

CHAPTER 183
FOREST RESERVES, WATER DEVELOPMENT, ZONING

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Note

Chapter title amended by L 1988, c 337, §1.

L 2014, c 218, §8 purports to amend this chapter.

Department of transportation's bridge rehabilitation and replacement program; temporary exemption from certain construction requirements of this chapter through June 30, 2017 or until completion. L 2012, c 218.

Cross References

Environmental courts, jurisdiction over proceedings arising under this chapter, see §604A-2.

Law Journals and Reviews

Residential Use of Hawai`i's Conservation District. 14 UH L. Rev. 633.

"PART I. GENERAL

§183-1 Definitions. As used in this chapter, unless the context indicates otherwise:

"Board" means the board of land and natural resources.

"Department" means the department of land and natural resources. [L 1981, c 85, §2; am L 1985, c 174, §1]

Revision Note

This section is new. Former §183-1 renumbered as 183-1.5.

- " **§183-1.5 Duties in general.** The department shall:
- (1) Gather and compile information and statistics concerning the area, location, character, and increase and decrease of forests in the State;
 - (2) Gather and compile information as necessary concerning trees, plants, and shrubs recommended for planting in different localities, including the care and propagation of trees and shrubs for protective, productive, and aesthetic purposes and other useful information, which the department deems proper;
 - (3) Have the power to manage and regulate all lands which may be set apart as forest reserves;
 - (4) Devise ways and means of protecting, extending, increasing, and utilizing the forests and forest reserves, more particularly for protecting and developing the springs, streams, and sources of water

- supply to increase and make that water supply available for use;
- (5) Devise and carry into operation, ways and means by which forests and forest reserves can, with due regard to the main objectives of title 12, be made self-supporting in whole or in part;
 - (6) Devise and carry into operation, ways and means of reforesting suitable state lands;
 - (7) Formulate and from time to time recommend to the governor and legislature such additional legislation as it deems necessary or desirable for better implementing the objectives of title 12;
 - (8) Publish, at the end of each year, a report of the expenditures and proceedings of the department and of the results achieved by the department, together with such other matters as are germane to the subject matter under title 12 and which the department deems proper. [L 1903, c 44, pt of §5; am L 1919, c 65, §1; RL 1925, §586; RL 1935, pt of §176; am L 1941, c 228, §1; RL 1945, pt of §1006; RL 1955, pt of §18-7; am L Sp 1959 2d, c 1, §22; am L 1961, c 132, §1; HRS §183-1; am L 1981, c 85, §3; am L 1985, c 174, §2; am L 1988, c 337, §6; am L 1990, c 315, §3]

Revision Note

This section is former §183-1.

Cross References

General authority, see §26-15.

" **§183-2 Rules.** Subject to chapter 91, the department shall adopt, amend, and repeal rules for and concerning the preservation, protection, regulation, extension, and utilization of forest reserves designated by the department.

All rules shall have the force and effect of law. [L 1903, c 44, pt of §5; am L 1913, c 36, §1; am L 1917, c 232, §1; RL 1925, pt of §586; am L 1927, c 54, pt of §2; RL 1935, pt of §176; RL 1945, pt of §1006; RL 1955, pt of §18-8; am L Sp 1959 2d, c 1, §22; am L 1961, c 132, §1; am L 1965, c 96, §13; HRS §183-2; am L 1981, c 85, §4; am L 1985, c 174, §3]

" **§183-3 Administrator.** The board shall:

- (1) Appoint an administrator of forestry and wildlife, hereinafter called "administrator", who shall have charge, direction, and control (subject to the

direction and control of the board) of all matters relating to forestry and wildlife management under title 12 and such other matters as the board may direct. The administrator shall be trained and educated in natural resource management;

