

The House Committee on Natural Resources and Environment offers the following substitute to HB 402:

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 and add definitions; to  
3 establish authority of the Department of Natural Resources to issue letters of permission; to  
4 repeal conflicting laws; and for other purposes.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

6 **SECTION 1.**

7 Article 4 of Chapter 5 of Title 12 of the Official Code of Georgia Annotated, relating to  
8 coastal waters, beaches, and sand dunes, is amended in Code Section 12-5-232, relating to  
9 definitions relative to shore protection, by adding three new paragraphs to read as follows:

10 "(6.1) 'Commissioner' means the commissioner of natural resources."

11 "(9.1) 'Letter of permission' means written authorization from the department to conduct  
12 a proposed activity in an area subject to the jurisdiction of this part, provided such  
13 activity is either within the physical perimeter of an existing serviceable project or  
14 involves the construction and removal of a project or other temporary activity that  
15 concludes within six months, inclusive of the time needed to return all affected areas to  
16 a condition approximate to, or better than, that which existed before commencement of  
17 the activity."

18 "(16.1) 'Serviceable' means usable as is or with only minor maintenance, but not so  
19 degraded as to essentially require reconstruction, as determined by the department."

20 **SECTION 2.**

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

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

24 (1) To administer and enforce this part and all rules, regulations, and orders issued  
25 pursuant to this part;

- 26 (2) To accept moneys from persons, government units, and private organizations;
- 27 (3) To conduct public hearings and to institute and to prosecute court actions as may be  
 28 necessary to enforce compliance with this part and any rules and regulations promulgated  
 29 pursuant to this part; provided, however, that all such actions shall be in the name of the  
 30 department;
- 31 (4) To make reasonable inspections of the lands within jurisdiction of this part to  
 32 ascertain whether the requirements of this part and the rules, regulations, and permits  
 33 promulgated or issued pursuant to this part are faithfully complied with; ~~and~~
- 34 (5) To issue letters of permission and impose a reasonable fee for processing such letters  
 35 of permission; and
- 36 ~~(5)(6)~~ (6) To exercise all incidental powers necessary to carry out the purposes of this part."

37 **SECTION 3.**

38 Said article is further amended by revising Code Section 12-5-237, relating to required  
 39 permits for shoreline construction, to read as follows:

40 "12-5-237.

41 (a) No person shall construct or erect any structure or construct, erect, conduct, or engage  
 42 in any shoreline engineering activity or engage in any land alteration which alters the  
 43 natural topography or vegetation of any area within the jurisdiction of this part, except in  
 44 accordance with the terms and conditions of a permit therefor issued in accordance with  
 45 this part. A permit may authorize the construction or maintenance of the project proposed  
 46 in an application. After construction of a project pursuant to a permit, the project may be  
 47 maintained without a an additional permit so long as it does not further alter the natural  
 48 topography or vegetation of the site or increase the size or scope of the project, and remains  
 49 in serviceable condition.

50 (b)(1) No permit shall be required for a structure, shoreline engineering activity, or land  
 51 alteration which exists as of July 1, 1979, provided that a permit must be obtained for any  
 52 modification which will have a greater adverse effect on the sand-sharing system or for  
 53 any addition to or extension of such shoreline engineering activity, structure, or land  
 54 alteration; provided, further, that, if any structure, shoreline engineering activity, or land  
 55 alteration is more than 80 percent destroyed by wind, water, or erosion as determined by  
 56 an appraisal of the fair market value by a real estate appraiser certified pursuant to  
 57 Chapter 39A of Title 43, a permit is required for reconstruction.

58 (2) No permit shall be required for any activity conducted pursuant to a letter of  
 59 permission. At least 15 days prior to the commencement of any activity authorized  
 60 pursuant to a letter of permission, the department shall provide public notice describing  
 61 such activity and the location thereof; provided, however, that public notice shall not be

62 required for any such activity that is necessary for public safety or the delivery of public  
 63 services."

64 **SECTION 4.**

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

67 "(7.1) 'Letter of permission' means written authorization from the department to conduct  
 68 a proposed activity in an area subject to the jurisdiction of this part, provided such  
 69 activity is either within the physical perimeter of an existing serviceable project or  
 70 involves the construction and removal of a project or other temporary activity that  
 71 concludes within six months, inclusive of the time needed to return all affected areas to  
 72 a condition approximate to, or better than, that which existed prior to the commencement  
 73 of such activity."

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

76 **SECTION 5.**

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

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

81 (1) To administer and enforce this part and all rules, regulations, and orders promulgated  
 82 under this part and to determine jurisdiction under this part;

83 (2) To accept moneys that are available from persons, government units, and private  
 84 organizations;

85 (3) To conduct public hearings and institute and prosecute court actions as may be  
 86 necessary to enforce compliance with this part and any rules and regulations promulgated  
 87 hereunder, provided that all such actions shall be in the name of the department; ~~and~~

88 (4) To issue letters of permission and impose a reasonable fee for processing such letters  
 89 of permission; and

90 ~~(4)~~(5) To exercise all incidental powers necessary to carry out the purposes of this part."

91 **SECTION 6.**

92 Said article is further amended in Code Section 12-5-286, relating to permit requirements and  
 93 procedures, by revising subsection (a) as follows:

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

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

102 (2) No permit shall be required for any activity conducted pursuant to a letter of  
103 permission. At least 15 days prior to the commencement of any activity authorized  
104 pursuant to a letter of permission, the department shall provide public notice describing  
105 such activity and the location thereof; provided, however, that public notice shall not be  
106 required for any such activity that is necessary for public safety or the delivery of public  
107 services."

108 **SECTION 7.**

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