

BLUFF RECESSION AND SETBACK ACT - INSPECTIONS

Act of Jul. 7, 2011, P.L. 301, No. 72

Cl. 32

Session of 2011

No. 2011-72

SB 791

AN ACT

Amending the act of May 13, 1980 (P.L.122, No.48), entitled "An act providing for the regulation of structure setbacks in bluff recession hazard areas throughout the Commonwealth to limit property damage and shoreline erosion recession, imposing duties and conferring powers on the Department of Environmental Resources and municipalities, providing for penalties and enforcement," further providing for definitions; and making editorial changes.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. The title of the act of May 13, 1980 (P.L.122, No.48), known as the Bluff Recession and Setback Act, is amended to read:

AN ACT

Providing for the regulation of structure setbacks in bluff recession hazard areas throughout the Commonwealth to limit property damage and shoreline erosion recession, imposing duties and conferring powers on the Department of Environmental [Resources] **Protection** and municipalities, providing for penalties and enforcement.

Section 2. The definitions of "bluff recession hazard area" and "department" in section 3 of the act are amended and the section is amended by adding definitions to read:

Section 3. Definitions.

The following words and phrases when used in this act shall have, unless the context clearly indicates otherwise, the meanings given to them in this section:

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"Bluff recession hazard area." An area or zone where the rate of progressive bluff recession creates a substantial threat to the safety or stability of nearby or future structures or utility facilities. **The term shall not include any area where the horizontal distance, measured perpendicular to the shoreline, between the shoreline and the bluff toe is in excess of 250 feet and such area shall not be subject to any Environmental Quality Board regulations or municipal bluff setback ordinance or regulation established under this act.**

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"Bluff toe." **The base of a bluff.**

"Department." The Department of Environmental [Resources] **Protection** of the Commonwealth [of Pennsylvania].

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"Shoreline." **The ordinary high water mark of Lake Erie of 573.4 feet as defined in accordance with the International Great Lakes Datum 1985 (IGLD 1985) as recognized by the United States Army Corps of Engineers.**

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Section 3. Section 10 of the act is amended to read:

Section 10. Inspections.

(a) An agent or employee of the [Department of Environmental Resources] **department** or of a municipality administering bluff

setback ordinances and regulations shall have the power to, upon presentation of proper credentials:

(1) Enter any land for the purpose of surveying bluff recession hazard areas.

(2) Enter any land in a bluff recession hazard area for the purpose of ascertaining the location of structure or structures.

(3) Enter land or any structure located in a bluff recession hazard area for the purpose of ascertaining the compliance or noncompliance with the bluff setback ordinance and regulations adopted pursuant to this act.

(b) Whenever an agent or employee of the [Department of Environmental Resources] **department** or a municipality charged with the enforcement of the provisions of this act has been refused access to property for the purposes of conducting a survey or inspection as authorized by this section or reasonably requires access to such property without prior notice to the owner, such agent or employee may apply for an inspection warrant to any Commonwealth official authorized by law to issue a search or inspection warrant to enable him or her to have access and inspect such property. It shall be sufficient probable cause to issue an inspection warrant that the inspection is necessary to properly enforce the provisions of this act.

Section 4. This act shall take effect in 60 days.

APPROVED--The 7th day of July, A.D. 2011.

TOM CORBETT