

THIS IS A COURTESY COPY OF THE TIDELANDS ACT, N.J.S.A. 12:3-1 ET SEQ.. THE OFFICIAL VERSION IS PUBLISHED IN THE NEW JERSEY STATUTES. IF THERE ARE ANY DISCREPANCIES BETWEEN THIS TEXT AND THE OFFICIAL VERSION OF THE STATUTE, THE OFFICIAL VERSION WILL GOVERN.

“Tidelands Act”

UPDATED THROUGH P.L. 2016, ch.32, and JR 3 of 2016

12:3-1 Commissioners to make survey and report as to riparian lands, etc.

P.L.1864, c. 391, p. 681 (Rev.1877, pp. 981, 982, s.s. 1 to 6; C.S. pp. 4383, 4384, s.s. 1 to 7), entitled "An Act to ascertain the rights of the state and of the riparian owners in the lands lying under the waters of the bay of New York, and elsewhere in the state," approved April eleventh, one thousand eight hundred and sixty-four, saved from repeal. [This act provides for the appointment of a board of commissioners to cause to be made surveys of the lands lying under the waters of the bay of New York, of the Hudson river and the lands adjacent thereto, the Kill von Kull, Newark bay, Arthur Kill, Raritan bay and the Delaware river opposite to the county of Philadelphia, not theretofore granted by the state; to ascertain the state's rights in the same and the value thereof; to fix the exterior line beyond which no permanent obstruction should be permitted and to report to the legislature and recommend a plan for the improvement, use, renting or leasing of said lands with maps of said lands showing the said exterior line, the lines of existing piers, etc., and any grants of such lands not then occupied, with other appropriate information.]

12:3-2. Establishment of exterior bulkhead and pier lines in tidewaters of Hudson river, New York bay and Kill von Kull

The bulkhead line or lines of solid filling and pier lines in the tidewaters of the Hudson river, New York bay and Kill von Kull, lying between Enyard's dock, on the Kill von Kull, and the New York state line, so far as they have been recommended and reported to the legislature by the commissioners appointed under the act entitled "An act to ascertain the rights of the state and of the riparian owners in the lands lying under the waters of the bay of New York, and elsewhere in the state," approved April eleventh, one thousand eight hundred and sixty-four (L.1864, c. 391, p. 681), by report bearing date February first, one thousand eight hundred and sixty-five, are hereby adopted and declared to be fixed and established as the exterior bulkhead and pier lines between the points above named, as such exterior bulkhead and pier lines so fixed, established and adopted are shown upon the manuscript maps, accompanying said report, and filed in the office of the secretary of state, except as said lines have been or may hereafter be changed pursuant to section 12:3-13 of this title and except said lines drawn on said maps over or upon lands within the boundaries of the grant made to the Morris Canal and Banking Company by the act entitled "A further supplement to the act entitled "An act to incorporate a company to form an artificial navigation between the Passaic and Delaware rivers," passed December thirty-first, eighteen hundred and twenty-four," approved March fourteenth, one thousand eight hundred and sixty-seven (L.1867, c. 133, p. 251).

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12:3-3. Filling in beyond bulkhead lines; erection of piers

It shall not be lawful to fill in with earth, stones or other solid material, in the tidewaters of the Hudson river, New York bay and Kill von Kull, beyond the bulkhead line or lines of solid filling by section 12:3-2 of this title adopted, fixed and established, laid down and exhibited on the aforesaid maps; and it shall not be lawful to erect or maintain any pier or other structure exterior to the said bulkhead line or lines of solid filling in any place or places where no exterior line for piers is reported or indicated by said maps, on the Hudson river, New York bay and Kill von Kull and when an exterior line for piers is recommended and shown by said report and maps, no erection or structure of any kind shall be erected, allowed or maintained beyond or exterior to the aforesaid bulkhead line or lines of solid filling, except piers which shall not exceed one hundred feet in width respectively, and which shall in no case extend beyond the line indicated for piers on said maps accompanying said report; and no piers shall be constructed in said tidewaters, when such exterior pier lines are adopted, fixed and established, at less intervals between such piers than seventy-five feet, except at places occupied and used for ferries, or to be so occupied or used, when the spaces between the piers may be less; nor shall any such pier be constructed in any other manner than on piles or on blocks and bridges; and if on blocks and bridges, such blocks and bridges shall not occupy more than one-half of the length of the pier, and they shall be so constructed as to permit a free flow or passage of water under and through them, without any other interruption or obstruction than the pile or blocks necessary to support said piers.

12:3-4. Repeal of Wharf Act of 1851; reclaiming or building upon lands under tidewaters; consent of department; prior grants and licenses

The repeal of the act entitled "An act to authorize the owners of lands under tidewaters to build wharves in front of the same," approved March eighteenth, one thousand eight hundred and fifty-one (L.1851, p. 335), as to the tidewaters of this State below the line of mean high tide, by section three of the act entitled "Supplement to an act entitled "An act to ascertain the rights of the State and of riparian owners in the lands lying under the waters of the bay of New York and elsewhere in this State,' approved April eleventh, eighteen hundred and sixty-four," approved March thirty-first, one thousand eight hundred and sixty-nine (L.1869, c. 383, p. 1017), as amended by the act approved March twentieth, one thousand eight hundred and ninety-one (L.1891, c. 124, p. 216), shall not be construed to restore any supposed rights, usage or local common law, founded upon the tacit consent of the State or otherwise to fill in any land under water below mean high tide.

Without the grant or permission of the Department of Conservation and Economic Development no person or corporation shall fill in, build upon or make any erection on or

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reclaim any of the lands under the tidewaters of this State; and in case any person or corporation so offending shall be guilty of purpresture, which shall be abated at the cost and expense of such person or corporation, on application of the Attorney-General, under judgment of the Superior Court or by indictment in the county in which the same may be, or opposite to or adjoining which said purpresture may be; provided, however, that neither this section nor any provision contained in sections 12:3-2 to 12:3-9 of this Title, shall in anywise repeal or impair any grant of land under water, or right to reclaim made directly by legislative act, or grant or license, power or authority, so made or given, to purchase, fill up, occupy, possess and enjoy lands covered with water fronting and adjoining lands owned or authorized to be owned by the corporation, or grantee or licensee in the legislative act mentioned, its, his or their representatives, grantees or assigns, or to repeal or impair any grant or license, power or authority to erect or build docks, wharves and piers opposite and adjoining lands owned, or authorized to be owned by the corporation, or grantee or licensee in the legislative act mentioned, its, his or their representatives, grantees or assigns made prior to July first, one thousand eight hundred and ninety-one, or given directly by legislative acts, whether said acts are or are not repealable, and as to any revocable license given by the board of chosen freeholders of a county prior to July first, one thousand eight hundred and ninety-one, to build docks, wharves or piers, or to fill in or reclaim any lands under water in this State, the same shall be irrevocable so far as the land under water has been or shall be lawfully reclaimed or built upon under any such license issued prior to July first, one thousand eight hundred and ninety-one, provided such reclamation or building under such license shall be completed prior to January first, one thousand eight hundred and ninety-two; but as to the future such revocable license, if the said lands covered by the license have not been wholly or in part lawfully reclaimed or built upon, is hereby revoked, and no occupation or reclamation of land under water without such legislative act or revocable license shall divest the title of the State, or confer any rights upon the party who has reclaimed or who is in possession of the same.

