



93RD GENERAL ASSEMBLY
State of Illinois
2003 and 2004
SB2351

Introduced 1/28/2004, by Patrick Welch

SYNOPSIS AS INTRODUCED:

New Act

Creates the Riparian Rights Act. Establishes rights to the access and use of the water and bottomland associated with the ownership of the bank or shore of an inland lake or stream. Provides that the owner of these rights has the right to do the following: (a) place a seasonal structure on bottomland to facilitate private noncommercial recreational use of the water if it does not unreasonably interfere with the use of the water by others entitled to use the water or interfere with water flow; (b) reasonably sand beaches to the existing water's edge; (c) construct and operate a pollution control facility that is approved for construction by the Environmental Protection Agency under the Environmental Protection Act; (d) construct and maintain minor drainage structures and facilities that are identified by rule established by the Department of Natural Resources; and (e) construct and maintain privately owned cooling or storage ponds used in connection with a public utility except at the interface with public waters.

LRB093 17073 LCB 42739 b

1 AN ACT in relation to riparian rights.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 1. Short title. This Act may be cited as the
5 Riparian Rights Act.

6 Section 5. Definitions. In this Act:

7 "Bottomland" means the land area of an inland lake or
8 stream that lies below the ordinary high-water mark and that
9 may or may not be covered by water.

10 "Drain" means that part of the lowest horizontal piping of
11 a drainage system that receives the discharge from soil, waste,
12 and other drainage pipes inside the walls of a building and
13 conveys it to 5 feet beyond the foundation walls where it is
14 connected to the building sewer.

15 "Building sewer" means that part of the horizontal piping
16 of a drainage system that extends from the end of the drain,
17 receives the discharge of the drain, and conveys it to a public
18 sewer or private sewage disposal system.

19 "Impoundment" means water held back by a dam, dike,
20 floodgate, or other barrier.

21 "Inland lake or stream" means a natural or artificial lake,
22 pond, or impoundment; a river, stream, or creek that may or may
23 not be serving as a drain; or any other body of water that has
24 definite banks, a bed, and visible evidence of a continued flow
25 or continued occurrence of water. "Inland lake or stream" does
26 not include:

27 (1) Lake Michigan or any other public bodies of water
28 administered under the Rivers, Lakes, and Streams Act;

29 (2) Kaskaskia River below Carlyle Dam or water storage
30 in Carlyle Lake and Lake Shelbyville administered under the
31 Kaskaskia River Watershed and Basin Act;

32 (3) water storage in Rend Lake administered under the

1 Rend Lake Dam and Reservoir on the Big Muddy River Act;

2 (4) water storage in Kinkaid Lake administered under
3 the Big Kinkaid Creek Reservoir Act; or

4 (5) a lake or pond that has a surface area of less than
5 5 acres.

6 "Marina" means a commercial business that is owned or
7 operated by a person, with facilities that extend into or over
8 an inland lake or stream, and offers service to the public or
9 members of the marina for docking, loading, or other servicing
10 of recreational watercraft.

11 "Ordinary high-water mark" means the line between upland
12 and bottomland that persists through successive changes in
13 water levels, below which the presence and action of the water
14 is so common or recurrent that the character of the land is
15 marked distinctly from the upland and is apparent in the soil
16 itself, the configuration of the surface of the soil, and the
17 vegetation. On an inland lake that has a level established by
18 law, it means the high established level. Where water returns
19 to its natural level as the result of the permanent removal or
20 abandonment of a dam, it means the natural ordinary high-water
21 mark.

22 "Property owners' association" means any group of
23 organized property owners publishing a directory of their
24 membership, the majority of which are riparian owners or
25 members of a private trust that owns riparian property located
26 on the inland lake or stream.

27 "Riparian owner" means a person or property owners'
28 association that has riparian rights.

29 "Riparian rights" means those rights to the access and use
30 of the water and bottomland associated with the ownership of
31 the bank or shore of an inland lake or stream.

32 "Seasonal structure" includes any type of dock, boat hoist,
33 ramp, raft, or other recreational structure that is placed into
34 an inland lake or stream and removed at the end of the boating
35 season.

36 "Structure" includes a marina, wharf, dock, pier, dam,

1 weir, stream deflector, breakwater, groin, jetty, sewer,
2 pipeline, cable, and bridge.

3 "Upland" means the land area that lies above the ordinary
4 high-water mark.

5 "Reasonable use" by riparian owners includes the use of the
6 water and associated bottomland for the purposes of sport
7 fishing, swimming, and related activities including (i) the
8 establishment and maintenance of private beaches, (ii) the use
9 and operation of recreational watercraft including the
10 erection and maintenance of private seasonal structures for the
11 launching, docking, and mooring of recreational watercraft,
12 and (iii) the supplying of water for private, noncommercial
13 use.

14 "Commercial" means a business offering the sale of goods or
15 services to the public without regard to their riparian
16 property owner's status.

17 "Private" means applying to riparian property owners or
18 property owners' association noncommercial activities.

19 Section 10. Riparian rights. A riparian owner has the
20 following rights except as otherwise prohibited by law:

21 (1) A riparian owner may place a seasonal structure on
22 bottomland to facilitate private noncommercial
23 recreational use of the water if it does not unreasonably
24 interfere with the use of the water by others entitled to
25 use the water or interfere with water flow.

26 (2) A riparian owner may reasonably sand beaches to the
27 existing water's edge.

28 (3) A riparian owner may construct and operate a
29 pollution control facility that is approved for
30 construction by the Environmental Protection Agency under
31 the Environmental Protection Act.

32 (4) A riparian owner may construct and maintain minor
33 drainage structures and facilities that are identified by
34 rule established by the Department of Natural Resources.

35 (5) A riparian owner may construct and maintain

1 privately owned cooling or storage ponds used in connection
2 with a public utility except at the interface with public
3 waters.