

House Bill 445 (AS PASSED HOUSE AND SENATE)

By: Representatives Hogan of the 179th, Sainz of the 180th, Williams of the 145th, Clark of the 147th, Gullett of the 19th, and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Part 2 of Article 4 of Chapter 5 of Title 12 of the Official Code of Georgia
2 Annotated, relating to shore protection, so as to revise various provisions relative to shore
3 protection; to revise and add definitions; to establish authority and powers of the Department
4 of Natural Resources; to revise provisions relating to permit activities and procedures; to
5 strike obsolete language and correct cross-references; to provide for related matters; to
6 provide for effective dates; to repeal conflicting laws; and for other purposes.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

8 style="text-align:center">**SECTION 1.**

9 Part 2 of Article 4 of Chapter 5 of Title 12 of the Official Code of Georgia Annotated,
10 relating to shore protection, is amended by revising paragraphs (8), (11), (13), (15), and (18)
11 of Code Section 12-5-232, relating to definitions, and by adding a new paragraph to read as
12 follows:

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

27 portion of a structure existing on July 1, 1979, or the landward most line that is 25 feet
 28 landward of the landward toe of the most landward sand dune, or 25 feet landward of the
 29 crest of a serviceable shoreline stabilization activity. In the absence of any of the
 30 aforesaid, the line shall be 25 feet landward of the ordinary high-water mark, except for
 31 property owned by the state, in which case the line shall be 100 feet landward of the
 32 ordinary high-water mark. If a real estate appraiser certified pursuant to Chapter 39A of
 33 Title 43 determines that an existing structure, shoreline engineering activity, or other
 34 alteration which forms part of the landward boundary of the dynamic dune field has been
 35 more than 80 percent destroyed by storm driven water or erosion, the landward boundary
 36 of the dynamic dune field shall be determined as though such structure had not been in
 37 existence on July 1, 1979."

38 "(10.1) 'Minor activity' means an activity such as the construction or installation of decks,
 39 patios, or porches or the alteration of native landscaping, so long as such construction,
 40 installation, or alteration, when combined with other structures on the subject parcel or
 41 portion thereof, does not impact more than a total of one-third of the subject parcel or
 42 portion thereof that is subject to the jurisdiction of this part; or the construction or
 43 installation of elevated crosswalks providing access across sand dunes and shoreline
 44 stabilization activities.

45 (11) 'Ordinary high-water mark' means the position upper reach of the tide along the
 46 shore of the ~~mean monthly spring high tide reached during the most recent tidal epoch.~~
 47 ~~This term is not synonymous with 'mean' high-water mark established by the fluctuations~~
 48 of water and indicated by physical characteristics such as a clear natural line impressed
 49 on the shore, shelving, changes in the character of soil, or the presence of litter and
 50 debris, as determined by the department."

51 ~~"(13) 'Permit-issuing authority' means the Shore Protection Committee or a local unit of~~
 52 ~~government which has adopted a program of shore protection which meets the standards~~
 53 ~~of this part and which has been certified by the board as an approved program Reserved."~~

54 "(15) 'Sand dunes' means mounds of sand within the sand-sharing system deposited along
 55 a coastline by wind, tidal, or wave action, or by beach nourishment or dune construction,
 56 which mounds are often covered with sparse, pioneer vegetation, such as, but not limited
 57 to, sea oats (Uniola paniculate), beach morning glory (Ipomoea pes-caprae), and large salt
 58 meadow cordgrass (Spartina patens), and are located landward of the ordinary high-water
 59 mark and may extend into the tree line."

60 "(18) 'Stable sand dune' means a sand dune not in the sand-sharing system that is
 61 maintained in a steady state of neither erosion nor accretion by indigenous woody
 62 vegetative cover such as, but not limited to, pines (Pinus), oaks (Quercus), and wax
 63 myrtles (Morella cerifera)."

64 **SECTION 2.**

65 Said part is further amended by revising Code Section 12-5-233, relating to area of operation
66 of part, as follows:

67 "12-5-233.