12:3-5 Conveyances or leases to grantee or licensee under legislative act; amount of rental or purchase price; conversion of lease into conveyance; rights of grantee or licensee.

12:3-5. In case any person or corporation who by any legislative act, is a grantee or licensee, or has such power or authority, or any of his, her or their representatives or assigns shall desire a paper capable of being acknowledged and recorded, made by and in the name of the State of New Jersey, conveying the land mentioned in the proviso to the third section of an act entitled "Supplement to an act entitled 'An act to ascertain the rights of the State and of riparian owners in the lands lying under the waters of the bay of New York and elsewhere in this State,' approved April eleventh, eighteen hundred and sixty-four," approved March thirty-first, one thousand eight hundred and sixty-nine (R.S.12:3-4), whether under water now or not, and the

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benefit of an express covenant, that the State will not make or give any grant or license power, or authority affecting lands under water in front of said lands, then and in either of such cases, such person or corporation, grantee or licensee, having such grant and license, power or authority, his, her or their representatives or assigns on producing a duly certified copy of such legislative act to the Tidelands Resource Council in the Department of Environmental Protection, and in case of a representative or assignee also satisfactory evidence of his, her or their being such representative or assignee, and requesting such grant and benefits as in this section mentioned, shall be entitled to said paper so capable of being acknowledged and recorded, and granting the title and benefits aforesaid, on payment of the consideration hereinafter mentioned; and the Tidelands Resource Council, Commissioner of Environmental Protection and the Attorney General shall and may execute and deliver and acknowledge in the name and on behalf of the State, a lease in perpetuity to such grantee or licensee or corporation having such grant, license, power or authority, and to the heirs and assigns of such grantee or licensee, or to the successors and assigns of such corporation, upon his, her or their securing to be paid to the State an annual rental of such reasonable sum as the Tidelands Resource Council may fix with the approval of the Commissioner of Environmental Protection for each and every lineal foot measuring on the bulkhead line, or a conveyance to such grantee or licensee or corporation having such grant, license, power or authority, and to the heirs and assigns of such grantee or licensee, or to the successors and assigns of such corporation in fee, upon his, her, or their paying to the State such reasonable sum as the Tidelands Resource Council may fix with the approval of the Commissioner of Environmental Protection for each and every lineal foot measuring on the bulkhead line, in front of the land included in said conveyance; provided, that no corporation to whom any such grant, license, power or authority was given by legislative act as aforesaid, in which provision was made for the payment of money to the Treasurer of the State for each and every foot of the shore embraced and contained in the act; nor the assigns of such corporation shall be entitled to the benefits of this section; and provided further, that the council shall in no case grant lands under water beyond the exterior lines hereby established, or that may be hereafter established, but the said conveyance shall be construed to extend to any bulkhead or pier line further out on said river and bay that may hereafter be established by legislative authority; in case any person or corporation taking a lease under this section, shall desire afterwards a conveyance of all or any part of the land so leased, the same shall be made upon payment of such reasonable sum for every such lineal foot, as the Tidelands Resource Council may fix, with the approval of the Commissioner of Environmental Protection, the conveyance or lease of the council under this section or R.S.12:3-2 to R.S.12:3-9, shall not merely pass the title to the land therein described, but the right of the grantee or licensee, individual or corporation, his, her or their heirs and assigns, to exclude to the exterior bulkhead line, the tidewater by filling in or otherwise improving the same, and to appropriate the land to exclusive private uses, and so far as the upland from time to time made shall adjoin the navigable water, the said conveyance or lease shall vest in the grantee or licensee, individual or corporation, and their heirs and assigns,

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the rights to the perquisites of wharfage, and other like profits, tolls and charges.

12:3-6. Payment of or security for purchase money or rentals for lands below high-water mark

No grant hereafter made, extending beyond the line of high-water mark, shall be in force or operation as to so much thereof as extends below said line of high-water mark, until the grantee or grantees shall have paid into the treasury of the state such compensation or rentals, or secured to the state such payment or rentals for the estate in the lands lying below the said line of mean high-water mark, contained in and conveyed by such grant or lease as provided in section 12:3-7 of this title.

12:3-7 Grant of riparian land not improved; notice to riparian owner.

12:3-7. If any person or persons, corporation or corporations, or associations, shall desire to obtain a grant for lands under water which have not been improved, and are not authorized to be improved, under any grant or license protected by the provisions of R.S.12:3-2 to R.S.12:3-9, it shall be lawful for the Tidelands Resource Council, together with the Commissioner of Environmental Protection and Attorney General of the State, upon application to them, to designate what lands under water for which a grant is desired lie within the exterior lines, and to fix such price, reasonable compensation, or annual rentals for so much of said lands as lie below high-water mark, as are to be included in the grant or lease for which such application shall be made, and to certify the boundaries, and the price, compensation or annual rentals to be paid for the same, under their hands, which shall be filed in the Office of the Secretary of State; and upon the payment of such price or compensation or annual rentals, or securing the same to be paid to the Treasurer of this State, by such applicant, it shall be lawful for such applicant to apply to the council for a conveyance, assuring to the grantee, his or her heirs and assigns, if to an individual, or to its successors and assigns, if to a corporation, the land under water so described in said certificate; and the council shall, in the name of the State, and under the great seal of the State, grant the said lands in manner last aforesaid, and said conveyance shall be subscribed by the commissioner and the Attorney General and attested by the Secretary of State, and shall be prepared under the direction of the Attorney General, to whom the grantee shall pay the expense of such preparation, and upon the delivery of such conveyance, the grantee may reclaim, improve, and appropriate to his and their own use, the lands contained and described in the said certificate; subject, however, to the regulations and provisions of R.S.12:3-2 and R.S.12:3-3, and such lands shall thereupon vest in said applicant; provided, that no grant or license shall be granted to any other than a riparian proprietor, until six calendar months after the riparian

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proprietors shall have been personally notified in writing by the applicant for such grant or license, and shall have neglected to apply for the grant or license, and neglected to pay, or secured to be paid, the price that the council shall have fixed; the notice in the case of a minor shall be given to the guardian, and in case of a corporation to any officer doing the duties incumbent upon president, secretary, treasurer or director, and in case of a nonresident, the notice may be by publication for four weeks successively in a daily newspaper published in Hudson county, and in a daily newspaper published in New York city.

12:3-7.1. Inability to give required notice; notice by publication; effect

In the event an applicant for a grant or lease of riparian lands cannot comply with the provisions of Revised Statutes 12:3-7 or Revised Statutes 12:3-23, requiring 6 months' notice to the riparian or shore owner of an application for a grant or lease because of the applicant's inability to determine the location of the present or former mean high water line, such applicant shall file with the Department of Conservation and Economic Development a notice of his intention to apply for a riparian grant or lease, describing therein the lands desired, together with an affidavit of an engineer or surveyor licensed in this State, setting forth the reasons why the location of the mean high water line cannot be determined, and requesting permission of the Commissioner of the Department of Conservation and Economic Development to publish the notice of intention to make an application in form prescribed by the commissioner once a month for 6 successive months, prior to the filing of the application, in a newspaper published and circulated in the county or counties wherein the lands are situate. Upon receipt of such notice of intention the commissioner shall investigate the facts set forth therein and may grant the requested permission for publication; and may also, as a condition thereof, require such additional notice as he shall deem appropriate to inform adjacent property owners of the applicant's intention to seek a riparian grant or lease.