- (2) Appoint and remove foresters and wildlife biologists and such other persons as the board may employ. [L 1903, c 44, pt of §5; am L 1915, c 136, §4; RL 1925, pt of §586; am L 1927, c 54, §3; am L 1931, c 34, §1; RL 1935, pt of §176; RL 1945, pt of §1006; RL 1955, §18-9; am L Sp 1959 2d, c 1, §22; am L 1961, c 132, §1; HRS §183-3; am L 1975, c 111, §1; am L 1980, c 18, §1; am L 1981, c 85, §5]

" **§183-4 General penalty.** Any person violating any of the provisions of chapters 183 to 185, for which violation a penalty is not otherwise provided, or violating any rule or regulation of the department of land and natural resources, and any master of any vessel which brings into the State any article which the department shall at any time prohibit from being imported into the State, and the master of any vessel from which is landed any article required in chapters 183 to 185 to be inspected, before the master has received a permit to land the articles from the department or its officer or inspector, as in such chapters provided, shall be fined not more than \$500. [L 1903, c 44, §16; am L 1905, c 82, §2; am L 1907, c 112, §1; RL 1925, §644; RL 1935, §240; RL 1945, §1031; RL 1955, §18-18; am L Sp 1959 2d, c 1, §22; am L 1961, c 132, §1; HRS §183-4; gen ch 1985]

" **[§183-5] General administrative penalties.** (a) Except as otherwise provided by law, the board or its authorized representative may:

- (1) Set, charge, and collect administrative fines;
- (2) Bring legal action to recover administrative fines, fees, and costs, including attorney's fees and costs and costs associated with land or habitat restoration; and
- (3) Collect administrative fees and costs pursuant to paragraph (2),

resulting from a violation of this chapter, any rule adopted, or permit issued thereunder.

(b) The administrative fines for violation of this chapter shall be as follows:

- (1) For a first violation, or any violation not preceded within a five-year period by a violation of this chapter, a fine of not more than \$2,500 per violation;

(2) For a second violation within five years of a previous violation of this chapter, a fine of not more than \$5,000 per violation; and

(3) For a third or subsequent violation within five years of the last violation of this chapter, a fine of not more than \$10,000 per violation.

(c) In addition:

(1) A fine of up to \$10,000 per violation of section 183-17 may be levied for each destroyed or harvested koa tree, or portion thereof, larger than six inches in diameter at ground level; and

(2) A fine of up to \$2,000 per violation of section 183-17 may be levied for each destroyed or harvested tree or plant, other than koa, or portion thereof, larger than six inches in diameter at ground level.

(d) Any criminal prosecution for any violation of this chapter or any rule adopted thereunder shall not be deemed to preclude the State from recovering additional administrative fines, fees, and costs, including attorney's fees and costs.

(e) No person shall be sanctioned pursuant to this section for the exercise of native Hawaiian gathering rights and traditional cultural practices as authorized by law or as permitted by the department pursuant to article XII, section 7 of the Hawaii state constitution.

(f) The department shall submit an annual report outlining the revenues generated by the penalties to the legislature at least twenty days before the convening of each regular session.

[L 2006, c 174, §1]

"PART II. [FOREST RESERVES]

§183-11 Government land for forest reserves. The governor may, with the approval of the department of land and natural resources, after a hearing or hearings as hereinafter provided, from time to time set apart any government land or lands, whether under lease or not, as forest reserves. On lands under lease the reserve shall not take effect until the expiration of the existing lease, or in any way affect the rights acquired under the lease. Any land or lands while so set apart shall not be leased or sold by the government or used in any way for any purposes inconsistent with this chapter. The governor may from time to time, with the approval of the department, after a hearing or hearings as hereinafter provided, revoke, modify, or suspend any and all [of] the orders and proclamations or any part thereof, which set apart the lands. [L 1903, c 44, §6; am L 1905, c 65, §1; am L 1907, c 4, §1; RL 1925, §588; RL 1935,

§178; RL 1945, §1013; RL 1955, §19-1; am L Sp 1959 2d, c 1, §22; am L 1961, c 132, §1; HRS §183-11; am L 1988, c 337, §6]