68 The area of operation of this part shall be:

69 (1) The dynamic dune fields on the barrier islands of this state as determined by
70 reference to Code Section 12-5-232. Such determination shall be made by the
71 ~~permit-issuing authority~~ committee on the basis of site inspection and evaluation of other
72 pertinent information as provided for in subsection (d) of Code Section 12-5-239;

73 (2) The submerged shoreline lands of this state from the seaward limit of this state's
74 jurisdiction landward to the dynamic dune fields or to a line projected from the
75 westernmost point of the dynamic dune field on the southern end of a barrier island, to
76 the westernmost point of the dynamic dune field on the northern end of the adjacent
77 barrier island to the south; and

78 (3) If an area has dynamic dune fields as defined by Code Section 12-5-232, and
79 marshlands as defined by Code Section 12-5-282, it is subject to the jurisdiction of this
80 part and Part 4 of this article. In the event of a conflict between this part and Part 4 of this
81 article, the commissioner shall determine which part shall apply so as to best protect the
82 public interest."

83 **SECTION 3.**

84 Said part is further amended by revising Code Section 12-5-235, relating to the Shore
85 Protection Committee, as follows:

86 "12-5-235.

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

94 (b) The committee shall have the authority to issue orders and to grant, suspend, revoke,
95 modify, extend, condition, or deny permits as provided in this part. Permits may, at the
96 committee's discretion, be revoked, suspended, or modified upon a finding that the
97 permittee is not in compliance with permit conditions or that the permittee is in violation
98 of any rule or regulation promulgated pursuant to this part.

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

106 (d) Any permit for minor activity may be issued by the commissioner based on the
 107 recommendations of staff, past committee actions, and the results of public comments. The
 108 commissioner may refer the application to the committee to decide on permits for minor
 109 activities that, in his or her judgment, should receive broader consideration. A committee
 110 member may choose to have the full committee decide on permit applications for minor
 111 activities that the member feels should receive broader consideration."

112 SECTION 4.

113 Said part is further amended by revising Code Section 12-5-238, relating to form and
 114 contents of application for permit, as follows:

115 "12-5-238.

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

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

135 permission from the state. The ~~permit-issuing authority~~ committee will not adjudicate title
 136 disputes concerning the property which is the subject of the application; provided,
 137 however, that the ~~permit-issuing authority~~ committee may decline to process an
 138 application when submitted documents show conflicting deeds;

139 (5) A plat showing the boundaries of the proposed project site;

140 (6) The names and addresses of all landowners of property adjoining or abutting the
 141 parcel of land on which the proposed project is to be located. If the property to be altered
 142 is bordered on any side by other property of the applicant, the applicant shall supply the
 143 names and addresses of the nearest landowners, other than the applicant, of property
 144 adjoining the applicant's property. If the applicant cannot determine the identity of
 145 adjoining landowners or their addresses, the applicant shall file in lieu thereof an affidavit
 146 stating that a diligent search, including a search of the records of the county tax assessor's
 147 office, has been made but that the applicant was not able to ascertain the names or
 148 addresses of adjoining landowners;

149 ~~An application fee in such reasonable amount as is designated by the permit-issuing~~
 150 ~~authority or, if the committee is the permit-issuing authority, a nonrefundable application~~
 151 ~~fee as set by the board which reflects the cost to the department to evaluate the~~
 152 ~~application. Fees for the renewal of a permit shall be equal to the application fee.~~
 153 ~~Application fees shall not exceed \$1,000.00 for any one proposal. If the committee is the~~
 154 ~~permit-issuing authority, such fees shall be paid to the department~~ A nonrefundable
 155 application fee to be set by the board in an amount necessary to defray the administrative
 156 cost of issuing such permit. Renewal fees shall be equal to application fees, which shall
 157 not exceed \$1,000.00 for any one proposal and shall be paid to the department;

158 (8) Site plans for the proposed project site showing existing and proposed streets,
 159 utilities, buildings, and any other physical structures;

160 (9) A certification by a registered architect or engineer licensed by this state certifying
 161 that all proposed structures, if any, for which the permit is applied are designed to meet
 162 suitable hurricane-resistant standards;

163 (10) Any and all other relevant data required by the ~~permit-issuing authority~~ committee
 164 for the purposes of ascertaining that the proposed improvements, activities, and uses will
 165 meet the standards of this part;

166 (11) A certificate or letter from the local governing authority or authorities of the
 167 political subdivision in which the property is located stating that the applicant's proposal
 168 ~~is not violative of~~ would not violate any zoning law; and

169 (12) A statement from the applicant that he or she has made inquiry to the appropriate
 170 authorities that the proposed project is not over a landfill or hazardous waste site and that
 171 the site is otherwise suitable for the proposed project."