Upon the execution of the grant or lease after the notice as provided herein, all privileges or claims of pre-emption of riparian owners to the lands therein described shall forever cease and terminate.

12:3-8. Trespass on lands of state under water; proceedings by attorney general; expenses

The department may commence a civil action in the name of the State of New Jersey against persons and corporations trespassing upon or occupying the lands of the State under water, or which were heretofore under water, and the Attorney-General of the State is hereby required to commence and prosecute such actions as may be instituted or directed by the department; and his expenses and disbursements, and the expenses and disbursements of such assistants as may be appointed by the Governor, and their reasonable charges and counsel fees shall be taxed

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by the court and paid by the State Treasurer, upon presentation of the bill so taxed.

12:3-9. Grant to person other than riparian owner; procedure

In any case where a grant of the lands of the State under water is made by the department to any person other than the riparian owner the State's grantee shall not fill up or improve said lands under water until the rights and interest of the riparian owner in said lands under water (if any he has) shall be extinguished, as follows: The department shall fix the amount to be paid to said riparian owner for his rights and interest therein (if any he has), and said riparian owner shall have the right, within twenty days after he has been notified of said amount, to accept said sum in full extinguishment of all his rights, or if he is dissatisfied with said award he may apply to the Superior Court for a struck jury to try the question in such place as may be designated by said court, and said jury may increase or diminish the amount to be paid the said riparian owner, and their verdict shall be final as to said amount, and on the payment or tender by the State's grantee to the riparian owner of the amount fixed by said jury all the rights and interests of said riparian owner in the lands of the State under water in front of his land shall be extinguished; the costs of the trial shall be paid as follows: If the verdict of the jury is greater than the award of the board then the State shall pay the costs of the trial, if the verdict is the same as the award or less than the award of the department then the riparian owner shall pay the costs.

12:3-10. Lease or conveyance to riparian owner on application to board

Any riparian owner on tidewaters in this State who is desirous to obtain a lease, grant or conveyance from the State of New Jersey of any lands under water in front of his lands, may apply to the board, which may make such lease, grant or conveyance with due regard to the interests of navigation, upon such compensation therefor, to be paid to the State of New Jersey, as shall be determined by the board, which lease, conveyance or grant shall be executed as directed in sections 12:3-2 to 12:3-9 of this Title, and shall vest all the rights of the State in said lands in said lessee or grantee.

The board in its discretion, upon application in writing from any riparian owner, may cancel and annul any lease, grant or conveyance heretofore made to such riparian owner, and thereupon such lands, and rights therein, so leased, granted or conveyed shall revert to the State.

12:3-11. Waters excluded

Section 12:3-10 of this title shall not interfere with sections 12:3-2 to 12:3-9 of this title as to the waters of the Hudson river, New York bay or Kill von Kull, easterly of Enyard's dock.

12:3-12 Covenants, clauses and conditions in grants or leases whether land under water or

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not.

12:3-12. The council with the concurrence of the Commissioner of Environmental Protection and Attorney General, in all cases of application for grants or leases of land now, or at the time of the application, or at the time of the lease or grant, under tidewater; and in all cases of application for grants or leases of lands which are not now, or shall not at the time of the application, or at the time of the lease or grant be under tidewater, and in all cases of applications for leases or grants for all or any of such lands may, notwithstanding the first proviso in R.S.12:3-5, or any other provisions contained in R.S.12:3-2 to R.S.12:3-9, grant or lease, or lease first with a covenant to grant, and grant afterwards, for such principal sum that the interest thereof at 7% will produce the rental, such lands, or any part thereof lying between what was, at any time heretofore, the original high-water line and the seaward territorial jurisdiction of the State, and grant or lease in all cases in which, in their discretion, they shall think such grant or lease should be made, such rights, privileges and franchises as they are authorized to grant in cases coming directly within R.S.12:3-5, and enter into the same covenants in the name of the State, in all cases of grants or leases where they deem such covenants proper, as are authorized in grants or leases under R.S.12:3-5 and insert such other covenants, clauses and conditions in said grants or leases as they shall think proper to require from the grantee or lessee, or ought to be made by the State; provided, that nothing herein contained shall authorize grants or leases in front of a riparian owner to any other than such riparian owner, except upon the proceedings and conditions provided in R.S.12:3-2 to R.S.12:3-9; and provided also, that the applications for grants or leases, and the certificates of the council, commissioner and Attorney General, may in the cases hereby provided for, vary from the provisions of R.S.12:3-2 to R.S.12:3-9 in such manner as to conform to this section, and any party who has already asked for or accepted a lease or conveyance may apply for and have the benefits of this section, notwithstanding such former application or former acceptance of a lease or conveyance.

12:3-12.1 Findings, declarations relative to conveyance of riparian lands.

1. The Legislature finds and declares that the Tidelands Resource Council is the public body responsible for the stewardship of the State's riparian lands; that it is the responsibility of the council to determine whether applications for the lease, license, or grant of riparian lands are in the public interest; that it is the responsibility of the council to determine, in assessing applications for the lease, license, or grant of riparian lands, whether the State may have a future use for such lands; that the council must obtain the fair market value for the lease, license or grant of riparian lands in accordance with court decisions and legal opinions of the Attorney General; and that the substantive policies adopted by the council and information about the roles of the council and the tidelands management program within the Department of Environmental Protection in requiring, reviewing, and processing applications for the lease, license, and grant of riparian lands should be made readily available to the general public and should be provided

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to those who apply for permission to use riparian lands.

12:3-12.2 Development of "Guide to the Tidelands."

2. The Tidelands Resource Council shall develop an informational guide entitled "Guide to the Tidelands," which shall be written in clear and plain language such that a person possessing a high school degree or its equivalent can understand any information provided in the guide. The council shall provide a copy of the guide to any person expressing an interest in applying for a lease, license or grant of any riparian land and to any other person who requests a copy of the guide. The guide shall contain the following information:

a. A brief history of the designation of riparian lands in New Jersey as property of the State to be held in the public trust;

b. The purpose of the Tidelands Resource Council and the tidelands management program within the Department of Environmental Protection, emphasizing the status of mapped riparian lands as property of the State under the stewardship of the Tidelands Resource Council;

c. A complete listing and explanation of application fees adopted by the council pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.);

d. An explanation of the process involved in submitting an application to the council, and an explanation of the method by which the council establishes the fair market value of riparian lands, and the consequent price of a lease, license, or grant of such lands;

e. An explanation of the process by which an applicant for a lease, license, or grant of riparian lands may appeal to the council for a reduction in the price of such lease, license, or grant as established by the council; and

f. Any information not specified in subsections a. through e. of this section that the council determines will help applicants obtain a clear understanding of the council's role as steward of State-owned riparian lands.

12:3-12.3 Rules, regulations setting forth fees; minimum term of conveyance.

3. The Tidelands Resource Council shall, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), adopt rules and regulations setting forth all fees imposed by the council, but shall not be required to publish as a rule or regulation any formula or method

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used to determine the fair market value of a lease, license or grant. All leases and licenses shall be conveyed for a minimum of seven years.

