

House Bill 445 (AS PASSED HOUSE AND SENATE)

By: Representatives Hogan of the 179<sup>th</sup>, Sainz of the 180<sup>th</sup>, Williams of the 145<sup>th</sup>, Clark of the 147<sup>th</sup>, Gullett of the 19<sup>th</sup>, 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 **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.