

12:5-6

LEGISLATIVE HISTORY CHECKLIST

NJSA: 12:5-6

(Water-front developments--  
unapproved--increase enforcement  
powers)

LAWS OF: 1985

CHAPTER: 125

Bill No: A949

Sponsor(s): Bennett

Date Introduced: January 30, 1984

Committee: Assembly: Agriculture and Environment

Senate: Energy and Environment

Amended during passage: No

Substituted for S2092 (not attached  
since identical to A949)

Date of Passage:

Assembly: January 24, 1985

Senate: February 14, 1985

Date of Approval: April 10, 1985

Following statements are attached if available:

Sponsor statement:

Yes (Below)

Committee statement:

Assembly

Yes

Senate

Yes

Fiscal Note:

No

Veto Message:

No

Message on Signing:

Yes

Following were printed:

Reports:

No

Hearings:

No

(OVER)

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ASSEMBLY, No. 949  
STATE OF NEW JERSEY

INTRODUCED JANUARY 30, 1984

By Assemblyman BENNETT

AN ACT concerning waterfront development and amending  
R. S. 12:5-6.

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

1 1. R. S. 12:5-6 is amended to read as follows:

2 12:5-6. a. Any development or improvement enumerated in  
3 **[section] R. S. 12:5-3 [of this title] and in P. L. 1975, c. 232**  
4 *(C. 13:1D-29 et seq.)* or included within **[a proper interpretation**  
5 *thereof]* *any rule or regulation adopted pursuant thereto*, which is  
6 commenced or executed without first obtaining approval, or *con-*  
7 *trary to the conditions of approval*, as provided in **[section 12:5-4**  
8 *or section 12:5-5 of this title]* *R. S. 12:5-3 and in P. L. 1975, c. 232*  
9 *(C. 13:1D-29 et seq.)* shall be deemed to be a prepreasure **[and]**,  
10 a public nuisance *and a violation under this section* and shall be  
11 abated in the name of the **[state in such action as shall be appro-**  
12 *priate for that purpose]* *State by one or more of the following*  
13 *actions:*

14 *(1) The issuance of an administrative order by the Commis-*  
15 *sioner of the Department of Environmental Protection specifying*  
15A *that there has been a violation of the provisions of this section,*  
16 *or any applicable rule, regulation or permit; setting forth the*  
17 *facts forming the basis for the issuance of the order; and speci-*  
18 *fying the course of action necessary to correct the violation;*

19 *(2) The commencement of a civil action by the commissioner in*  
20 *Superior Court for injunctive or other appropriate relief;*

21 *(3) The levying of an administrative penalty by the commis-*  
22 *sioner in accordance with subsection b. of this section.*

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

23 *b. The commissioner is authorized to assess an administrative*  
24 *penalty of not more than \$1,000.00 for each violation of this*  
25 *section, and is authorized to assess additional penalties of not*  
26 *more than \$100.00 for each day during which this violation con-*  
27 *tinues after receipt of an administrative order from the depart-*  
28 *ment pursuant to paragraph (1) of subsection a. of this section.*  
29 *Prior to the assessment of a penalty under this subsection, the*  
30 *property owner or person committing the violation shall be noti-*  
31 *fied by certified mail or personal service that a penalty is being*  
32 *assessed. The notice shall include a reference to the section of*  
33 *the law, regulation, or permit condition violated; a concise state-*  
34 *ment of the facts alleged to constitute the violation; a statement*  
35 *of the amount of the administrative penalty assessed and a*  
36 *statement of the party's right to an administrative hearing.*

37 *c. The party shall have 21 days from receipt of the notice*  
38 *within which to deliver to the commissioner a written request for*  
39 *a hearing. This request shall specify in detail the statements*  
40 *contested by the party. If no hearing is requested, then after the*  
41 *expiration of the 21-day period the commissioner shall issue a*  
42 *final order assessing the penalty specified in the notice. The*  
43 *penalty is due when the final order is issued.*

44 *d. If a hearing is requested, it shall be held within 30 days of*  
45 *the date on which the request is received by the commissioner.*  
46 *If a violation is found to have occurred, the commissioner may*  
47 *issue a final order assessing not more than the amount of the*  
48 *penalty specified in the notice. The penalty is due when the final*  
49 *order is issued.*

50 *e. Any penalty imposed pursuant to this section may be enforced*  
51 *as provided for in "the penalty enforcement law" (N. J. S.*  
52 *2A:58-1 et seq.).*

1 2. This act shall take effect immediately.

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#### STATEMENT

This bill would give the Department of Environmental Protection additional enforcement powers when waterfront developments or improvements are commenced or executed without the approval, or contrary to the conditions of the approval, of the department.

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ASSEMBLY AGRICULTURE AND ENVIRONMENT  
COMMITTEE

STATEMENT TO  
ASSEMBLY, No. 949

STATE OF NEW JERSEY

DATED: JUNE 22, 1984

This bill would grant to the Department of Environmental Protection additional enforcement powers over waterfront developments or improvements commenced or executed without approval, or contrary to the conditions of the approval, of the department.

Presently, the department is authorized to institute a civil action to abate the violation as a public nuisance. This bill authorizes the department to institute an action for injunctive relief and to assess, after an administrative hearing, an administrative penalty of up to \$1,000.00 for each violation, and of \$100.00 for each day during which the violation continues.

SENATE ENERGY AND ENVIRONMENT COMMITTEE

STATEMENT TO

**ASSEMBLY, No. 949**

**STATE OF NEW JERSEY**

DATED: DECEMBER 14, 1985

This bill would grant to the Department of Environmental Protection additional enforcement powers over waterfront developments or improvements commenced or executed without approval, or contrary to the conditions of the approval, of the department.

Presently, the department is authorized to institute a civil action to abate the violation as a public nuisance. This bill would authorize the department to institute an action for injunctive relief and to assess, after an administrative hearing, an administrative penalty of up to \$1,000.00 for each violation, and of \$100.00 for each day during which the violation continues.

Assembly Bill No. 949 is identical to Senate Bill No. 2092.

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# OFFICE OF THE GOVERNOR NEWS RELEASE

CN-001

Contact:

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NEW JERSEY STATE GOVERNMENT

APR 11 1985

TRENTON, N.J. 08625

Release: FRIDAY, APRIL 12, 1985

185 W. State Street

Governor Thomas H. Kean has signed the following bills:

A-949, sponsored by Assemblyman John O. Bennett, R-Monmouth, which amends existing law pertaining to waterfront development and expanding the powers of the Commissioner of the Department of Environmental Protection to enforce those laws.

The bill amends existing law to expressly state that, where violations of the law governing waterfront development are found by DEP the Commissioner shall issue an administrative order specifying the violation and setting out the corrective action required, institute a civil court action seeking an injunction, and/or levy administrative penalties.

S-1988, sponsored by State Senator Joseph Bubba, R-Bergen, which appropriates \$1 million from the General Fund to DEP for grants to municipalities to assist them in the preparation of storm water management plans.

A-3314, sponsored by Assemblyman Joseph Charles, Jr., D-Hudson, which allows charitable fund raising organizations access to the payroll deduction campaign mechanism at the State and local levels.

A-3163, sponsored by Assemblyman John A. Girgenti, D-Passaic, which appropriates \$500,000 from the General Fund to the Department of Education to help defray costs incurred in renting substitute facilities to replace Public School No. 9 in Paterson, which was destroyed by fire.

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