SECTION 5.

172

173 Said part is further amended by revising Code Section 12-5-239, relating to completion of
174 permit, notice of proposed activity, and requirements and restrictions regarding issuance of
175 permit, as follows:

176 "(a) The ~~permit-issuing authority~~ committee shall take action on each permit application
177 within 90 days after the application is completed; provided, however, that this provision
178 may be waived upon the written request of the applicant. An application is complete when
179 it contains substantially all of the written information, documents, forms, fees, and
180 materials required by this part. An application must be completed sufficiently in advance
181 of the ~~permit-issuing authority~~ committee meeting at which the project will be considered
182 to allow for public notice and evaluation by the ~~permit-issuing authority~~ committee.

183 (b) After receipt of a completed application and at least ~~30~~ 15 days prior to acting on the
184 application, the ~~permit-issuing authority~~ committee shall notify all persons identified by
185 the applicant as owning land adjacent to the location of the proposed project and to all
186 persons who have filed a written request with ~~such permit-issuing authority~~ the committee
187 that their names be placed on a mailing list for receipt of such notice. Any person desiring
188 to be placed on such mailing list must so request in writing and renew such request in
189 December of each year. The name of any person who has not renewed such request shall
190 be removed from the list. The landowners who have not requested to be placed on a
191 mailing list shall be notified in writing if their addresses are known. Such notice shall be
192 in writing and shall include a general description of the proposed project and its location.
193 The applicant shall post such notice in a conspicuous place on the subject property at or
194 prior to the time the ~~permit-issuing authority~~ committee issues public notice of the
195 application. If the applicant has filed an affidavit that the names or addresses of the
196 adjoining landowners were not ascertained after a diligent search, the ~~permit-issuing~~
197 ~~authority~~ committee shall cause a notice of the proposed activity and a brief description of
198 the land to be affected to be published in the legal organ or a newspaper of general
199 circulation in the county in which such land lies. Cost of such public notices shall be paid
200 by the applicant. Whenever there appears to be sufficient public interest, the ~~permit-issuing~~
201 ~~authority~~ committee may call a public hearing.

202 (c) No permit shall be issued except in accordance with the following provisions:

203 (1) A permit for a structure or land alteration, including, but not limited to, private
204 residences, motels, hotels, condominiums, and other commercial structures, in the
205 dynamic dune field may be issued only when:

206 (A) The proposed project shall occupy the landward area of the subject parcel and, if
207 feasible, the area landward of the sand dunes;

- 208 (B) At least a reasonable percentage, not less than one-third, of the subject parcel shall
209 be retained in its naturally vegetated and topographical condition;
- 210 (C) The proposed project is designed according to applicable hurricane-resistant
211 standards;
- 212 (D) The activities associated with the construction of the proposed project are kept to
213 a minimum, are temporary in nature, and, upon project completion, restore the natural
214 topography and vegetation to at least its former condition, using the best available
215 technology; and
- 216 (E) The proposed project will maintain the normal functions of the sand-sharing
217 mechanisms in minimizing storm-wave damage and erosion, both to the unaltered
218 section of the subject parcel and at other shoreline locations;
- 219 (2) No permits shall be issued for a structure on beaches, eroding sand dune areas, and
220 submerged lands; provided, however, that a permit for a pier, boardwalk, or crosswalk
221 in such an area may be issued, provided that:
- 222 (A) The activities associated with the construction of the proposed land alterations are
223 kept to a minimum, are temporary in nature, and, upon project completion, the natural
224 topography and vegetation shall be restored to at least their former condition, using the
225 best available technology; and
- 226 (B) The proposed project maintains the normal functions of the sand-sharing
227 mechanisms in minimizing storm-wave damage and erosion, both to the unaltered
228 section of the subject parcel and at other shoreline locations;
- 229 (3) A permit for shoreline engineering activity or for a land alteration on beaches, sand
230 dunes, and submerged lands may be issued only when:
- 231 (A) The activities associated with the construction of the proposed project are to be
232 temporary in nature, and the completed project will result in complete restoration of any
233 beaches, dunes, or shoreline areas altered as a result of that activity;
- 234 (B) The proposed project will insofar as possible minimize effects to the sand-sharing
235 mechanisms from storm-wave damage and erosion both to the subject parcel and at
236 other shoreline locations;
- 237 (C) In the event that shoreline stabilization is necessary, either low-sloping porous rock
238 structures or other techniques which maximize the dissipation of wave energy and
239 minimize shoreline erosion shall be used. Permits may be granted for shoreline
240 stabilization activities when the applicant has demonstrated that no reasonable or viable
241 alternative exists; provided, however, that beach restoration and renourishment
242 techniques are preferable to the construction of shoreline stabilization activities; and

