

House Bill 402

By: Representative Stephens of the 164th

A BILL TO BE ENTITLED
AN ACT

1 To amend Article 4 of Chapter 5 of Title 12 of the Official Code of Georgia Annotated,
2 relating to coastal waters, beaches, and sand dunes, so as to revise various provisions relative
3 to shore protection and coastal marshlands protection; to revise and add definitions; to
4 establish authority and powers of the Department of Natural Resources; to revise provisions
5 relating to permit activities and procedures; to repeal provisions relating to local shore
6 assistance programs; to provide for marine contractor licenses; to repeal provisions relating
7 to the leasing of state-owned marshland or water bottoms; to provide for applicability; to
8 strike obsolete language and correct cross-references; to provide for an effective date; to
9 repeal conflicting laws; and for other purposes.

10 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

11 **SECTION 1.**

12 Article 4 of Chapter 5 of Title 12 of the Official Code of Georgia Annotated, relating to
13 coastal waters, beaches, and sand dunes, is amended in Code Section 12-5-232, relating to
14 definitions relative to shore protection, by repealing and reserving paragraph (13), by
15 revising paragraph (8), and by adding three new paragraphs to read as follows:

16 "(8) 'Dynamic dune field' means the dynamic area of beach and sand dunes, varying in
17 height and width, the ocean boundary of which extends to the ordinary high-water mark
18 and the landward boundary of which is the first occurrence either of live native trees 20
19 feet in height or greater or of a structure existing on July 1, 1979, so long as any such
20 occurrence is within 100 feet of the ordinary high water mark. The landward boundary
21 of the dynamic dune field shall be the seaward most line connecting any such tree or
22 structure as set forth in this part to any other such tree or structure if the distance between
23 the two is a reasonable distance not to exceed 250 feet. In determining what is a
24 reasonable distance for purposes of this paragraph, topography, dune stability, vegetation,
25 lot configuration, existing structures, distance from the ordinary high-water mark, and
26 other relevant information shall be taken into consideration in order to conserve the vital

27 functions of the sand-sharing system. If a real estate appraiser certified pursuant to
 28 Chapter 39A of Title 43 determines that an existing structure, shoreline engineering
 29 activity, or other alteration which forms part of the landward boundary of the dynamic
 30 dune field has been more than 80 percent destroyed by storm driven water or erosion, the
 31 landward boundary of the dynamic dune field shall be determined as though such
 32 structure had not been in existence on July 1, 1979. If there is no such live native tree or
 33 structure within 100 feet of the ordinary high-water mark, then the boundary of the
 34 dynamic dune field shall be along a line that passes through the landward most point of
 35 either 50 feet landward of the landward toe of the landward most sand dune or 50 feet
 36 landward of the landward toe of a visible shoreline stabilization project."

37 "(6.1) 'Commissioner' means the commissioner of natural resources."

38 "(9.1) 'Letter of permission' means written authorization from the department to conduct
 39 a proposed activity in an area subject to the jurisdiction of this part, provided such
 40 activity is either within the physical perimeter of an existing serviceable project or
 41 involves the construction and removal of a project or other temporary activity that
 42 concludes within six months, inclusive of the time needed to return all affected areas to
 43 a condition approximate to, or better than, that which existed before commencement of
 44 the activity."

45 "(10.1) 'Minor activity' means an activity landward of any sand dunes such as the
 46 construction or installation of decks, patios, or porches, or the alteration of native
 47 landscaping, so long as such construction, installation, or alteration does not alter more
 48 than a total of one-third of the parcel or portion thereof subject to the jurisdiction of this
 49 part; or the construction and installation of elevated crosswalks providing access across
 50 sand dunes."

51 "(16.1) 'Serviceable' means usable as is or with only minor maintenance, but not so
 52 degraded as to essentially require reconstruction, as determined by the department."

