

Senate Bill 101

By: Senators Watson of the 1st, Jackson of the 2nd, Ligon, Jr. of the 3rd, Williams of the 19th, Tolleson of the 20th and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 7 of Title 12 of the Official Code of Georgia Annotated, relating to the
2 control of soil erosion and sedimentation, so as to provide for a buffer against coastal
3 marshlands within which certain land-disturbing activities are prohibited; to provide for
4 exceptions and variances; to provide for related matters; to provide for effective dates; to
5 repeal conflicting laws; and for other purposes.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

7 **SECTION 1.**

8 Chapter 7 of Title 12 of the Official Code of Georgia Annotated, relating to the control of
9 soil erosion and sedimentation, is amended in Code Section 12-7-3, relating to definitions,
10 by adding two new paragraphs to read as follows:

11 "(2.1) 'Coastal marshlands' shall have the same meaning as in Code Section 12-5-282."
12 "(13.1) 'Serviceable' means usable in its current state or with minor maintenance but not
13 so degraded as to essentially require reconstruction."

14 **SECTION 2.**

15 Said chapter is further amended in subsection (b) of Code Section 12-7-6, relating to best
16 management practices and minimum requirements for erosion and sedimentation control, by
17 deleting "and" at the end of division (b)(15)(D)(ii), by replacing the period with "; and" at
18 the end of division (b)(16)(C)(ii), and by adding a new paragraph to read as follows:

19 "(17)(A) There is established a 25 foot buffer along coastal marshlands, as measured
20 horizontally from the coastal marshland-upland interface, as determined in accordance
21 with Part 4 of Article 4 of Chapter 5 of this title, the 'Coastal Marshlands Protection Act
22 of 1970,' and the rules and regulations promulgated thereunder, except:
23 (i) Where the director determines to allow a variance that is at least as protective of
24 natural resources and the environment;
25 (ii) Where otherwise allowed by the director pursuant to Code Section 12-2-8;

26 (iii) Where an alteration within the buffer area has been authorized pursuant to Code
27 Section 12-5-286;

28 (iv) For maintenance of any currently serviceable structure, landscaping, or
29 hardscaping, including bridges, roads, parking lots, golf courses, golf cart paths,
30 retaining walls, bulkheads, and patios; provided, however, that if such maintenance
31 requires any land-disturbing activity, adequate erosion control measures are
32 incorporated into the project plans and specifications and such measures are fully
33 implemented;

34 (v) Where a drainage structure or roadway drainage structure is constructed or
35 maintained; provided, however, that adequate erosion control measures are
36 incorporated into the project plans and specifications and such measures are fully
37 implemented;

38 (vi) On the landward side of any existing, currently serviceable shoreline stabilization
39 structure; and

40 (vii) For the maintenance of any manmade storm-water detention basin, golf course
41 pond, or impoundment that is located entirely within the property of a single
42 individual, partnership, or corporation; provided, however, that adequate erosion
43 control measures are incorporated into the project plans and specifications and such
44 measures are fully implemented.

45 (B) No land-disturbing activity shall be conducted within any such buffer and a buffer
46 shall remain in its current, undisturbed state of vegetation until all land-disturbing
47 activities on the construction site are completed, except as otherwise provided by this
48 paragraph. Once the final stabilization of the site is achieved, a buffer may be thinned
49 or trimmed of vegetation so long as a protective vegetative cover remains to protect
50 water quality and aquatic habitat; provided, however, that any person constructing a
51 single-family residence, when such residence is constructed by or under contract with
52 the owner for his or her own occupancy, may thin or trim vegetation in a buffer at any
53 time so long as a protective vegetative cover remains to protect water quality and
54 aquatic habitat.

55 (C) On or before December 31, 2015, the board shall promulgate rules and regulations
56 that:

57 (i) Contain criteria for the grant or denial by the director of requests for variances
58 pursuant to this paragraph; and

59 (ii) Provide for variances by rule for certain categories of activities within the buffer,
60 including:

61 (I) Where an alteration within the buffer area has been authorized pursuant to a
62 permit issued by the United States Army Corps of Engineers under Section 404 of

63 the Federal Water Pollution Control Act of 1972, as amended, or Section 10 of the
 64 Rivers and Harbors Act of 1899; provided, however, that adequate erosion control
 65 measures are incorporated into the project plans and specifications and such
 66 measures are fully implemented; and

67 (II) Where an alteration within the buffer will have minimal impact on the water
 68 quality or aquatic habitat of the adjacent marsh, including where the area within the
 69 buffer is not more than 500 square feet; provided, however, that adequate erosion
 70 control measures are incorporated into the project plans and specifications and such
 71 measures are fully implemented.

72 (D) The board may adopt rules and regulations that provide for an expedited process
 73 for certain categories of activities within the buffer based on the size, scope, location,
 74 and character of the proposed activity within the buffer.

75 (E) The buffer requirements of this paragraph shall not apply to crossings for utility
 76 lines that cause a width of disturbance of not more than 50 feet within the buffer;
 77 provided, however, that adequate erosion control measures are incorporated into the
 78 project plans and specifications and such measures are fully implemented.

79 (F) The buffer shall not apply to:

80 (i) Any land-disturbing activity conducted pursuant to and in compliance with a valid
 81 and effective land-disturbing permit issued subsequent to April 22, 2014, and prior
 82 to the effective date of this Act; provided, however, that adequate erosion control
 83 measures are incorporated into the project plans and specifications and such measures
 84 are fully implemented; or

85 (ii) Any lot for which the preliminary plat has been approved prior to the effective
 86 date of this Act if roadways, bridges, or water and sewer lines have been extended to
 87 such lot prior to the effective date of this Act and if the requirement to maintain a
 88 25 foot buffer would consume at least 18 percent of the high ground of the platted lot
 89 otherwise available for development; provided, however, that adequate erosion
 90 control measures are incorporated into the project plans and specifications and such
 91 measures are fully implemented."

92 **SECTION 3.**

93 This Act shall become effective upon its approval by the Governor or upon its becoming law
 94 without such approval for purposes of promulgating rules and regulations and shall become
 95 effective on December 31, 2015, for all other purposes.

96 **SECTION 4.**

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