243 (D) A copy of the permit application has been transmitted to the local unit of
244 government wherein the project site lies, if such local unit of government has been
245 certified by the board, requesting comments on such application.

246 (d) In evaluating a permit application in order to determine compliance with the provisions
247 set forth in subsection (c) of this Code section, the ~~permit-issuing authority~~ committee may
248 use the following assessment tools and techniques, as appropriate and as available:

249 (1) Historic photographs and topographic data of the project site, which can be used in
250 determining the impact of a proposed project on the stability of the shoreline;

251 (2) On-site inspections to determine the impact of a proposed project on topographic and
252 vegetative conditions, erosion or accretion rates, and other factors influencing the life
253 cycles of dune plants;

254 (3) Any recognized or accepted scientific investigations necessary to determine the
255 proposed project's impacts on the surrounding biological and geological systems, and the
256 historic and archeological resources;

257 (4) When present, the potential effects of shoreline engineering structures (seawalls,
258 groins, jetties, etc.), their condition, and their apparent influence on the sand-sharing
259 system as it relates to the proposed project;

260 (5) Historic, climatological, tidal data, and meteorological records of the vicinity of the
261 project and possible potential effects of a proposed project upon erosion and accretion
262 rates; and

263 (6) New scientific information which, through recent advances, would effect a more
264 competent decision relative to wise use and management of Georgia's sand-sharing
265 system.

266 (e) Every permit shall require that the proposed project be completed within five years
267 after the date of issuance of the permit and shall expire five years after the date of issuance.
268 Such time may be extended five additional years upon a showing that all due efforts and
269 diligence toward the completion of the project have been made. If a ~~permit~~ the holder of
270 an unexpired permit sells, leases, rents, or otherwise conveys the land or any portion of the
271 land for which the permit was issued, such permit shall be continued in force in favor of
272 the new owner, lessee, tenant, or other assignee so long as there is no change in the use of
273 the land as set forth in the original application. The ~~permittee~~ new owner must notify the
274 ~~permit-issuing authority~~ committee within 30 days after change of ownership of ~~property~~
275 the land or any portion thereof.

276 (f) All plans, documents, and materials contained in any application for any permit
277 required by this part shall be made a part of the permit, if granted, and conformance to such
278 plans, documents, and materials shall be a condition of the permit. No change or deviation

279 from any such plans, documents, or materials shall be permitted without the prior
 280 notification and approval of the ~~permit-issuing authority~~ committee.

281 (g) Compliance with all other federal, state, and local statutes, ordinances, and regulations
 282 shall also be a condition of every permit issued pursuant to this part. If, prior to completion
 283 of review of an application under this part the committee receives notice of the denial of
 284 a permit or authorization necessary for the project, review of the project shall be suspended
 285 and, if the denial becomes final, the application shall stand denied.

286 (h) All permit-issuing authorities may place such conditions on any permit issued under
 287 this Code section as are necessary to carry out this part.

288 (i) In passing upon the application for a permit, the ~~permit-issuing authority~~ committee
 289 shall consider the public interest which for purposes of this part shall be deemed to be the
 290 following considerations:

291 (1) Whether or not unreasonably harmful, increased alteration of the dynamic dune field
 292 or submerged lands, or function of the sand-sharing system will be created;

293 (2) Whether or not the granting of a permit and the completion of the applicant's proposal
 294 will unreasonably interfere with the conservation of marine life, wildlife, or other
 295 resources; and

296 (3) Whether or not the granting of a permit and the completion of the applicant's proposal
 297 will unreasonably interfere with reasonable access by and recreational use and enjoyment
 298 of public properties impacted by the project.