53 **SECTION 2.**

54 Said article is further amended in Code Section 12-5-234, relating to the powers and duties
 55 of the department relative to shore protection, by revising subsection (a) as follows:

56 "(a) The department shall have the following authority:

- 57 (1) To administer and enforce this part and all rules, regulations, and orders issued
- 58 pursuant to this part;
- 59 (2) To accept moneys from persons, government units, and private organizations;
- 60 (3) To conduct public hearings and to institute and to prosecute court actions as may be
- 61 necessary to enforce compliance with this part and any rules and regulations promulgated

62 pursuant to this part; provided, however, that all such actions shall be in the name of the
63 department;

64 (4) To make reasonable inspections of the lands within jurisdiction of this part to
65 ascertain whether the requirements of this part and the rules, regulations, and permits
66 promulgated or issued pursuant to this part are faithfully complied with; ~~and~~

67 (5) To issue letters of permission and impose a reasonable fee for processing such letters
68 of permission; and

69 ~~(5)~~(6) To exercise all incidental powers necessary to carry out the purposes of this part."

70 SECTION 3.

71 Said article is further amended by revising Code Section 12-5-235, relating to the shore
72 protection committee, as follows:

73 "12-5-235.

74 (a) There is created the Shore Protection Committee within the department. The
75 committee shall be composed of five members, including the commissioner of natural
76 resources and four people selected by the board. Each of three persons selected by the
77 board shall be a resident of Camden, Glynn, McIntosh, Liberty, Bryan, or Chatham County.
78 Three members of the committee shall constitute a quorum. The members of the
79 committee shall be entitled to and shall be reimbursed from moneys appropriated to the
80 department for their expenses, such as mileage and per diem, as set by the board.

81 (b) ~~The committee, in the absence of an approved local shore protection program as~~
82 ~~provided by this part, shall act as permit-issuing authority and shall have the authority to~~
83 issue orders and to grant, suspend, revoke, modify, extend, condition, or deny permits as
84 provided in this part. Permits may, at the committee's discretion, be revoked, suspended,
85 or modified upon a finding that the permittee is not in compliance with permit conditions
86 or that the permittee is in violation of any rule or regulation promulgated pursuant to this
87 part.

88 (c) The ~~chairman~~ chairperson of the committee, upon application by the permittee, may
89 issue renewal of a permit previously granted by the committee. Such action must be based
90 upon recommendations of staff, past committee actions, and the results of public
91 comments. The ~~chairman~~ chairperson may refer the request for renewal to the committee
92 to decide on renewals that, in his or her judgment, should receive broader consideration.
93 A committee member may choose to have the full committee decide on renewals that the
94 member feels should receive broader consideration.

95 (d) Any permit for a minor activity may be issued by the commissioner after consideration
96 of staff findings and recommendations regarding the proposed activity, past committee
97 actions as applicable, and any public comments regarding the proposed activity. A permit

98 application for a minor activity shall be considered by the full committee upon the request
 99 of any committee member. A permit issued pursuant to this subsection shall be deemed
 100 an order or action of the committee."

101 **SECTION 4.**

102 Said article is further amended in Code Section 12-5-237, relating to required permits for
 103 shoreline construction, by adding a new subsection to read as follows:

104 "(c) No permit shall be required for any activity conducted pursuant to a letter of
 105 permission."

106 **SECTION 5.**

107 Said article is further amended by revising Code Section 12-5-238, relating to form and
 108 content of permit applications, as follows:

109 "12-5-238.

110 All applications for permits required by this part must be on forms prescribed by the
 111 ~~permit-issuing authority~~ committee, must be properly executed, and must include the
 112 following:

