SENATE, No. 499

STATE OF NEW JERSEY

INTRODUCED JANUARY 22, 1996

WITHDRAWN

By Senator CIESLA

AN ACT concerning the construction of certain docks and amending R.S.12:5-3.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

1. R.S.12:5-3 is amended to read as follows:

12:5-3. a. All plans for the development of any waterfront upon any navigable water or stream of this State or bounding thereon, which is contemplated by any person or municipality, in the nature of individual improvement or development or as a part of a general plan which involves the construction or alteration of a dock, wharf, pier, bulkhead, bridge, pipeline, cable, or any other similar or dissimilar waterfront development shall be first submitted to the Department of Environmental Protection **[**and Energy**]**. No such development or improvement shall be commenced or executed without the approval of the Department of Environmental Protection **[**and Energy**]** first had and received, or as hereinafter in this chapter provided.

b. The following are exempt from the provisions of subsection a. of this section:

(1) The repair, replacement or renovation of a permanent dock, wharf, pier, bulkhead or building existing prior to January 1, 1981, provided the repair, replacement or renovation does not increase the size of the structure and the structure is used solely for residential purposes or the docking or servicing of pleasure vessels;

(2) The repair, replacement or renovation of a floating dock, mooring raft or similar temporary or seasonal improvement or structure, provided the improvement or structure does not exceed in length the waterfront frontage of the parcel of real property to which it is attached and is used solely for the docking or servicing of pleasure vessels; and

(3) Development in the coastal area, as defined in section 4 of P.L.1973, c.185 (C.13:19-4), landward of the mean high water line of any tidal waters.

EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and intended to be omitted in the law.

Matter underlined <u>thus</u> is new matter.

c. For the purposes of subsections c. through e. of this section, "dock" means a dock, floating dock, mooring raft or similar structure. The Department of Environmental Protection shall approve a plan to construct a new dock if the following conditions are met:

(1) The dock does not leach hazardous substances into areas that have a shellfish density equal to or greater than .2 shellfish per square foot;

(2) The width of the dock does not exceed four feet, and the width of the portion of the dock adjacent to the mooring area does not exceed 6 feet;

(3) No more than two vessels are moored at the dock at any time;

(4) The dock does not interfere with a navigation channel or the use of an adjacent dock;

(5) A minimum water depth of 3 feet at mean low water is present beneath the portion of the dock where any vessel is moored;

(6) No more than one dock is placed adjacent to any building lot;

(7) The dock cannot be legally located in another area adjacent to the building lot that would result in less environmental impact; and

(8) The dock is constructed after the applicant agrees to a mitigation plan as required by the Department of Environmental Protection that results in no net loss of shellfish from an area that sustains shellfish at a density of at least .2 shellfish per square foot. The mitigation plan shall include transplanting any potentially distrubed clams from the site of the proposed dock to an area where shellfish harvest is permitted.

d. The Department of Environmental Protection shall approve any plan to construct an existing dock if the following conditions are met:

(1) The dock existed prior to July 19, 1994;

(2) The dock does not interfere with a navigation channel or the use of an adjacent dock; and

(3) No more than two vessels are moored at the dock.

e. The Department of Environmental Protection shall assess a fee of $50, which would accompany the submission of a plan pursuant to subsection d. of this section.

(cf: P.L.1993, c.190, s.18)

2. This act shall take effect immediately.

STATEMENT

This bill would amend section 12:5-3 of the Waterfront Development Act to require the Department of Environmental Protection (DEP) to approve any application to construct a new dock is the plan meets 8 conditions designed to ensure that the dock has minimal impact on the coastal environment and navigation.

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Conditions include limitations on use, width, proximity to other structures and construction material. The legislation also provides that an application to contruct an illegally existing dock that was constructed prior to July 19, 1994 (the effective date of the regulations adopted pursuant to P.L.1993, c.190, also known as the 1993 amendments to the Coastal Area Facility Review Act) would be approved if the dock meets minimum standards.

The conditions under which applications are to be approved, as provided by the bill, are to be considered maximum standards, but they may be relaxed through the ordinary rule-making process.

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Revises DEP procedures for review of plans to construct new and existing docks.

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