

House Bill 402 (COMMITTEE SUBSTITUTE)

By: Representatives Stephens of the 164th and Spencer of the 180th

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)~~ 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.