

House Bill 406

By: Representatives Jackson of the 148<sup>th</sup>, James of the 140<sup>th</sup>, Stephens of the 150<sup>th</sup>, Bordeaux of the 151<sup>st</sup> and Pelote of the 149<sup>th</sup>

A BILL TO BE ENTITLED  
AN ACT

1 To amend Part 4 of Article 4 of Chapter 5 of Title 12 of the Official Code of Georgia  
2 Annotated, the "Coastal Marshlands Protection Act of 1970," so as to define a certain term;  
3 to provide that coastal marshlands shall include coastal hammocks for purposes of such Act;  
4 to provide certain requirements for permit applications for altering a marshland involving  
5 land-disturbing activities on a coastal hammock; to provide criteria to be considered in  
6 considering such application; to provide for the minimization of the impact on coastal  
7 hammocks; to provide for related matters; to provide an effective date; to repeal conflicting  
8 laws; and for other purposes.

9 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

10 style="text-align:center">**SECTION 1.**

11 Part 4 of Article 4 of Chapter 5 of Title 12 of the Official Code of Georgia Annotated, the  
12 "Coastal Marshlands Protection Act of 1970," is amended by striking in its entirety Code  
13 Section 12-5-282, relating to definitions, and inserting in lieu thereof the following:

14 "12-5-282.

15 As used in this part, the term:

16 (1) 'Applicant' means any person who files an application under this part.

17 (2) 'Board' means the Board of Natural Resources.

18 (3) 'Coastal hammock' means any hammock adjacent to or surrounded by saltwater.

19 ~~(3)~~(4) 'Coastal marshlands' or 'marshlands' means any marshland intertidal area, mud flat,  
20 tidal water bottom, or salt marsh, or coastal hammock in the State of Georgia within the  
21 estuarine area of the state, whether or not the tidewaters reach the littoral areas through  
22 natural or artificial watercourses. 'Vegetated marshlands' shall include those areas upon  
23 which grow one, but not necessarily all, of the following: salt marsh grass (*Spartina*  
24 *alterniflora*), black needlerush (*Juncus roemerianus*), saltmeadow cordgrass (*Spartina*  
25 *patens*), big cordgrass (*Spartina cynosuroides*), saltgrass (*Distichlis spicata*), coast  
26 dropseed (*Sporobolus virginicus*), bigelow glasswort (*Salicornia bigelovii*), woody

1 glasswort (*Salicornia virginica*), saltwort (*Batis maritima*), sea lavender (*Limonium*  
 2 *nashii*), sea oxeye (*Borrchia frutescens*), silverling (*Baccharis halimifolia*), false willow  
 3 (*Baccharis angustifolia*), and high-tide bush (*Iva frutescens*). The occurrence and extent  
 4 of salt marsh peat at the undisturbed surface shall be deemed to be conclusive evidence  
 5 of the extent of a salt marsh or a part thereof.

6 ~~(4)~~(5) 'Commissioner' means the commissioner of natural resources.

7 ~~(5)~~(6) 'Committee' means the Coastal Marshlands Protection Committee created by this  
 8 part.

9 ~~(6)~~(7) 'Eligible person' means any person who is the owner of high land adjoining the  
 10 state owned marshland or water bottoms, or combination thereof, sought to be leased by  
 11 said person such that at least 100 percent of the landward boundary of the state owned  
 12 marshland or water bottom, or combination thereof, sought to be leased is bordered by  
 13 said adjoining high land.

14 ~~(7)~~(8) 'Estuarine area' means all tidally influenced waters, marshes, and marshlands lying  
 15 within a tide-elevation range from 5.6 feet above mean tide level and below.

16 (9) 'Hammock' means an upland island that is surrounded by marsh or water at mean  
 17 high tide and that does not have a fresh water table above the Floridan aquifer.

18 ~~(8)~~(10) 'Live-aboard' means a floating vessel or other water craft which is moored to a  
 19 dock, tree, or piling or anchored in the estuarine waters of the state and is utilized as a  
 20 human or animal abode. Live-aboards include but are not limited to monohulls,  
 21 multihulls, houseboats, floating homes, and other floating structures which are used for  
 22 human or animal habitation.

23 ~~(9)~~(11) 'Minor alteration' means any change in the marshlands which, taken singularly  
 24 or in combination with other changes, involve less than 0.10 acres. Minor alteration also  
 25 includes renewal of permits previously issued by the committee.

26 ~~(10)~~(12) 'Person' means any individual, partnership, corporation, municipal corporation,  
 27 county, association, or public or private authority, and shall include the State of Georgia,  
 28 its political subdivisions, and all its departments, boards, bureaus, commissions, or other  
 29 agencies, unless specifically exempted by this part.

30 ~~(11)~~(13) 'Political subdivision' means the governing authority of a county or a  
 31 municipality in which the marshlands to be affected or any part thereof are located.

32 ~~(12)~~(14) 'Private dock' means a structure built onto or over the marsh and submerged  
 33 lands which is used for recreational fishing and other recreational activities, is not  
 34 available to the public, does not have enclosures, and does not create a navigation hazard;  
 35 provided, however, that a private dock may be covered and screened with wainscotting  
 36 not higher than three feet and may be equipped with a hoist."

**SECTION 2.**

1

2 Said part is further amended by inserting at the end of Code Section 12-5-286, relating to the  
3 requirement for a permit, application, notice, and public hearing and related matters, the  
4 following:

5 "(s) Any other provision of this Code section to the contrary notwithstanding, there shall  
6 be no land-disturbing activities allowed on coastal hammocks unless an unusual hardship  
7 exists. It shall be the duty of the applicant to demonstrate to the committee that such an  
8 unusual hardship exists. If a land-disturbing activity is permitted by the committee, the area  
9 of coastal hammock to be altered must be as small as practicable for the purpose stated.  
10 Appropriate and practicable steps must be taken through project modification and permit  
11 conditions to minimize the adverse impact on the coastal hammock and surrounding  
12 marshland."

13

**SECTION 3.**

14 This Act shall become effective upon its approval by the Governor or upon its becoming law  
15 without such approval.

16

**SECTION 4.**

17 All laws and parts of laws in conflict with this Act are repealed.