12:3-13. Change in pier lines or lines of solid filling; map and survey; basins

The council may change, fix and establish any other lines than those now fixed and established for pier lines, or lines for solid filling in the tidewaters of the State, or make any changes in any basin now fixed and established, or lay out and fix and establish any new basin or basins in the tidewaters of the State, and when so fixed and established, the council shall file a map and surveys in the office of the secretary of state, showing what lines have been fixed and established by it for the exterior lines for solid filling and pier lines, as well as for any changes in basins or new basins fixed, laid out and established by it under this section.

12:3-14. Encroachment prohibited

From and after the filing of said map and surveys in the office of the secretary of state, no encroachment of any kind shall be permitted to be made beyond said lines so fixed and established for solid filling or pier lines, or in or upon any basin or basins so laid out and established.

12:3-15. Lease or sale of basins; dedication as public basins

The board may make, for a satisfactory consideration, any lease or sale to the owners of the lands fronting on the said basin, of the right to have the exclusive use of the said basin or basins, for the purpose of wharfage and docking, and to charge a reasonable sum for the use of the same on the line of bulkhead owned by them respectively; and that from and after the filing of said map and survey, the same shall remain as a public basin or basins, and they are hereby dedicated for that purpose.

12:3-16 Fixing of purchase price or rentals for lands below high-water mark or formerly under tidewater; lease or conveyance.

12:3-16. It shall be lawful for the Tidelands Resource Council, together with the Commissioner of Environmental Protection, to fix and determine within the limits prescribed by law, the price or purchase money or annual rental to be paid by any applicant for so much of lands below high-water mark, or lands formerly under tidewater belonging to the State, as may be described in any application therefor duly made according to law, and the council, with the approval of the commissioner, shall, in the name and under the great seal of the State, grant or lease said lands to such applicant accordingly, and all such conveyances or leases shall be prepared by the council or its agents at the cost and expense of the grantee or lessee therein and

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shall be subscribed by the commissioner and the Attorney General and the council and attested by the Secretary of State.

12:3-18. Right of way separating riparian owner's lands from tidewater; effect on leases and grants

When lands have been or shall be taken or granted for a right of way and such right of way has been or shall be so located on land of a riparian owner as to occupy the same along or on the shore line, thereby separating the upland of the riparian owner adjoining that used for the right of way from tidewater, such owner of the land so subject to such right of way shall be held to be a riparian owner for the purpose of receiving any grant or lease heretofore or hereafter made of the lands of the state under water, or for the purpose of receiving any notice under sections 12:3-2 to 12:3-17 of this title; provided, that nothing in this section shall affect the rights of the state to the lands lying under water.

12:3-19 Establishment of bulkhead and pier lines around islands in tidewaters.

12:3-19. The Tidelands Resource Council, with the approval of the Commissioner of Environmental Protection and after consultation with the Army Corps of Engineers, shall, from time to time, fix and establish, around or in front of all islands, reefs and shoals situate in the tidal waters of this State, exterior lines in said waters, beyond which no pier, wharf, bulkhead, erection or permanent obstruction of any kind shall be made or maintained, and also the interior lines for solid filling in said waters, beyond which no permanent obstruction shall be made or maintained other than wharves and piers and erections thereon for commercial uses; provided, however, that no exterior line around or in front of any such island, reef or shoal shall be fixed and established in front of any riparian grant which was made prior to February tenth, one thousand eight hundred and ninety-one, unless such exterior line shall be fixed and established, after consultation with the Army Corps of Engineers, at such distance as will, in the judgment of the Tidelands Resource Council, leave sufficient waterway in front of said grants for navigation, and when the council shall have so fixed and established said lines after consultation as aforesaid, it shall file a survey and map thereof in the Office of the Secretary of State, showing the lines for piers and solid filling so fixed and established.

12:3-20 Sale or lease of riparian lands around islands, reefs or shoals.

12:3-20. The Tidelands Resource Council, together with the Commissioner of Environmental Protection, may sell or let to any applicant therefor any of the lands under water and below mean high-water mark, embraced within the lines fixed and established pursuant to R.S.12:3-19, upon such terms as to purchase money or rental, and under such conditions and

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restrictions as to time and manner of payment, the duration and renewal of any lease, the occupation and use of the land sold or leased, and such other conditions and restrictions as the interest of the State may require, and as may be fixed and determined by the council together with the commissioner.

12:3-21. Removal of sand and other material without license; penalty; exception

No person or corporation shall dig, dredge or remove any deposits of sand or other material from the lands of the State lying under tidal waters without a license so to do first obtained as provided in section 12:3-22 of this Title, and any person or corporation who shall so unlawfully dig, dredge or remove any deposit of sand or other material as aforesaid shall forfeit and pay for each and every such offense the sum of one hundred dollars (\$100.00), to be prosecuted for and recovered by a civil action by any person or persons in any court of competent jurisdiction with costs of suit, the one-half the amount so recovered to be for the use of the State, and the other half to the use of the person or persons who shall sue for and prosecute the same to effect; provided, however, that nothing in this section contained shall prevent the owner of any grant or lease from the State, or the assignee or lessee thereof, from digging, dredging, removing, and taking sand and other material within the lines of, or in front of, such grant or lease, for the purpose of improving lands granted or leased to them, or their grantors or lessors, by the State, nor prevent such owner, assignee or lessee from digging or dredging a channel or channels to the main channels, and removing and taking the material therefrom.

12:3-22 License to remove sand or other materials from lands under tidewaters.

12:3-22. The Tidelands Resource Council, with the approval of the Commissioner of Environmental Protection, may, under such terms and restrictions as to duration, compensation to be paid and such other conditions and restrictions as the interests of the State may require, license by an instrument in writing, executed in the same manner as grants of land under water are required to be executed, any person or corporation to dig, dredge or remove any deposits of sand or other material from lands of the State under tidewaters.

12:3-23 Lease or grant to persons other than riparian owners; notice to riparian owners.

12:3-23. The Tidelands Resource Council, with the approval of the Commissioner of Environmental Protection, may lease or grant the lands of the State below mean high-water mark and immediately adjoining the shore, to any applicant or applicants therefor other than the riparian or shore-owner or owners, provided the riparian or shore-owner or owners shall have received six months' previous notice of the intention to take said lease or grant such notice given

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by the applicant or applicants therefor, and the riparian or shore-owner or owners shall have failed or neglected within said period of six months to apply for and complete such lease or grant; the notice herein required shall be in writing and shall describe the lands for which such lease or grant is desired, and it shall be served upon the riparian or shore-owner or owners personally; and in the case of a minor it shall be served upon the guardian; in case of a corporation upon any officer performing the duties of president, secretary, treasurer or director, and in the case of a nonresident owner the notice may be by publication for four weeks successively at least once a week in a newspaper or newspapers published in the county or counties wherein the lands are situate, and in case of such publication, a copy of such notice shall be mailed to such nonresident owner (or in case such nonresident owner be a corporation, then to the president of such corporation, directed to him at his post-office address, if the same can be ascertained, with the postage prepaid); but nothing contained in R.S.12:3-21 to R.S.12:3-25 shall be construed as repealing, altering, abridging, or in any manner limiting the provisions and power conferred upon the Tidelands Resource Council and the Commissioner of Environmental Protection by R.S.12:3-19 and R.S.12:3-20.