- 113 (1) The name and address of the applicant;
- 114 (2) A brief description of the proposed project;
- 115 (3) Construction documents showing the applicant's proposed project and the manner or
 116 method by which the project shall be accomplished. Such document shall identify the
 117 dynamic dune field affected;
- 118 (4) A copy of the deed or other instrument under which the applicant claims title to the
 119 property or, if the applicant is not the owner, a copy of the deed or other instrument under
 120 which the owner claims the title together with written permission from the owner to carry
 121 out the project on ~~his~~ the owner's land. In lieu of a deed or other instrument referred to
 122 in this paragraph, the ~~permit-issuing authority~~ committee may accept some other
 123 reasonable evidence of ownership of the property in question or other lawful authority
 124 to make use of the property. If all or any part of the proposed construction or alteration
 125 shall take place on property which is owned by the State of Georgia, the applicant shall
 126 present an easement, revocable license, or other written permission from the state to use
 127 the property for the proposed project; in the alternative, the ~~permit-issuing authority~~
 128 committee may condition the issuance of the permit on the requirement to obtain written
 129 permission from the state. The ~~permit-issuing authority~~ committee will not adjudicate
 130 title disputes concerning the property which is the subject of the application; provided,
 131 however, that the ~~permit-issuing authority~~ committee may decline to process an
 132 application when submitted documents show conflicting deeds;

- 133 (5) A plat showing the boundaries of the proposed project site;
- 134 (6) The names and addresses of all landowners of property adjoining or abutting the
 135 parcel of land on which the proposed project is to be located. If the property to be altered
 136 is bordered on any side by other property of the applicant, the applicant shall supply the
 137 names and addresses of the nearest landowners, other than the applicant, of property
 138 adjoining the applicant's property. If the applicant cannot determine the identity of
 139 adjoining landowners or their addresses, the applicant shall file in lieu thereof an affidavit
 140 stating that a diligent search, including a search of the records of the county tax assessor's
 141 office, has been made but that the applicant was not able to ascertain the names or
 142 addresses of adjoining landowners;
- 143 (7) ~~An application fee in such reasonable amount as is designated by the permit-issuing~~
 144 ~~authority or, if the committee is the permit-issuing authority, a nonrefundable application~~
 145 ~~fee as set by the board which reflects the cost to the department to evaluate the~~
 146 ~~application. Fees for the renewal of a permit shall be equal to the application fee.~~
 147 ~~Application fees shall not exceed \$1,000.00 for any one proposal. If the committee is the~~
 148 ~~permit-issuing authority, such fees shall be paid to the department~~ A nonrefundable
 149 application fee to be set by the committee, but not to exceed \$1,000.00. Fees for the
 150 renewal of a permit shall be equal to the application fee;
- 151 (8) Site plans for the proposed project site showing existing and proposed streets,
 152 utilities, buildings, and any other physical structures;
- 153 (9) A certification by a registered architect or engineer licensed by this state certifying
 154 that all proposed structures, if any, for which the permit is applied are designed to meet
 155 suitable hurricane-resistant standards;
- 156 (10) Any and all other relevant data required by the ~~permit-issuing authority~~ committee
 157 for the purposes of ascertaining that the proposed improvements, activities, and uses will
 158 meet the standards of this part;
- 159 (11) A certificate or letter from the local governing authority or authorities of the
 160 political subdivision in which the property is located stating that the applicant's proposal
 161 is does not violative of violate any zoning law; and
- 162 (12) A statement from the applicant that he or she has made inquiry to the appropriate
 163 authorities that the proposed project is not over a landfill or hazardous waste site and that
 164 the site is otherwise suitable for the proposed project."

165 SECTION 6.

166 Said article is further amended in Code Section 12-5-239, relating to permit application
 167 completion and permit requirements, by replacing "30" with "15" in subsection (b) and
 168 revising subsection (e) as follows:

169 "(e) Every permit shall require that the proposed project be completed within five years
 170 after the date of issuance of the permit and shall expire five years after the date of issuance.
 171 Such time may be extended five additional years upon a showing that all due efforts and
 172 diligence toward the completion of the project have been made. If a permit holder sells,
 173 leases, rents, or otherwise conveys the land or any portion of the land for which the permit
 174 was issued, such permit shall be continued in force in favor of the new owner, lessee,
 175 tenant, or other assignee so long as there is no change in the use of the land as set forth in
 176 the original application. The permittee, new owner, lessee, tenant, or other assignee must
 177 notify the permit-issuing authority within 30 days after change of ownership of property."

178 **SECTION 7.**

179 Said article is further amended by repealing in its entirety Code Section 12-5-241, relating
 180 to local shore assistance programs, and designating said Code section as reserved.