299 (j) Issuance of a permit under this part and construction of the permitted project shall not
 300 remove the designated property from the jurisdiction of this part. All changes in permitted
 301 uses which increase impacts to any land subject to the provisions of this part must be ruled
 302 upon by the ~~permit-issuing authority~~ committee to determine if the proposed change is
 303 consistent with this part and the permit. Each permitted alteration within the area of
 304 operation of this part shall be reviewed by the ~~permit-issuing authority~~ committee on a
 305 five-year basis or when noncompliance with the purpose for which the permit was issued
 306 is evident to determine if the use within the area of operation of this part is consistent with
 307 the intent of this part. If the permit holder is found not to be in compliance with this part,
 308 the ~~permit-issuing authority~~ committee shall take action as authorized under Code
 309 Section 12-5-247.

310 (k)(1) A permit granted by the ~~permit-issuing authority~~ committee becomes final
 311 immediately upon issuance, but no construction or alteration may commence until the
 312 expiration of 30 days following the date of the ~~permit-issuing authority~~ committee
 313 meeting at which the application is approved, except as otherwise provided in paragraph
 314 (2) of this subsection; provided, however, that if a timely appeal is filed, no construction

315 or alteration may commence until all administrative proceedings are terminated except
316 as otherwise provided in paragraph (2) of this subsection.

317 (2) If the ~~permit-issuing authority~~ committee, either at the request of the applicant or on
318 its own motion, finds that an emergency exists in any particular geographic area or in
319 regard to any particular permit issued by the ~~permit-issuing authority~~ committee, the
320 ~~permit-issuing authority~~ committee is authorized to allow a permittee to commence
321 immediately or to continue the construction or alteration authorized by the permit. The
322 ~~permit-issuing authority~~ committee in determining an emergency shall base its
323 determination on imminent peril to the public health, safety, or welfare or a grave danger
324 to life, real property, structures, or shoreline engineering activities. If the ~~permit-issuing~~
325 ~~authority~~ committee makes such a finding of an emergency, the permittee may commence
326 immediately or continue the construction or alteration authorized by the permit, but such
327 construction or alteration is undertaken at the risk to the permittee of an administrative
328 or judicial order requiring the sand dunes, beaches, and submerged lands to be returned
329 to their condition prior to such construction or alteration.

330 (1) When work has been completed in accordance with provisions of a permit, the
331 permittee shall so notify the ~~permit-issuing authority~~ committee in writing within 30 days
332 of such completion."

333 SECTION 6.

334 Said part is further amended by revising Code Section 12-5-240, relating to posting of
335 permits, as follows:

336 "12-5-240.

337 A copy of every permit issued to an applicant shall be prominently displayed within the
338 area of proposed activity. If the ~~permit-issuing authority~~ committee deems it advisable, the
339 applicant may be required to cause a sign to be erected bearing the permit number, date of
340 issuance, name of applicant, and such other information as the ~~permit-issuing authority~~
341 committee may reasonably require. The ~~permit-issuing authority~~ committee may specify
342 the type of and, within reasonable dimensions, the size of the sign."

343 SECTION 7.

344 Said part is further amended by revising Code Section 12-5-244, relating to administrative
345 and judicial review, as follows:

346 "12-5-244.

347 (a) Any person who is aggrieved or adversely affected by any order or action of the
348 committee shall, upon petition within 30 days after the issuance of such order or taking of
349 such action, have a right to a hearing before an administrative law judge appointed by the

350 board. The hearing before the administrative law judge shall be conducted in accordance
 351 with Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act,' and the rules and
 352 regulations adopted by the board pursuant thereto. The decision of the administrative law
 353 judge shall constitute the final decision of the board and any party to the hearing, including
 354 the committee, shall have the right of judicial review thereof in accordance with Chapter 13
 355 of Title 50.