12:3-24 Sale or lease of lands below high-water mark; lease convertible into grant not required.

12:3-24. The Tidelands Resource Council, together with the Commissioner of Environmental Protection, shall not be required to give leases for lands of the State under water, convertible into grants upon payment of the principal sum mentioned therein, but may sell or let any of the lands of the State below mean high-water mark upon such terms as to purchase money or rental, and under such conditions and restrictions as to time and manner of payment, the duration and renewal of any lease, the occupation and use of the lands sold or leased, and such other conditions and restrictions as the interest of the State may require, as may be fixed and determined by the council, together with the commissioner.

12:3-25 Renewals of leases; provision for determining annual rentals.

12:3-25. The Tidelands Resource Council, together with the Commissioner of Environmental Protection, may, in any lease of lands of the State below mean high-water mark, provide for a renewal or renewals of the lease for a subsequent term or terms to be expressed in the lease, and therein provide that the annual rentals to be paid for each renewal shall, in case the amount cannot be agreed upon, be fixed and determined before the commencement of the renewal term by three arbitrators, one to be appointed by the State, one by the then lessee, and the third by their joint agreement, or should they fail to agree, then by the Superior Court.

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12:3-26 License required to lay pipes under State lands under tidewaters.

12:3-26. The council, with the approval of the Commissioner of Environmental Protection, may license any person or corporation to lay any pipe or pipes on or under the lands of the State under tidewaters under such terms and restrictions as to duration, compensation to be paid, and such other conditions and restrictions as the interests of the State may require. Such license shall be granted by a written instrument and executed in the same manner as grants of land under tidewaters are required to be executed.

Amended 1979, c.311, s.3; 2009, c.40, s.11.

12:3-27. Enlarging or reducing tidewater basins; reclamation; leases and grants; limitations

Whenever the state has, prior to March fourth, one thousand nine hundred and eighteen, dedicated any lands under water to public use as a tidewater basin, it shall be lawful for the board, on the application of the owners of all of the lands abutting thereon, to either enlarge or reduce the area of said basin or change the boundaries thereof, and said owners of lands adjoining and abutting upon said tidewater basin are hereby authorized to fill up and reclaim the same to such extent as the board in writing may confirm, and the board is hereby authorized and empowered upon the payment of an adequate consideration therefor, to grant or lease in the manner provided by law to the owners of lands adjoining and abutting upon said tidewater basin, the state's rights in any portion of said basin so filled up and reclaimed; provided, however, that no reclamation by any person of said lands and no grant or lease thereof by the board shall be valid unless all of the owners of lands fronting and abutting on said basin shall consent in writing thereto.

Nothing in this section shall authorize the entire closing of any such basin or its reduction in width to less than two hundred feet; nor shall this section apply to any lands of the Morris Canal and Banking Company, or operate to relieve said company from any obligation imposed upon it by law.

12:3-27.1 Fill, development of real property in tidewater basin.

8. Notwithstanding the provisions of R.S.12:3-27 to the contrary, the fill or development of real property within an existing tidewater basin to a width of less than 200 feet may be permitted with the approval of the Department of Environmental Protection pursuant to the provisions of R.S.12:5-1 et seq. and a grant may be approved by the Tidelands Resource Council for that fill or development pursuant to the provisions of R.S.12:3-12 and section 3 of this act.

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12:3-27.2 Authorization for approval of State tidelands, riparian grant.

3. The Tidelands Resource Council, established pursuant to section 10 of P.L.1948, c.448 (C.13:1B-10), is hereby authorized to approve a State tidelands or riparian grant and to set the amount of the consideration for the State's riparian interest in each of the real properties described in sections 1 and 5 of P.L.1872, c.596. The council shall establish the amount of consideration for each grant which shall be paid to the State of New Jersey, upon such terms and conditions as it deems appropriate. Any tidelands or riparian grant concerning property described in section 5 of P.L.1872, c.596 authorized by the Tidelands Resource Council and delivered after January 1, 1982 and prior to the date of enactment of this act is hereby validated.

12:3-28. Construction or alteration of bridges over tidal waters; approval of board; repeal by subsequent act

Whenever a state board or agency has been or may hereafter be authorized or directed by any law of this state to build a bridge or other structure, or to alter or change any existing bridge or other structure on or over any lands of this state flowed by the tidal waters thereof, such board or agency, before proceeding with the work, shall first submit to and obtain the approval of such plans or work by and from the board of commerce and navigation.

This section shall not be taken to be or have been repealed by any act passed subsequent to April first, one thousand nine hundred and twenty-seven, authorizing the building of bridges or structures, or the alteration or changing of existing bridges or other structures by any state board or agency as aforesaid unless such subsequent act authorizing the same contains an express repealer of this section.

12:3-29. Terms and conditions required in lease or grant

Every lease, grant or conveyance by the board of commerce and navigation of lands lying under the waters of the Hudson river adjacent to or in front of the Palisades, or adjacent to or in front of the strip of land between the base of the Palisades and the lands under water, shall contain such terms, conditions, restrictions and limitations as will, so far as possible, forever thereafter preserve unbroken the uniformity and continuity of the Palisades, and prevent the lands leased, granted or conveyed from being used or devoted to injurious or destructive work or operations against the Palisades, or in connection with or for the encouragement, aid or promotion of such work or operations.

12:3-30. Work or operations for buildings and commercial purposes

No terms, conditions, restrictions or limitations shall be inserted in any such lease, grant or conveyance which shall prevent or interfere with any work or operations, whether by blasting

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and removing rock or otherwise, on any part of land lying between the base of the vertical line of the Palisades and the high-water mark on the Hudson river, for the purpose of preparing the ground for the construction of buildings or for commercial purposes.

12:3-31. "Palisades" defined

As used in sections 12:3-29 and 12:3-30 of this title, "Palisades" means that portion of the west shore of the Hudson river, lying between the high-water line and the top or edge of the steep cliffs or the crest of the slope in places where the steep cliffs are absent, from the road leading from the old Fort Lee dock or landing to Fort Lee in Bergen county on the south to the northerly boundary line of the state of New Jersey. The riparian lands lying under the water of the Hudson river to the southward of the said road, leading from the Fort Lee dock or landing to Fort Lee in Bergen county, shall not be subject to the provisions of said sections.

12:3-32. Certain leases, grants and conveyances not affected

No lease, grant or conveyance made prior to March eleventh, one thousand nine hundred and twenty-two, of lands lying under the waters of the Hudson river southward of said road leading from the Fort Lee dock or landing to Fort Lee in Bergen county, shall be held invalid because not containing the terms, conditions and restrictions prescribed in section 12:3-29 of this title.

Nothing in sections 12:3-29 to 12:3-31 of this title shall affect or impair any lease or grant made prior to March eighteenth, one thousand eight hundred and ninety-eight.

12:3-33. Grant of riparian lands for public park, place, street or highway

Whenever a public park, place, street or highway has been or shall hereafter be laid out or provided for, either by or on behalf of the state or any municipal or other subdivision thereof, along, over, including or fronting upon any of the lands of the state now or formerly under tidewater, or whenever a public park, place, street or highway shall extend to such lands, the board of commerce and navigation, upon application of the proper authority of the state, or the municipal or other subdivision thereof, may grant to such proper authority the lands of the state now or formerly under tidewater, within the limits of or in front of said public park, place, street or highway.