" **§183-12 Notice of hearing.** Before setting apart any government lands under this chapter or before revoking, modifying, or suspending any orders and proclamations or any part thereof which set apart the lands as forest reserves, the governor shall give not less than fourteen days' public notice statewide of the governor's intention to consider either the setting apart of government land for forest reserves under this chapter, or the revoking, modifying, or suspending of any orders and proclamations or any part thereof which set apart the lands. The notice or notices shall contain the name or names of the island or islands and of the district or districts in which the land or lands are located and shall further appoint a time or times, place or places for hearing evidence and arguments either for or against the setting apart of the proposed forest reserves or the revoking, modifying, and suspending of any forest reserve made under this chapter. [L 1903, c 44, §8; am L 1905, c 65, §2; RL 1925, §590; RL 1935, §179; RL 1945, §1014; RL 1955, §19-2; HRS §183-12; gen ch 1985; am L 1988, c 337, §6; am L 1998, c 2, §46]

Cross References

Rulemaking procedure, see chapter 91.

" **§183-13 Hearing.** At the time and place named, a full hearing shall be given by the department of land and natural resources, to all who desire to be heard upon the subject matter of the notice. The hearing shall be public, and shall be conducted under such rules as the department may adopt. [L 1903, c 44, §9; RL 1925, §591; RL 1935, §180; RL 1945, §1015; RL 1955, §19-3; am L Sp 1959 2d, c 1, §22; am L 1961, c 132, §1; HRS §183-13; am L 1988, c 337, §2]

" **§183-14 Vested rights protected.** Nothing in sections 183-11 to 183-13 contained shall be held in any way to interfere or conflict with any vested rights under or arising out of any grant, lease, or license of or concerning any government lands or water rights, or rights-of-way. Nor shall anything in such sections contained be construed to change any rights in or concerning any water upon or flowing from or through any land set apart or surrendered as a forest reserve, or as depriving or limiting any state officer from exercising any existing power or authority or any power which may hereafter be created to deal with such water or water rights, or rights-of-way. [L 1903, c

44, §10; RL 1925, §592; RL 1935, §181; RL 1945, §1016; RL 1955, §19-4; HRS §183-14; am L 1988, c 337, §6]

" **§183-15 Surrender of private land.** Any person may, on agreement with the department of land and natural resources, at any time surrender to the government the care, custody and control of any lands, whether held under lease or in fee, as forest or water reserve lands, either for a term of not less than twenty years, or forever. The surrender agreement may reserve to the surrendering party all, part, or none of the rights to the water located or arising on or flowing through such surrendered lands. The agreement shall be in writing and shall contain the proviso that the government may develop and improve the lands through plantings and erosion control and may construct such improvements thereon as may be allowed by the agreement. On any land that is surrendered after May 19, 1972, the government shall not retain title to any improvement, and the party surrendering shall not, at the end of the surrender period, be required to pay the government the value of any timber or other crops planted during the term of surrender.

No taxes shall be levied or collected on any private lands so surrendered so long as the land remains exclusively under the control of the government as a forest reserve; provided that if the lands so surrendered are withdrawn without the consent of the department prior to the expiration of the twenty-year period as provided for above, the tax exemption privilege shall be canceled retroactive to the date of the agreement of surrender and all taxes that would have been due shall be payable with a five per cent per annum penalty from the respective dates that these payments would have been due; provided that nothing herein shall be deemed to limit the power of the department to impose, as a condition to the granting of its consent, conditions, including, without limiting the generality of the foregoing, those relating to the use of such lands, and may also require the payment of a portion of the taxes that would have been due. Nothing in this paragraph shall preclude the State from pursuing any other remedy to enforce the agreement entered into at the time of surrender. [L 1903, c 44, §11; RL 1925, §593; RL 1935, §182; RL 1945, §1017; RL 1955, §19-5; am L 1957, c 234, §4; am L Sp 1959 2d, c 1, §22; am L 1961, c 132, §1; am L 1965, c 265, §1; HRS §183-15; am L 1972, c 97, §1; am L 1988, c 337, §6]