356 ~~(b) Where a local unit of government has, pursuant to this part, granted, suspended,~~
 357 ~~modified, extended, conditioned, or denied a permit, any person aggrieved or adversely~~
 358 ~~affected by such action shall be afforded a right to administrative and judicial review of~~
 359 ~~such action.~~

360 (e)(b) Persons are 'aggrieved or adversely affected' where the challenged action has caused
 361 or will cause them injury in fact and where the injury is to an interest within the zone of
 362 interests to be protected or regulated by this part. In the event the committee or local unit
 363 of government, as appropriate, asserts in response to the petition before the administrative
 364 law judge that the petitioner is not aggrieved or adversely affected, the administrative law
 365 judge shall take evidence and hear arguments on this issue and thereafter make a ruling on
 366 this issue before continuing with the hearing. The burden of going forward with evidence
 367 on this issue shall rest with the petitioner."

368

SECTION 8.

369 Said part is further amended by revising Code Section 12-5-247, relating to enforcement of
 370 part and civil penalty, as follows:

371 "12-5-247.

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

378 (1) The department may issue an administrative order specifying the provision of this
 379 part or the rule, or both, alleged to have been violated and require the person so ordered
 380 to cease and desist from such activity and to take corrective action within a reasonable
 381 period of time as prescribed in the order; provided, however, that the issuance of such
 382 order shall not affect the availability of relief under Code Section 12-5-244. Such
 383 corrective action may include, but shall not be limited to, requiring that the sand dunes,
 384 beaches, and submerged lands be returned to their condition prior to the violation of this
 385 part or a rule adopted pursuant to this part. Any such order shall become final unless the

386 person named therein requests in writing a hearing before a hearing officer appointed by
387 the board no later than ten days after the issuance of such order. Review of such order
388 shall be available as provided in subsection (a) of Code Section 12-5-244;

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

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

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

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

423 (c) Any person who causes or permits any removal, filling, or other alteration of the
 424 dynamic dune field or submerged lands in this state without first obtaining a permit from
 425 the ~~permit-issuing authority~~ committee shall be liable in damages to the state and any
 426 political subdivision of the state for any and all actual or projected costs and expenses and
 427 injuries occasioned by such alteration of the dynamic dune field or submerged lands. The
 428 amount of damages assessed pursuant to this Code section shall include, but shall not be
 429 limited to, any actual or projected costs and expenses incurred or to be incurred by the state
 430 or any political subdivision thereof in restoring as nearly as possible the natural topography
 431 of the sand-sharing system and replacing the vegetation destroyed by any alteration of the
 432 dynamic dune field or submerged lands. Damages to the state shall be recoverable in a civil
 433 action instituted by the department and shall be paid to the department to cover cost of
 434 restoration. Damages to a political subdivision shall be recoverable in a civil action
 435 instituted by ~~said~~ such subdivision.

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

438 **SECTION 9.**

439 Said part is further amended by revising Code Section 12-5-248, relating to criminal
 440 violations, as follows:

441 "12-5-248.

442 (a) It shall be unlawful for any person to:

443 (1) Operate any motorized vehicle or other motorized machine on, over, or across sand
 444 dunes or beaches except as authorized by the ~~permit-issuing authority~~ department or
 445 committee, except that individual disability vehicles, emergency vehicles, and
 446 governmental vehicles utilized for beach maintenance or research may operate within
 447 sand dunes and beaches without authorization from the ~~permit-issuing authority~~ as
 448 department or committee so long as those vehicles operate across existing cross-overs,
 449 paths, or drives; or

450 (2) Store or park sailboats, catamarans, or other commercial or recreational marine craft
 451 on any sand dune.

452 (b) All such lawful activities conducted under this part shall provide protection to nesting
 453 sea turtles and their hatchlings and habitats and to nesting shore birds and their hatchlings
 454 and habitats.

455 (c) Any person violating the provisions of subsection (a) of this Code section shall be
 456 guilty of a misdemeanor."

457

SECTION 10.

458 This Act shall become effective upon its approval by the Governor or upon its becoming law
459 without such approval for the purposes of promulgating rules and regulations necessary to
460 administer the provisions of this Act and shall become effective on December 31, 2019, for
461 all other purposes.

462

SECTION 11.

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