

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

AS PASSED SENATE

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 redesignating paragraph (10.1) as paragraph (10.2) and by adding three new paragraphs
11 to read as follows:

12 "(2.1) 'Coastal marshlands' shall have the same meaning as in Code Section 12-5-282."

13 "(10.1) 'Maintenance' means actions necessary or appropriate for retaining or restoring
14 a currently serviceable improvement to the specified operable condition to achieve its
15 maximum useful life. Maintenance includes emergency reconstruction of recently
16 damaged parts of a currently serviceable structure so long as it occurs within a reasonable
17 period of time after damage occurs. Maintenance does not include any modification that
18 changes the character, scope, or size of the original design."

19 "(13.1) 'Serviceable' means usable in its current state or with minor maintenance but not
20 so degraded as to essentially require reconstruction."

21 **SECTION 2.**

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

26 “(17)(A) There is established a 25 foot buffer along coastal marshlands, as measured
27 horizontally from the coastal marshland-upland interface, as determined in accordance
28 with Part 4 of Article 4 of Chapter 5 of this title, the 'Coastal Marshlands Protection Act
29 of 1970,' and the rules and regulations promulgated thereunder, except:

30 (i) Where the director determines to allow a variance that is at least as protective of
31 natural resources and the environment;

32 (ii) Where otherwise allowed by the director pursuant to Code Section 12-2-8;

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

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

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

45 (vi) On the landward side of any currently serviceable shoreline stabilization
46 structure; and

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

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

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

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

66 (ii) Provide for variances by rule, subject to specified conditions, for certain
67 categories of activities within the buffer, including:

68 (I) Where an alteration within the buffer area has been authorized pursuant to a
69 permit issued by the United States Army Corps of Engineers under Section 404 of
70 the Federal Water Pollution Control Act of 1972, as amended, or Section 10 of the
71 Rivers and Harbors Act of 1899; provided, however, that adequate erosion control
72 measures are incorporated into the project plans and specifications and such
73 measures are fully implemented; and

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

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

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

86 (F) The buffer shall not apply to:

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

92 (ii) Any lot for which the preliminary plat has been approved prior to the effective
93 date of this Act if roadways, bridges, or water and sewer lines have been extended to
94 such lot prior to the effective date of this Act and if the requirement to maintain a
95 25 foot buffer would consume at least 18 percent of the high ground of the platted lot
96 otherwise available for development; provided, however, that adequate erosion
97 control measures are incorporated into the project plans and specifications and such
98 measures are fully implemented."

99

SECTION 3.

100 Said chapter is further amended by revising division (b)(15)(A)(i) of Code Section 12-7-6,
101 relating to best management practices and minimum requirements for erosion and
102 sedimentation control, as follows:

103 "(i) As provided by ~~paragraph~~ paragraphs (16) and (17) of this subsection;"

104

SECTION 4.

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

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SECTION 5.

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