

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 791 Session of 2011

INTRODUCED BY EARLL, MARCH 9, 2011

REFERRED TO ENVIRONMENTAL RESOURCES AND ENERGY, MARCH 9, 2011

AN ACT

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

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

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

AN ACT

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

21 Section 2. The definitions of "bluff recession hazard area"

1 and "department" in section 3 of the act are amended and the  
2 section is amended by adding definitions to read:

3 Section 3. Definitions.

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

7 \* \* \*

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

17 \* \* \*

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

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

21 \* \* \*

22 "Shoreline." The ordinary high water mark of Lake Erie of  
23 573.4 feet as defined in accordance with the International Great  
24 Lakes Datum 1985 (IGLD 1985) as recognized by the United States  
25 Army Corps of Engineers.

26 \* \* \*

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

28 Section 10. Inspections.

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

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

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

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

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

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

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