181 **SECTION 8.**

182 Said article is further amended in Code Section 12-5-244, relating to administrative and
 183 judicial review, by striking subsection (b) and redesignating subsection (c) as subsection (b).

184 **SECTION 9.**

185 Said article is further amended by revising Code Section 12-5-247, relating to enforcement
 186 and civil penalties, as follows:

187 "12-5-247.

188 (a) If the department determines that any person is violating any provision of this part or
 189 any rule or regulation adopted pursuant to this part or the terms and conditions of any
 190 permit issued under this part, ~~and such violation is in an area where the committee is the~~
 191 ~~permit-issuing authority,~~ the department may employ ~~any one,~~ or any combination of ~~any~~
 192 ~~or all,~~ of the following enforcement methods ~~specified in paragraphs (1) through (4) of this~~
 193 ~~subsection:~~

194 (1) The department may issue an administrative order specifying the provision of this
 195 part or the rule, or both, alleged to have been violated and require the person so ordered
 196 to cease and desist from such activity and to take corrective action within a reasonable
 197 period of time as prescribed in the order; provided, however, that the issuance of such
 198 order shall not affect the availability of relief under Code Section 12-5-244. Such
 199 corrective action may include, but shall not be limited to, requiring that the sand dunes,
 200 beaches, and submerged lands be returned to their condition prior to the violation of this
 201 part or a rule adopted pursuant to this part. Any such order shall become final unless the
 202 person named therein requests in writing a hearing before a hearing officer appointed by

203 the board no later than ten days after the issuance of such order. Review of such order
204 shall be available as provided in subsection (a) of Code Section 12-5-244;

205 (2) Whenever the committee finds that an emergency exists requiring immediate action
206 to protect the public or private interest where the public interest is served, it may issue
207 an order reciting the existence of such an emergency and requiring or allowing that such
208 action be taken as it deems necessary to meet the emergency. Notwithstanding any other
209 provision of this part, such order shall be effective immediately. If an order requiring a
210 person to take action is issued pursuant to this paragraph, such person shall be entitled to
211 a hearing within ten days of the date of issuance of the order. Any person who is
212 aggrieved or adversely affected by an emergency order of the committee, upon petition
213 within ten days after issuance of such order, shall have a right to a hearing before an
214 administrative law judge appointed by the board. The committee shall hold a meeting no
215 sooner than 30 days after the issuance of an emergency order to review such order to
216 determine whether the order has been complied with, whether the order should continue
217 in force, and any possible effects of such order on the sand-sharing system;

218 (3) The committee may file in the appropriate superior court a certified copy of an
219 unappealed final order of the administrative law judge or of a final order of the
220 administrative law judge affirmed upon appeal or other orders of the committee,
221 whereupon the court shall render judgment in accordance therewith and notify the parties.
222 Such judgment shall have the same effect, and all proceedings in relation thereof shall
223 thereafter be the same, as though such judgment has been rendered in an action duly
224 heard and determined by the court; and

225 (4) The department may seek injunctive relief pursuant to Code Section 12-5-245.

226 (b) Any person who violates any provision of this part or any rule or regulation adopted
227 under this part, any permit issued under this part, or final or emergency order of the
228 department shall be subject to a civil penalty not to exceed \$10,000.00 for each act of
229 violation. Each day of continued violation shall subject ~~said~~ such person to a separate civil
230 penalty. An administrative law judge appointed by the board after a hearing conducted in
231 accordance with Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act,' shall
232 determine whether or not any person has violated any provision of this part, any rule or
233 regulation adopted under this part, any permit, or any final or emergency order of the
234 department or ~~permit-issuing authority~~ committee and shall upon proper finding issue an
235 order imposing such civil penalties as provided in this subsection. Review of such order
236 shall be available as provided in subsection (a) of Code Section 12-5-244. All civil
237 penalties recovered by the department as provided in this subsection shall be paid into the
238 state treasury to the credit of the general fund.

