



JUNE 2012

2012 Public Acts Affecting Coastal Properties in Connecticut

On May 23, 2012, after intense debate and compromise in the Connecticut Legislature, two bills became law that will greatly affect coastal properties and coastal property owners. The two acts are:

- *An Act Concerning the Coastal Management Act and Shoreline Flood and Erosion Control Structures*, Public Act 12-101, which makes several changes to the Coastal Management Act and statutes regulating certain activities in the navigable waters of the state. The major changes are:
 1. The "rights of private property owners" is added to the top of the list of considerations when there is a proposal to develop, preserve, or use the land and water resources in the coastal area.
 2. The potential impact of sea level rise is added to the list of items that must be considered when planning new coastal development.
 3. Cemeteries, burial grounds, and inhabited residential structures built after January 1, 1995, are added to the list of land uses that can be protected with a shoreline flood and erosion control structure.
 4. More specific guidance is provided concerning the use of shoreline flood and erosion control structures and alternatives to such structures; as well as specific requirements that the Department of Energy and Environmental Protection (DEEP) and local zoning commissions must follow when evaluating an application for such structures.
 5. The DEEP's jurisdictional boundary along the shore is changed from the "High Tide Line" to a new "Coastal Jurisdiction Line" that equates to the "highest predicted tide" during the 1983-2001 tidal epoch, based on data from the National Oceanographic and Atmospheric Administration.

Section 3 of the act, concerning coastal site plan applications for shoreline flood and erosion control structures, became effective upon passage. All other sections take effect October 1, 2012. For the full text of the act, please follow this link: [Public Act 12-101](#).

- *An Act Concerning Certain Cemetery Erosion Mitigation Efforts Within the Coastal Boundary and the Appeal of Certain Decisions Under the Water Pollution Control Act*, Public Act 12-100, which allows an applicant for either (1) a water quality certification under Section 401 of the federal Water Pollution Control Act or (2) a permit for dredging or the erection of structures within the jurisdiction of the DEEP, such as a dock or seawall, to request a public hearing on the application. It also allows any person aggrieved by the final decision on such applications to appeal the decision to superior court. This is a major change for property owners, who for years were without the right to a hearing on these applications or to appeal an adverse decision to court. The hearing and appeal sections of this act take effect October 1, 2012. For the full text of this bill, please follow this link: [Public Act 12-100](#).

These acts provide benefits to waterfront property owners (the right to a hearing and the right to appeal, more clarity in the ability to protect one's property from erosion, and more certainty in the determination of DEEP's jurisdictional boundary), but have the potential to impose great burdens depending on how sea level rise will be considered in future application decisions. Coastal property owners may wish to consider the ramifications of these acts in their development plans.

CONTACT US

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