" **§183-16 Revenue from forest reserves.** Any moneys accrued from:

- (1) The harvest of non-native forest products from forest reserves;

- (2) The harvest of native forest products from degraded forests as defined in section 186-5.5, within forest reserves;
- (3) The sale of forest products found dead and lying on the ground;
- (4) The sale of tree seedlings from state nurseries;
- (5) The sale of any other products or services, or anything of value derived from forest reserves not described above; or
- (6) The imposition of fines or penalties for violations of this chapter and chapters 185 and 195F or any rule adopted thereunder,

shall be deposited into the forest stewardship fund. [L 1903, c 44, §12; RL 1925, §594; RL 1935, §183; RL 1945, §1018; RL 1955, §19-7; am L 1959, c 265, §3(a); am L Sp 1959 2d, c 1, §14; am L 1963, c 114, §1; HRS §183-16; am L 1988, c 337, §6; am L 1997, c 256, §2; am L 1999, c 144, §2; am L 2006, c 174, §4]

Cross References

Forest stewardship fund, see §195F-4.

" **§183-16.5 Harvesting from state-owned lands.** All harvesting of trees on public lands shall be done in accordance with a management plan approved by the board, and in accordance with the provisions regarding conservation of aquatic life, wildlife, and land plants, and the provisions regarding environmental impact statements. For any harvesting of native trees from public lands, the department shall use existing fire prevention and management programs and ensure that appropriate silvicultural practices are used to encourage native biodiversity and ecosystem processes. No native forests on public lands shall be converted to introduced forest plantations. [L 1997, c 256, §1]

" **§183-17 Timber trespass in forest reserves.** The cutting, killing, destroying, girdling, chopping, injuring, or otherwise damaging, or the removal of any timber, young tree growth, or products of tree growth on lands in the forest reserves belonging to the State, except as authorized by law or by permission from the department of land and natural resources, is prohibited. [L 1919, c 83, §1; RL 1925, §595; RL 1935, §184; RL 1945, §1019; RL 1955, §19-8; am L Sp 1959 2d, c 1, §22; am L 1961, c 132, §1; HRS §183-17; am L 1988, c 337, §6]

" **§183-18 Criminal penalties.** Any person who violates section 183-17, upon conviction thereof, is guilty of a

misdemeanor and shall be fined not more than \$2,000 or imprisoned not more than one year, or both. In addition to any other penalty imposed under this section, a fine of up to \$2,000 shall be levied for each tree illegally destroyed or harvested under section 183-17. [L 1919, c 83, §2; RL 1925, §596; RL 1935, §185; RL 1945, §1020; RL 1955, §19-9; HRS §183-18; am L 1981, c 85, §6; am L 2006, c 174, §2]

Cross References

General administrative penalties, see §183-5.

" **§183-19 Exclusion of livestock from forest reserves, game management areas, public hunting areas, and natural area reserves; notice.** When branded wild cattle or horses are found on any forest land, game management area, public hunting area, or natural area reserve in the State, which land is duly set apart and established as a forest reserve, game management area, public hunting area, or natural area reserve, or if the land is privately owned and surrendered as defined in section 183-15, the department, in all cases where the land is so set apart and established as a forest reserve, game management area, public hunting area, or natural area reserve, whether from privately owned lands or public lands, may remove, shoot, or destroy the cattle or horses without compensation to the owner, after thirty days' public notice of the intended action in the county where the cattle or horses are found. [L 1903, c 44, pt of §5; am L 1919, c 65, pt of §1; RL 1925, §586, pt of subs 9; RL 1935, §192; RL 1945, §1027; RL 1955, §19-10; am L Sp 1959 2d, c 1, §22; am L 1961, c 132, §1; HRS §183-19; am L 1981, c 85, §7; am L 1983, c 59, §1; am L 1988, c 337, §3; am L 1998, c 2, §47]

