

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**

**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, including where an alteration within the buffer area has  
66 been authorized pursuant to a permit issued by the United States Army Corps of  
67 Engineers under Section 404 of the Federal Water Pollution Control Act of 1972, as  
68 amended, or Section 10 of the Rivers and Harbors Act of 1899; provided, however,  
69 that adequate erosion control measures are incorporated into the project plans and  
70 specifications and such measures are fully implemented; and
- 71 (ii) Provide for variances by rule, subject to specified conditions, for certain  
72 categories of activities within the buffer that will have minimal impact on the water  
73 quality or aquatic habitat of the adjacent marsh, including where the area within the  
74 buffer is not more than 500 square feet; provided, however, that adequate erosion  
75 control measures are incorporated into the project plans and specifications and such  
76 measures are fully implemented.
- 77 (D) The board may adopt rules and regulations that provide for an expedited process  
78 for certain categories of activities within the buffer based on the size, scope, location,  
79 and character of the proposed activity within the buffer.
- 80 (E) The buffer requirements of this paragraph shall not apply to crossings for utility  
81 lines that cause a width of disturbance of not more than 50 feet within the buffer;  
82 provided, however, that adequate erosion control measures are incorporated into the  
83 project plans and specifications and such measures are fully implemented.
- 84 (F) The buffer shall not apply to:
- 85 (i) Any land-disturbing activity conducted pursuant to and in compliance with a valid  
86 and effective land-disturbing permit issued subsequent to April 22, 2014, and prior  
87 to the effective date of this Act; provided, however, that adequate erosion control  
88 measures are incorporated into the project plans and specifications and such measures  
89 are fully implemented; or
- 90 (ii) Any lot for which the preliminary plat has been approved prior to the effective  
91 date of this Act if roadways, bridges, or water and sewer lines have been extended to  
92 such lot prior to the effective date of this Act and if the requirement to maintain a  
93 25 foot buffer would consume at least 18 percent of the high ground of the platted lot  
94 otherwise available for development; provided, however, that adequate erosion  
95 control measures are incorporated into the project plans and specifications and such  
96 measures are fully implemented."

97

98 **SECTION 3.**

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

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

103 **SECTION 4.**

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

107 **SECTION 5.**

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