33 and variegated issues raised thereby.

34 The Legislature therefore determines that a moratorium on the
35 implementation of the rules and regulations adopted by the
36 Department of Environmental Protection in December 2007
37 governing public access at marinas is critical to ensure that all
38 affected interests are taken into account, thus increasing the
39 likelihood of a more reasonable and equitable policy emerging
40 therefrom.

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42 3. There shall be a moratorium on the implementation of the
43 provisions of N.J.A.C.7:7E-3.50, N.J.A.C.7:7E-7.3 and
44 N.J.A.C.7:7E-8.11, as applied to marinas, as such rules and

1 regulations were adopted by the Department of Environmental
2 Protection on December 17, 2007. During the moratorium the
3 Public Access and Marina Safety Task Force established pursuant
4 to section 4 of this act shall conduct the study required pursuant to
5 section 5 of this act. The moratorium shall expire on December 31,
6 2010.

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8 4. a. There is established in but not of the Department of
9 Environmental Protection the Public Access and Marina Safety
10 Task Force. The task force shall evaluate and study the efficacy,
11 practicability and feasibility of the rules and regulations governing
12 public access at marinas, and submit its findings and
13 recommendations, in writing, to the Governor and the Legislature as
14 provided in section 6 of this act.

15 b. The task force shall consist of 10 members as follows:

16 (1) a representative of the Department of Environmental
17 Protection;

18 (2) a representative of the Office of Maritime Resources in the
19 Department of Transportation;

20 (3) four elected public officials, to be appointed by the Governor
21 with the advice and consent of the Senate, representing the coastal
22 communities of Atlantic, Cape May, Monmouth and Ocean
23 counties, respectively; and

24 (4) four public members to be appointed by the Governor with
25 the advice and consent of the Senate. Of the four public members,
26 one shall be a representative of the Urban Coast Institute of
27 Monmouth University, and one shall be a representative of the
28 environmental community with a recognized expertise and
29 specialization in coastal and shore protection issues. The remaining
30 public members shall represent marina operators or a marine trade
31 association.

32 c. The members of the task force shall serve without
33 compensation, but may be reimbursed for necessary expenses
34 incurred in the performance of their duties, within the limits of
35 funds appropriated or otherwise made available to the task force for
36 its purposes.

37 d. Any vacancy in the membership shall be filled in the same
38 manner as the original appointment.

39 e. The task force shall be entitled to the assistance and service of
40 the employees of any State, county or municipal department, board,
41 bureau, commission, authority, or agency as it may require and as
42 may be available to it for its purposes, and to employ stenographic
43 and clerical assistance and to incur traveling or other miscellaneous
44 expenses as may be necessary in order to perform its duties, within
45 the limits of funds appropriated or otherwise made available to it
46 for its purposes. The Department of Environmental Protection shall
47 provide primary staff support to the task force.

1 f. The task force shall meet monthly or at the call of the
2 chairperson of the task force or when requested by any four
3 members of the task force.

4 g. The task force shall organize as soon as possible after the
5 appointment of its members, and shall select annually a chairperson
6 from among its members and a secretary who need not be a member
7 of the task force.

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9 5. a. It shall be the duty of the Public Access and Marina Safety
10 Task Force to:

11 (1) evaluate and study the efficacy, practicability and feasibility
12 of the rules and regulations adopted by the Department of
13 Environmental Protection, and the concurrent regulatory proposal
14 issued thereon, governing public access at marinas, in order to
15 ascertain the most reasonable and equitable manner in which to
16 proceed with a public access and marina use policy; and

17 (2) hold at least one public hearing to solicit public comment and
18 suggestions on the issues and matters to be studied and evaluated
19 pursuant to this subsection.

20 b. The task force may solicit or receive any information or
21 resources concerning public access at marinas made available by
22 any governmental, public, private, not-for-profit or for-profit entity.

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24 6. The task force shall submit its report, including its findings
25 and recommendations, to the Governor and, pursuant to section 2 of
26 P.L.1991, c.164 (C.52:14-19.1), to the Legislature by December 31,
27 2010. Copies of the report shall be provided to the public upon
28 request and free of charge, and the report shall be posted on the
29 department's internet website.

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31 7. For the duration of the moratorium imposed pursuant to
32 section 3 of this act, the department shall not:

33 a. require a marina facility to provide unlimited public access to
34 the waterfront;

35 b. require a conservation easement by means of a deed
36 restriction;

37 c. require perpendicular access across the entire waterfront; or

38 d. require additional parking, as a condition of any permit for
39 activities relating to the expansion or renovation of an existing
40 marina facility issued pursuant to R.S.12:5-3, "The Wetlands Act of
41 1970," P.L.1970, c.272 (C.13:9A-1 et seq.), or the "Coastal Area
42 Facility Review Act," P.L.1973, c.185 (C.13:19-1 et seq.).

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44 8. This act shall take effect immediately.

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"Public Access and Marina Safety Task Force Act."