239 (c) Any person who causes or permits any removal, filling, or other alteration of the
 240 dynamic dune field or submerged lands in this state without first obtaining a permit from
 241 the ~~permit-issuing authority~~ committee shall be liable in damages to the state and any
 242 political subdivision of the state for any and all actual or projected costs and expenses and
 243 injuries occasioned by such alteration of the dynamic dune field or submerged lands. The
 244 amount of damages assessed pursuant to this Code section shall include, but shall not be
 245 limited to, any actual or projected costs and expenses incurred or to be incurred by the state
 246 or any political subdivision thereof in restoring as nearly as possible the natural topography
 247 of the sand-sharing system and replacing the vegetation destroyed by any alteration of the
 248 dynamic dune field or submerged lands. Damages to the state shall be recoverable in a civil
 249 action instituted by the department and shall be paid to the department to cover cost of
 250 restoration. Damages to a political subdivision shall be recoverable in a civil action
 251 instituted by ~~said~~ such subdivision.

252 (d) Owners of property with knowledge of unauthorized activities occurring thereon are
 253 responsible under this part."

254 **SECTION 10.**

255 Said article is further amended in Code Section 12-5-282, relating to definitions relative to
 256 coastal marshlands, by adding three new paragraphs to read as follows:

257 "(7.1) 'Letter of permission' means written authorization from the department to conduct
 258 a proposed activity in an area subject to the jurisdiction of this part, provided such
 259 activity is either within the physical perimeter of an existing serviceable project or
 260 involves the construction and removal of a project or other temporary activity that
 261 concludes within six months, inclusive of the time needed to return all affected areas to
 262 a condition approximate to, or better than, that which existed prior to the commencement
 263 of such activity."

264 "(8.1) 'Marine contractor' means any person who contracts or agrees with another person
 265 to perform, and actually does perform, work within an area subject to the jurisdiction of
 266 this part, the reasonable cost of which is \$5,000.00 or more. Such work shall include, but
 267 not be limited to, the construction or repair of all docks, including private docks
 268 referenced in paragraphs (7) and (7.1) of Code Section 12-5-295; boatlifts, bulkheads,
 269 breakwaters, and revetments; pile driving and removal; placement of materials for
 270 shoreline stabilization; and dredging."

271 "(13) 'Serviceable' means usable as is or with only minor maintenance but not so
 272 degraded as to essentially require reconstruction, as determined by the department."

273 **SECTION 11.**

274 Said article is further amended in Code Section 12-5-283, relating to the Coastal Marshlands
 275 Protection Committee and permits for minor alterations, by revising subsection (d) as
 276 follows:

277 "~~(d) Any permit for minor alteration of the marshlands may be issued by the commissioner~~
 278 ~~based on the recommendations of staff, past committee actions, and the results of public~~
 279 ~~comments after consideration of staff findings and recommendations regarding the~~
 280 ~~proposed alteration, past committee actions as applicable, and any public comments~~
 281 ~~regarding the proposed alteration. The commissioner may refer the application to the~~
 282 ~~committee to decide on permits for minor alterations that, in his judgment, should receive~~
 283 ~~broader consideration. A committee member may choose to have the full committee~~
 284 ~~decide on permit applications for minor alterations that the member feels should receive~~
 285 ~~broader consideration. A permit application for a minor alteration shall be considered by~~
 286 ~~the full committee upon the request of any committee member. A permit issued pursuant~~
 287 ~~to this subsection shall be considered an order or action of the committee."~~

288 **SECTION 12.**

289 Said article is further amended in Code Section 12-5-284, relating to the authority of the
 290 Department of Natural Resources relative to coastal marshlands generally, by revising
 291 subsection (a) as follows:

292 "(a) The department shall have the following authority:
 293 (1) To administer and enforce this part and all rules, regulations, and orders promulgated
 294 under this part and to determine jurisdiction under this part;
 295 (2) To accept moneys that are available from persons, government units, and private
 296 organizations;
 297 (3) To conduct public hearings and institute and prosecute court actions as may be
 298 necessary to enforce compliance with this part and any rules and regulations promulgated
 299 hereunder, provided that all such actions shall be in the name of the department; ~~and~~
 300 (4) To issue letters of permission and impose a reasonable fee for processing such letters
 301 of permission; and
 302 ~~(4)(5)~~ (5) To exercise all incidental powers necessary to carry out the purposes of this part."