12:3-34. Conditions in grant

The grant shall contain a provision that any land so granted shall be maintained as a public park, place, street or highway, or dock for public use, resort and recreation, and that no structures shall be erected on the land so granted inconsistent with such public use.

12:3-35. Authority of bridge companies to construct bridges over lands granted

When a grant shall be made to the proper authority of the state, or a municipal or other

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subdivision thereof, of lands of the state now or formerly under tidewater fronting on or within the extended lines of any street or highway heretofore or hereafter laid out or provided for, and said authority shall have or may hereafter grant or lease the lands so granted, or the right to use the lands for the purpose of constructing a bridge over or along the same, to a corporation organized under sections 48:5-13 to 48:5-25 of the title Public Utilities, the board of commerce and navigation may insert an express provision in the grant that the lands may be used for such purpose.

12:3-36. Revocable lease or permit for nominal consideration; grant to new grantee; condition

If the proper authority of the state, or a municipal or other subdivision thereof, applying for a grant of lands under section 12:3-33 of this title, shall be unable or unwilling to pay the price fixed by the board for such lands, the board may grant to such authority a revocable lease or permit to use the lands for a public park, place, street or highway or dock purpose for a nominal consideration until such time as the board shall decide to make a grant in fee of the lands to such proper authority, or to other grantees, for such consideration as the board may determine to be adequate compensation for such lands.

The revocable lease or permit may contain a provision that if the same shall be revoked and the lands in question granted to a grantee other than such proper authority, the new grantee shall pay, as a condition of his grant, the cost of any improvement that may have been constructed upon the lands which were the subject of the revocable lease or permit.

12:3-37. Prior acts relating to leases and grants of riparian lands to municipalities for streets, highways, parks and other public purposes

The following acts are saved from repeal:

a. L.1889, c. 199, p. 322 (C.S. p. 4393, s. 31), entitled "A further supplement to 'An act to ascertain the rights of the state and of the riparian owners in the lands lying under the waters of the bay of New York and elsewhere in the state,' approved April eleventh, one thousand eight hundred and sixty-four, and the several supplements thereto," approved April nineteenth, one thousand eight hundred and eighty-nine.

b. L.1901, c. 28, p. 54 (C.S. p. 4393, s.s. 32, 33), entitled "A supplement to an act entitled 'A further supplement to 'An act to ascertain the rights of the state and of riparian owners in the lands lying under the waters of the bay of New York and elsewhere in the state,' approved April eleventh, one thousand eight hundred and sixty-four, and the several supplements thereto,' and which said supplement was approved April nineteenth, eighteen hundred and eighty-nine," approved March seventh, one thousand nine hundred and one.

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c. L.1903, c. 202, p. 387 (C.S. p. 4397, s.s. 41 to 43), entitled "A further supplement to "An act to ascertain the rights of the state and the riparian owners in the lands lying under the waters of the bay of New York and elsewhere in the state,' approved April eleventh, one thousand eight hundred and sixty-four," approved April eighth, one thousand nine hundred and three.

d. L.1914, c. 136, p. 237 (1924 Suppl. s. 178-46a), entitled "A further supplement to "An act to ascertain the rights of the state and the riparian owners in the lands lying under the waters of the bay of New York and elsewhere in the state,' approved April eleventh, one thousand eight hundred and sixty-four," approved April eighth, one thousand nine hundred and fourteen.

e. L.1914, c. 228, p. 474 (1924 Suppl. s. *136-2240A(1)), entitled "An act to authorize the riparian commissioners of the state of New Jersey to grant lands of the state now or formerly under tidewater to municipalities for street and park purposes, and impose terms upon such municipalities as conditions of such grant," approved April seventeenth, one thousand nine hundred and fourteen.

f. L.1915, c. 398, p. 760 (1924 Suppl. s.s. 178-46b, 178-46c), entitled "A further supplement to "An act to ascertain the rights of the state and the riparian owners in the lands lying under the waters of the bay of New York and elsewhere in the state,' approved April eleventh, one thousand eight hundred and sixty-four," approved April twenty-third, one thousand nine hundred and fifteen.

g. L.1920, c. 283, p. 509 (1924 Suppl. s. *42-16), entitled "A supplement to an act entitled "An act creating a department to be known as the board of commerce and navigation, and vesting therein all the powers and duties now devolved by law, upon the board of riparian commissioners, the department of inland waterways, the inspectors of power vessels, and the New Jersey harbor commission,' approved April eighth, one thousand nine hundred and fifteen," passed April twenty-first, one thousand nine hundred and twenty.

[The above acts authorize the board of commerce and navigation to grant, lease or rent lands under water to municipalities, and under the act saved from repeal in paragraph "g" above, to the state highway commission or to counties, for streets, highways, parks, docks, wharves and other public purposes; regulate the consideration for such grants and leases and specify the conditions to be set forth therein.]

12:3-37.1. Counties, municipalities and other instrumentalities of state; lease or permission to use for park and recreational purposes

The State is authorized to lease or otherwise permit county or municipal or other

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instrumentality of the State use of riparian lands owned by the State and situate within the county or other instrumentality of the State or within or contiguous to said municipality, when said lease or use is approved by the Department of Environmental Protection, without consideration or at nominal consideration, and to be maintained and used exclusively for park and recreational purposes. Said lease or use agreement shall contain a limitation that if the riparian lands are not maintained and used in accordance with the provisions of this act, such lease or use agreement shall be of no further force and effect.

12:3-38. Investigation by board on petition of riparian owner

The board of commerce and navigation may, upon petition of any riparian owner, investigate the facts relative to any lease or grant of riparian lands purporting to have theretofore been made under authority of any legislative act for the purpose of determining whether or not it is equitable and just that a confirmatory lease or grant shall be made to ratify and confirm to the petitioner the title to lands under water adjacent to the ripa of the petitioner and within the area of lands covered by a prior lease or grant through which the petitioner claims title to the lands under water for which a confirmatory lease or grant is required.

12:3-39. Execution of confirmatory lease or grant; consideration; effect

If the board finds that it is equitable and just that such a confirmatory lease or grant be executed in consideration of the moneys theretofore paid to the state on account of the lease or grant, or upon payment of such further consideration as may be equitable and just, a proper confirmatory lease or grant shall be executed and delivered to the petitioner, his heirs, successors or assigns. Any confirmatory lease or grant made in compliance with sections 12:3-38 to 12:3-44 of this title shall be conclusive and final as to its equity or justness and thenceforth shall be binding upon the state.

12:3-40. Grant of additional lands; consideration

The board may consider, under a petition filed under section 12:3-38 of this title, the granting of additional lands under water adjacent to the lands to be covered by any confirmatory lease or grant, provided the petitioner shall have made application for the grant of additional lands in accordance with the requirements of the statutes in force at the date of the petition, to the end that a lease or grant may include not only the lands, title to which is being confirmed, but also additional lands adjacent thereto.

The expressed consideration for such lease or grant shall be the sum total of any additional sum to be paid for the confirmation of previous leases or grants and of the sum agreed to be paid for the new area.

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12:3-41. Character of lands affected

The lands to be affected by sections 12:3-38 to 12:3-40 of this title shall be lands which are now or were formerly under the tidewaters of this state. Any lease or grant of new areas or by way of confirmation may be based upon the original natural high-water line as of the date of the lease or grant being confirmed or as of the date of the new and confirmatory grant.