" **§183-20 Disposition.** The department, at any time, without notice to the owners, may remove any and all cattle or horses found on any forest reserve, game management area, public hunting area, or natural area reserve and may hold and care for the cattle or horses in some convenient place, at the expense of the owners, subject to the lien for charges and expenses as herein provided. The owners of the cattle or horses shall pay to the department the actual expenses reasonably incurred, which shall include, but not be limited to, allowances for employees' wages, equipment cost, transportation cost, feeding cost, cost of public notice, and other costs related to the catching, driving, and transportation of animals. After the cattle or horses have been removed and held, the owners shall be notified personally of this fact, if the owners are known, and shall be

notified of the total amount of the charges and expenses to be paid for the release of the cattle or horses.

When the owners are unknown or cannot be found, the department shall give public notice in the county in which the cattle or horses are held. The notice shall set forth the general description and the brands of all the cattle or horses so removed and held and shall notify the owners and the public generally that unless the charges and costs to be specified in the notice shall have been paid on or before the date therein specified, which date shall not be less than two weeks from the date of the last notice, the cattle or horses therein described shall be sold at public auction for cash to the highest bidder for the purpose of satisfying the lien on the same for the costs and charges in the notice set forth. The notice shall be given once a week for four consecutive weeks. If the charges and costs, together with any additional expenses that may have been incurred since the first notice, are not paid before the date stated in the notice, the cattle or horses on that date shall be sold and all charges and other expenses shall be satisfied out of the proceeds of the sale and the balance paid to the owner or owners of the cattle or horses. If no claim is made for any balance within sixty days after the date of sale, the balance shall be deposited in the treasury of the State as a government realization and all private rights therein and thereto shall be thereafter forever barred. [L 1921, c 222, pt of §2; RL 1925, §586, subs 10; am L 1927, c 54, §4; RL 1935, §193; RL 1945, §1028; RL 1955, §19-11; am L Sp 1959 2d, c 1, §22; am L 1961, c 132, §1; HRS §183-20; am L 1981, c 85, §8; am L 1988, c 337, §4; am L 1998, c 2, §48]

" **§183-21 Penalties.** Any person who receives actual notice from the department that one or more cattle or horses belonging to such person have been found to be and are on any forest reserve, game management area, public hunting area, or natural area reserve referred to in section 183-19, excepting in the case of the owner of the land, and who fails or neglects within ten days after the receipt of the notice to remove the cattle or horses from any area or reserve, or to shoot or destroy the cattle or horses, shall be fined \$10 for each animal belonging to the person thereafter found on any forest reserve, game management area, public hunting area, or natural area reserve and proven to have been thereon at the time of the service of the notice. If any cattle or horses are still found on any forest reserve, game management area, public hunting area, or natural area reserve, more than ten days after the notice has been served on the owner regarding those same cattle or horses, the department may remove, shoot, or destroy the cattle or

horses without compensation to the owner. All cattle or horses found on any forest reserve, game management area, public hunting area, or natural area reserve shall be deemed prima facie to be the property of the person whose brand if any they bear. [L 1921, c 222, pt of §2; RL 1925, §586, subs 11; RL 1935, §194; RL 1945, §1029; RL 1955, §19-12; am L Sp 1959 2d, c 1, §22; am L 1961, c 132, §1; HRS §183-21; am L 1986, c 339, §10; am L 1988, c 337, §5]

" **§183-22 Disposition of fines, etc.** All fines, costs, and other charges imposed or collected pursuant to sections 183-19 to 183-21, shall be deposited in the treasury of the State for use by the department of land and natural resources for forestry purposes and all such sums as may be so collected and deposited are appropriated for those purposes. [L 1921, c 222, pt of §2; RL 1925, §586, subs 12; RL 1935, §195; RL 1945, §1030; RL 1955, §19-13; am L Sp 1959 2d, c 1, §22; am L 1961, c 132, §1; HRS §183-22]

"PART III. WATER DEVELOPMENT

§183-31 Watershed areas. The department of land and natural resources shall determine, after public hearing held in the same manner as provided in section 91-3, areas which are watersheds.