303 **SECTION 13.**

304 Said article is further amended in Code Section 12-5-286, relating to permit requirements and
 305 procedures, by revising subsection (a) and paragraph (7) of subsection (b) as follows:

306 "(a)(1) No person shall remove, fill, dredge, drain, or otherwise alter any marshlands or
 307 construct or locate any structure on or over marshlands in this state within the estuarine

308 area thereof without first obtaining a permit from the committee or, in the case of minor
 309 alteration of marshlands, the commissioner. A permit may authorize the construction or
 310 maintenance of the project proposed in an application. After construction pursuant to a
 311 permit, a project may be maintained without a an additional permit so long as it does not
 312 further alter the natural topography or vegetation at the project site and remains in
 313 serviceable condition.

314 (2) No permit shall be required for any activity conducted pursuant to a letter of
 315 permission."

316 "(7) A nonrefundable application fee to be set by the board committee, but not to exceed
 317 \$1,000.00 in an amount necessary to defray the administrative cost of issuing such
 318 permit. Renewal fees shall be equal to application fees, which shall not exceed \$1,000.00
 319 for any one proposal and shall be paid to the department;"

320 SECTION 14.

321 Said article is further amended by adding a new Code section to read as follows:

322 "12-5-286.1.

323 (a) It shall be unlawful for any person to engage in conduct as a marine contractor without
 324 a valid marine contractor license issued by the department.

325 (b) Applicants for a marine contractor license shall submit all information required by the
 326 department along with a nonrefundable application fee to be set by the committee, but not
 327 to exceed \$100.00. The marine contractor license shall expire on December 31 of each
 328 year, but may be renewed upon payment of a renewal fee and submission of any
 329 information requested by the department. Marine contractor licenses which have been
 330 revoked may not be renewed until such revocation is no longer in force.

331 (c) The commissioner shall have authority to revoke, suspend, deny, or refuse to renew
 332 any marine contractor license issued under this part in accordance with the procedures and
 333 sanctions applicable to the revocation, suspension, denial, or refusal of renewal of licenses
 334 as specified in Code Section 27-2-25.

335 (d) As a condition of holding a marine contractor license, each licensed person shall:

336 (1) Post a forfeiture bond in favor of this state in the amount of \$10,000.00, conditioned
 337 upon the faithful compliance with the terms of the license; or

338 (2) File with the commissioner a forfeiture bond in favor of this state executed by a
 339 bonding, surety, or insurance company licensed to do business in this state in the amount
 340 of \$10,000.00, conditioned upon the faithful compliance with the terms of the license.

341 (e) The term of the bond provided for in subsection (d) of this Code section shall
 342 correspond to the period of the license. The commissioner shall have the right to recover

343 on the bond whenever the licensee violates this Code section or any specific condition of
 344 the license, as follows:

345 (1) For the first violation, \$2,500.00;

346 (2) For each subsequent violation, \$7,500.00;

347 (f) In the event that the total amount of any marine contractor's bond is forfeited, such
 348 marine contractor's license shall be revoked and shall not be reissued unless a new
 349 forfeiture bond in the amount of \$20,000.00 is filed and maintained for each subsequent
 350 year a license is sought. The commissioner shall have the right to recover on the new
 351 forfeiture bond in the amount of \$10,000.00 for each violation.

352 (g) Any person whose marine contractor license has been revoked but nonetheless engages
 353 in conduct as a marine contractor shall be guilty, upon conviction, of a misdemeanor of a
 354 high and aggravated nature and shall be punished by a fine not to exceed \$5,000.00 or by
 355 imprisonment for not more than one year, or both."

356 **SECTION 15.**

357 Said article is further amended by repealing in its entirety subsection (g) of Code Section
 358 12-5-287, relating to leasing of state owned marshland or water bottoms, and designating
 359 said subsection as reserved.