12:3-42. Facts to be considered by board in determining whether confirmatory lease or grant should be granted

The board may, in reaching its conclusion that it is equitable and just to confirm in a present riparian owner title to lands now or formerly under tidal waters which he has acquired through any previous lease or grant of the state, determine that it is equitable and just if it determines that:

- a. The consideration paid for the original lease or grant was at the date of its execution full and adequate consideration for the lands so leased or granted;
- b. The lands leased or granted lie in front of the ripa on which the lease or grant was based because the lands under water in the vicinity of the lands under consideration have been equitably apportioned to the riparian owners by any agency authorized by law to make grants of land under tidal waters in the name of the state and the lands under consideration are within the area of the lands under water so apportioned to the lands owned by the petitioner, and provide reasonable access to riparian owners to deep water beyond bulkhead and pierhead lines;
- c. The lands leased or granted lie in front of the riparian lands of the petitioner because the lands so leased or granted constitute an equitable allotment or apportionment of the lands under water to the riparian lands to which they are attached, even though the boundaries defining the limits of the lands granted are irregular and do not constitute straight side lines running parallel to each other and extending from the shore to the bulkhead or pierhead lines, and provide reasonable access to riparian owners to deep water beyond bulkhead and pierhead lines; and
- d. The owner of all estates, rights and privileges under the lease or grant to be confirmed to the extent of the lands under water to be defined in a confirmatory lease or grant is the petitioning owner of riparian lands to be benefited on the date the petition is filed, or at the date of the finding of the board that it is equitable and just that a confirmatory lease or grant shall be executed.

12:3-43. When grant may be executed to petitioner

Any lease or grant which shall be authorized under a petition filed in accordance with section 12:3-38 of this title may be in fact executed to the petitioner, or his heirs, devisees or assigns,

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provided that the grantee named in the lease or grant is the owner of the ripa at the date of the lease or grant.

12:3-44. Who entitled to confirmatory lease or grant

Any person owning riparian lands shall be deemed to be entitled to the benefits of sections 12:3-38 to 12:3-43 of this title.

12:3-45. Erroneous grant to other than riparian owner; valid unless riparian owner acts

Whenever:

a. The board of commerce and navigation has granted or shall hereafter grant any lands of the state flowed by tidewater to any person erroneously claiming to be and not being the riparian owner, by reason whereof the grant shall be void as therein provided; and

b. The state has or shall have received the stipulated consideration for such supposed grant; and

c. The grantee named therein, or his heirs or assigns has or shall have recorded the grant in the county or counties where the land described therein shall or may be located; and

d. Such grantee, his heirs or assigns has or shall have gone into occupation of the lands described in the supposed grant and the lands if any between the same and the original high-water line by bulkheading or filling in, or erecting structures thereon, or otherwise improving the same in such manner as to give visible notice of such occupation; and

e. Such occupation has or shall have continued for a period of five years after the recording of the supposed grant--

Every pre-emptive and other right conferred by any legislative act upon the riparian owner to apply for and obtain a grant from the state of the lands so occupied shall cease and determine, unless the riparian owner shall, before the expiration of such period of five years of occupation, apply in writing to the board for a grant of the lands so occupied; and pay or give security for the price fixed or that shall be fixed therefor, which price shall include the reasonable value of the improvements upon the lands.

12:3-46. Grant to named grantee in default of application and payment by riparian owner

In default of such application and payment of or security for the price of the lands by the riparian owner within the period of five years of occupation of the lands, the board, on application of the person named in the supposed grant, or of his heirs and assigns, shall grant and

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convey absolutely in fee to the applicant, his heirs or assigns forever, all right and title of the state in and to the lands so occupied and without condition that the grant shall be void if the grantee is not the riparian owner.

12:3-47. Additional consideration for further grant

If the board shall determine that the original consideration paid to the state for the supposed grant was not the reasonable, fair and adequate value of the lands so occupied, as of the date of the supposed grant, the applicant shall pay to the state such additional consideration for a further grant as the board shall determine to be necessary, in order that the total consideration received by the state for the lands shall be reasonable, fair and adequate as of the date of the original supposed grant.

12:3-48. List of riparian leases in arrears

The state treasurer shall, on or before the first Tuesday in January in each year, make out a list of all riparian leases held by the state on which rentals are in arrears and unpaid for the space of one year, and transmit the same to the board of commerce and navigation.

12:3-49. Re-entry under covenant by board on behalf of state when rent unpaid

Where a riparian lease, the rentals of which are unpaid for the space of one year, contains a covenant or condition that upon nonpayment of the yearly rent or sum reserved at the time or times fixed for the payment thereof, the state may re-enter and possess the lands described in the lease, the board may enter upon said lands, and in the name and on behalf of the state, take possession thereof.

12:3-50. Manner of re-entry

Such entry shall be made by the board or any member thereof, by going on the land and announcing in the presence of one or more witnesses that all rights under the lease are forfeited to the state.

12:3-51. Notice

Before the entry is made the board shall give notice:

- a. By publication at least once a week for six weeks in a newspaper published in the county in which the land covered by the lease is situate; or
- b. By serving a copy of the notice personally on the lessee, his heirs, executors, administrators, successors or assigns.

12:3-52. Contents of notice

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The notice so to be published or served shall set forth:

- a. The name of the person to whom the lease was granted;
- b. The name of the person holding the lease by devise, grant, assignment or otherwise, if known to the board; and
- c. A statement that if the rentals unpaid are not paid on or before the expiration of said six weeks, all rights under the lease shall determine, become void and forfeited to the state.

12:3-50. Manner of re-entry

Such entry shall be made by the board or any member thereof, by going on the land and announcing in the presence of one or more witnesses that all rights under the lease are forfeited to the state.

12:3-51. Notice

Before the entry is made the board shall give notice:

- a. By publication at least once a week for six weeks in a newspaper published in the county in which the land covered by the lease is situate; or
- b. By serving a copy of the notice personally on the lessee, his heirs, executors, administrators, successors or assigns.

12:3-52. Contents of notice

The notice so to be published or served shall set forth:

- a. The name of the person to whom the lease was granted;
- b. The name of the person holding the lease by devise, grant, assignment or otherwise, if known to the board; and
- c. A statement that if the rentals unpaid are not paid on or before the expiration of said six weeks, all rights under the lease shall determine, become void and forfeited to the state.

12:3-53. Report by board to state treasurer

After such notice shall have been published or served and entry made on the land described in the lease, the board shall report to the state treasurer the fact of such publication or service and entry on the land, and:

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a. In case the notice shall have been published, annex a copy of the publication to the report; and,

b. In case the notice shall have been served personally, annex to the report an affidavit by the person serving the notice, proving the truth thereof.

12:3-54. State treasurer to transmit original lease to board; new lease or grant

Upon receipt of the report of the board, the state treasurer shall transmit forthwith to the board the original lease of the land on which entry shall have been made. Thereupon the board may, in the manner prescribed by law, again lease or grant the land as fully as if the original lease had never been made.

12:3-55. Certificate of re-entry and repossession; recording; fee

Upon making entry and taking possession of any lands described in any such lease, the board shall execute its certificate certifying to the re-entry and repossession and describing the lands re-entered and repossessed.