360 **SECTION 16.**

361 Said article is further amended in Code Section 12-5-287, relating to leasing of state owned
 362 marshland or water bottoms, by revising subsection (d) as follows:

363 "(d) Each lease granted under this Code section shall be upon such provisions,
 364 requirements, and conditions as the committee shall make and shall, except as provided in
 365 ~~subsections (g) and~~ subsection (h) of this Code section, provide for a primary term of not
 366 more than ten years. Each lease, except as provided in ~~subsections (g) and~~ subsection (h)
 367 of this Code section, shall require the payment of an annual rental fee which, as of May 5,
 368 2009, shall be \$1,000.00 per acre, which acreage shall consist of the covered area of dock
 369 structures and a ten-foot buffer surrounding such dock structures; and the committee shall
 370 in each calendar year thereafter adjust the amount of the annual rental fee per acre to reflect
 371 the effect of annual inflation or deflation for the immediately preceding calendar year in
 372 accordance with rules and regulations adopted by the board, which rules and regulations
 373 may use for this purpose the Consumer Price Index as reported by the Bureau of Labor
 374 Statistics of the United States Department of Labor or any other similar index established
 375 by the federal government, if the board determines that such federal index reflects the
 376 effect of inflation and deflation on the lessees. Except as provided in ~~subsections (g) and~~
 377 subsection (h) of this Code section, an initial lease shall be for the annual fee in effect and

378 established by the committee at the time such lease is entered into. Such lease shall be
 379 adjusted annually thereafter as provided in this subsection. Each lease may provide for two
 380 renewal terms, each of which shall not be for a term of more than equal duration to the
 381 primary term. Rental fees shall be paid in one installment to the department not later than
 382 July 15 of each year. A penalty of 10 percent of the annual rental shall be assessed for late
 383 payment. Failure to pay rental by August 1 of the year due shall result in the cancellation
 384 of the lease."

385 **SECTION 17.**

386 Said article is further amended by revising Code Section 12-5-293, relating to the effect of
 387 a permit on the sale, lease, or other conveyance of land, as follows:

388 "12-5-293.

389 If a permit holder sells, leases, rents, or otherwise conveys the land or any portion thereof
 390 for which the permit was issued, and if the permittee, new owner, lessee, tenant, or other
 391 assignee has notified the department within 30 days of such transfer or conveyance, such
 392 permit shall be continued in force in favor of the new owner, lessee, tenant, or other
 393 assignee so long as there is no change in the use of the land as set forth in the original
 394 application."

395 **SECTION 18.**

396 Said article is further amended by revising Code Section 12-5-295, relating to applicability,
 397 as follows:

398 "12-5-295.

399 This part shall not apply to the following:

- 400 (1) Activities of the Department of Transportation incident to constructing, repairing, and
 401 maintaining a public road system in Georgia;
- 402 (2) Activities of the Department of Transportation and political subdivisions in
 403 maintaining existing drainage systems and ditches ~~as~~ so long as such activities do not
 404 impact additional marshlands;
- 405 (3) Agencies of the United States charged by law with the responsibility of keeping the
 406 rivers and harbors of this state open for navigation; and agencies of this state charged by
 407 ~~existing~~ law with the responsibility of keeping the rivers and harbors of this state open
 408 for navigation, including areas for utilization for spoilage designated by such agencies;
- 409 (4) Activities of public utility companies regulated by the Public Service Commission,
 410 electric membership corporations, public authorities operating electric systems, or
 411 municipal electric systems incident to constructing, erecting, repairing, and maintaining
 412 utility lines for the transmission of gas, electricity, or telephone messages;

413 (5) Activities of companies regulated by the Public Service Commission incident to
 414 constructing, erecting, repairing, and maintaining railroad lines and bridges;

415 (6) Activities of political subdivisions incident to constructing, repairing, and
 416 maintaining pipelines that have been approved by the department or appropriate authority
 417 for the transport of drinking water and sewage;

418 (7) The building of a private dock pursuant to a revocable license issued by the State of
 419 Georgia exclusively for the noncommercial use of the owner or his or her invitees and
 420 constructed on pilings, the walkways of which are above the marsh grass not obstructing
 421 tidal flow, by:

422 (A) The owner of a lot on which a detached single-family residence is located on high
 423 land adjoining such dock; or

424 (B) The owner of a lot having at least 50 front feet of land abutting the marshlands
 425 which contains high land suitable for the construction of a detached single-family
 426 residence and where the construction of such a residence is not prohibited.

427 The lot owner shall ~~and is authorized to~~ maintain the structure in good serviceable
 428 condition and repair the same as necessary, and the use of repair or replacement materials
 429 comparable in quality to the original authorized materials shall be sufficient for such
 430 purposes. The requirements of Code Section 12-5-286.1 shall be applicable to the
 431 construction of any such dock. Any person who constructs or authorizes the construction
 432 of a dock in a location or manner other than as authorized by the revocable license issued
 433 to the owner shall be in violation of this part;

434 (7.1) The building of a single private dock by the owners of up to four adjoining lots,
 435 each of which is riparian and would qualify for an exemption as provided in paragraph
 436 (7) of this Code section, for the exclusive noncommercial use of such owners or their
 437 invitees and constructed as a single walkway on pilings above the marsh grass not
 438 obstructing tidal flow and in a size to be determined by the department taking into
 439 consideration the number of adjoining lots utilizing the dock; provided, however, that the
 440 exemption provided by this paragraph shall apply only if each of the owners of such
 441 adjoining lots has entered into a binding covenant that runs with the land, in favor of the
 442 state, which ~~covenant~~ prohibits the building of any future private dock on his or her lot
 443 unless the dock exempted pursuant to this paragraph is removed or converted to a
 444 single-family private dock which would qualify for an exemption as provided in
 445 paragraph (7) of this Code section. The granting of the exemption provided by this
 446 paragraph shall be the state's consideration for the covenant of each such lot owner. The
 447 lot owners shall ~~and are authorized to~~ maintain the structure in good serviceable
 448 condition and repair the same as necessary, and the use of repair or replacement materials
 449 comparable in quality to the original authorized materials shall be sufficient for such

450 purposes. The requirements of Code Section 12-5-286.1 shall be applicable to the
 451 construction of any such dock. Any person who constructs or authorizes the construction
 452 of a dock in a location or manner other than as authorized by the revocable license issued
 453 to the owner shall be in violation of this part; or
 454 (8) The reclamation of manmade boat slips as a part of any publicly funded construction
 455 project and ancillary development projects including, without limitation, hotels,
 456 restaurants, retail facilities, and recreational facilities, whether public or private, within
 457 any industrial areas continued in existence pursuant to Article XI, Section I, Paragraph
 458 IV, subparagraph (d) of the Constitution which are wholly contained on an island; or
 459 (9) The building of a shoreline stabilization project within the jurisdictional area
 460 pursuant to a revocable license issued by the state that does not exceed a total of 500
 461 linear feet of shoreline and does not fill areas within the jurisdiction in excess of one
 462 cubic yard of material per linear foot. The requirements of Code Section 12-5-286.1 shall
 463 be applicable to the construction of any such shoreline stabilization project. Any person
 464 who constructs or authorizes the construction of a shoreline stabilization project in a
 465 location or manner other than as authorized by the revocable license issued to the owner
 466 shall be in violation of this part."

467 **SECTION 19.**

468 Said article is further amended by replacing "permit-issuing authority" with "committee"
 469 wherever the former phrase occurs in:

- 470 (1) Code Section 12-5-233, relating to area of applicability;
 471 (2) Code Section 12-5-239, relating to permit application completion and permit
 472 requirements;
 473 (3) Code Section 12-5-240, relating to posting of permits; and
 474 (4) Code Section 12-5-248, relating to criminal violations.

475 **SECTION 20.**

476 This Act shall become effective on January 1, 2014.

477 **SECTION 21.**

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