The certificate shall be executed and acknowledged as deeds are required to be acknowledged, and shall be recorded in the records of the county wherein such lands are located as deeds are required to be recorded.

The same fee shall be paid for recording the certificate as is required for recording deeds.

12:3-56. Rights of state as to unpaid rentals not affected

All rights, at law or in equity, which had accrued to the state for the rentals in arrears and unpaid up to the expiration of the time fixed in the notice mentioned in sections 12:3-51 and 12:3-52 of this title shall not abate but shall remain in force and effect.

12:3-57. State treasurer released from responsibility under original lease

The state treasurer, upon returning to the board the original lease of the land upon which re-entry has been made, shall be released from all responsibility arising from the lease.

12:3-58. Declared a nuisance

The mooring, grounding or otherwise attaching or fastening of a boat, barge or raft to or upon the riparian lands of the state and permitting the same to remain so for a period of ten days shall constitute a nuisance.

12:3-59. Misdemeanor

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Any person who shall willfully moor, ground or otherwise attach or fasten, or authorize, cause or permit to be moored, grounded or otherwise attached or fastened, any boat, barge or raft to or upon the riparian lands of the state, for a period of more than ten days consecutively, shall be guilty of a misdemeanor.

12:3-60. Proceeding by board for removal of boat, barge or raft; lien for costs of removal

In addition to any proceedings which may be had under sections 12:3-58 and 12:3-59 of this title, the board of commerce and navigation may remove or cause to be removed any such boat, barge or raft in the following manner:

a. The board may cause a written notice, signed by the chief engineer of the board, to be posted upon such boat, barge or raft stating that unless the same is removed from the riparian lands of the state within forty-eight hours from the time of the posting of the notice, the board will cause it to be removed and will make the cost of the removal out of the value of the boat, barge or raft; and

b. In case the boat, barge or raft to which the notice shall have been affixed is not removed within said forty-eight hours, the board shall cause it to be removed, and the cost of the removal shall be a lien upon the boat, barge or raft which lien shall be enforced by a sale as provided in section 12:3-61 of this title.

12:3-61. Enforcement of lien by sale; notice; fees and costs; disposition of proceeds

Upon the removal by the department of a boat, barge or raft in accordance with section 12:3-60 of this Title, it shall enforce the lien thereby given for the cost of the removal by sale of the boat, barge or raft.

Written notice of the lien and of the amount thereof, and of the sale, shall be given by posting a copy thereof, signed by the commissioner or chief engineer of the department, upon the boat, barge or raft and in three public places, at least fifteen days before the date of the sale.

If the amount of the lien and accrued costs is not satisfied before the day fixed for sale, the boat, barge or raft shall be sold to the highest bidder. Out of the proceeds shall be deducted the cost of the sale, which shall consist of the amount of the cost of the removal of the boat, barge or raft, together with a fee of ten dollars (\$10.00) for the preparation and posting of notices and ten dollars (\$10.00) for selling and execution of the certificate of sale. The balance, if any, shall be paid to the Clerk of the Superior Court to be held by him for the benefit of the owner of the boat, barge or raft. Such balance shall be paid out only upon the order of the Superior Court.

12:3-62. Expenses paid by state treasurer; reimbursement

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The cost and expense of removing any such boat, barge or raft shall be paid by the state treasurer upon the certificate of the board. The proceeds of any sale up to the amount of the cost of removal, together with the fees provided for, shall be paid to the state treasurer for the use of the state.

12:3-63. Lands devoted to park purposes excepted

Nothing in this article shall apply to riparian lands of the state devoted by the state to public park purposes.

12:3-64. Acquisition by department; jurisdiction; entry before making compensation; use of lands acquired

The Department of Conservation and Economic Development may acquire title, in fee simple, in the name of the State, by gift, devise or purchase or by condemnation in the manner provided in chapter one of the Title Eminent Domain (20:1-1 et seq.) to any lands in the State, including riparian lands, of such area and extent which, in the discretion of the department, may be deemed necessary and advisable. All lands so acquired shall be subject to the jurisdiction and control of the department.

The department may enter upon and take property in advance of making compensation therefor where for any reason it cannot acquire the property by agreement with the owner.

Upon the department exercising the right of condemnation and entering upon and taking land in advance of making compensation therefor it shall proceed to have the compensation fixed and paid to the owner, as provided in said chapter one of the Title Eminent Domain.

Lands thus acquired shall be used for the improvement or development of any waterway, stream, river or creek or any waterfront or oceanfront property or to give access to any lands of the State.

12:3-65. Lease or grant of lands acquired; maximum period; restrictions

The use and occupation of any lands so acquired, together with all the improvements thereon, may be leased or granted by the board to any person, upon such terms and covenants and for such periods of time not exceeding sixty years, as may be required and directed by the board.

The grant or lease of riparian lands shall be permitted only in conjunction with the grant or lease of the adjacent lands under tidewater and only to the same party or parties and for the same period of time.

12:3-66. Lease or grant to former owner; improvements by lessee or grantee

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The board may, as a consideration for the transfer of title of any riparian lands to the state, enter into an agreement with the owner thereof to lease and grant, after transfer of title to the state, the use and occupation of the riparian lands as well as the adjacent lands under tidewater, to such owner or any party designated by him, whereby the lands, both riparian and under tidewater, shall be improved and developed at the expense of the grantee or lessee, in such manner, under such plans and specifications, at such minimum cost and within such time as may be required by the board.

12:3-67. Operation of commercial enterprise by lessee or grantee

The board shall also require that after such improvements have been made and constructed, the lessee or grantee shall, under the supervision and jurisdiction of the board, maintain and operate, during the life of the lease or grant upon said premises, such enterprise, commercial operation, business or venture as the improvements are designed for, at the sole cost and expense of the lessee or grantee.

12:3-68. Annual percentage of income in lieu of rent reserved in cash

In lieu of rent reserved in cash for the grant or lease of said riparian lands and lands under tidewater, the board may require as rental, for the full term of the grant or lease, an annual percentage of not less than thirty-three and one-third per cent of the income the lessee or grantee received from the use and occupation of the premises and the business or enterprise conducted thereon. The income shall be calculated and adjusted in such manner as the board shall determine and all of such requirements shall be set forth in detail in the grant or lease.

12:3-69. Moneys received by board from leases and grants

All moneys received by the board under the provisions of this article shall be subject to the provisions of law applicable to the receipts from grants or leases of land under tidewater.

12:3-70. Improvements and fixtures and title and goodwill of enterprise to revert to state

At the expiration of the term of the grant or lease the title to all improvements, railways, buildings, docks, wharves, bulkheads, machinery, stock and equipment and all chattels comprising the fixtures located upon such land and premises and then in the operation and maintenance of the enterprise, business or venture conducted on the premises, together with the title and goodwill of the business or enterprise, shall vest in the state. The grant or lease shall contain in detail the mode and manner and subject matter of the transfer to the state.

12:3-71. Laws applicable

All grants or leases under the provisions of this article shall be subject to the provisions of existing laws so far as the same are not inconsistent with the terms of this article.

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12:4-1. Removing obstructions from rivers and creeks

Any person may remove, with as little detriment to the owners of the lands as is possible, all trunks and limbs of trees and like obstructions which hang over or in any way interrupt the navigation of any river or creek in this state.