The term "watershed" as used in this part means (1) an area from which the domestic water supply of any city, town or community is or may be obtained, or (2) an area where water infiltrates into artesian or other ground-water areas from which the domestic water supply of any city, town or community is or may be obtained. [L 1949, c 274, §2; RL 1955, §19-21; am L 1965, c 96, §15; HRS §183-31]

Cross References

Other water development provisions, see chapter 174.

" **§183-32 Use of funds, etc.** Such funds as may be appropriated shall only be used by the department of land and natural resources (1) to acquire by purchase or exchange any land, or any interest in any land, within an area which the department has, pursuant to section 183-31 determined to be a watershed and (2) to acquire by condemnation forest reserve easements in any such area; provided that no land shall be subject to such condemnation by the department if the owner thereof, prior to commencement of condemnation proceedings, has surrendered in perpetuity the care, custody, and control of the

land to the State as a forest reserve; provided that no funds appropriated by this part shall be used to condemn all or any portion of, or any interest in, any parcel of land now held in fee simple by one or more persons, which parcel has a total area of twenty acres or less, if on July 1, 1949, any portion of the parcel was improved or used for residential purposes, unless the lot or lots are, after July 1, 1949, subdivided for transfer of title into lot sizes of less than one-third acre, in which case all the lots of less than one-third acre may be condemned, and the prohibition thereof shall also be applicable to any lots into which any such parcel shall be subdivided whether or not the lots after the subdivision shall be improved or unimproved. Nothing herein shall prevent the department to accept surrenders for a term of years as provided in section 183-15.

The term "forest reserve easement" as used in this part means and includes the right to the possession and control of land for the purposes of protecting and promoting forest growth thereon and of protecting the surface and underground waters from pollution or contamination, including, without limitation to the generality of the foregoing, the right to exclude the owner in fee (except as hereinafter provided) and all others from the land; provided that the term shall not include any water right, nor shall it authorize the department to deprive the fee simple owner or the owner's lessee of the right to enter upon the owner's land for the purpose of taking, developing, or storing water, or for any other purpose incidental to the full use and enjoyment of the owner's water rights, or of any other rights in the land, provided reasonable means be taken to prevent undue destruction of forest cover and pollution or contamination of water by such activity.

When any forest reserve easement is acquired, the department shall protect and promote the forest growth thereon to the end that the water rights of the fee simple owner will not be impaired. [L 1949, c 274, §3; RL 1955, §19-22; am L 1959, c 263, §4(a); am L Sp 1959 2d, c 1, §22; am L 1961, c 132, §1; HRS §183-32; gen ch 1985]

" **§183-33 Effect on other agencies.** This part shall not amend, limit or in any other manner affect the powers of condemnation conferred upon the several counties, the board of water supply of the city and county of Honolulu, the department of land and natural resources and public utility water companies, by any other law, it being the intent of this part to provide additional funds for the use of the department and to only limit them in the use of the additional funds. [L 1949, c 274, §5; RL 1955, §19-24; am L Sp 1959 2d, c 1, §22; am L 1961, c 132, §1; HRS §183-33]

" **§183-34 Use of lands and funds.** No land or interest therein acquired under this part shall be used for other than forest reserve purposes, or purposes directly connected with water supply development except as otherwise provided by act of the legislature, nor shall any provision of this part be construed to authorize the expenditure of funds herein appropriated for the acquisition of any water rights. [L 1949, c 274, §6; RL 1955, §19-25; HRS §183-34]

" **§183-35 Vouchers for expenditures.** Such moneys herein as may be appropriated shall be expended upon warrants drawn by the comptroller of the State upon vouchers signed by the department of land and natural resources. [L 1949, c 274, §7; RL 1955, §19-26; am L 1957, c 152, §1; am L 1959, c 263, §4(b); am L Sp 1959 2d, c 1, §22; am L 1961, c 132, §1; HRS §183-35]

"PART IV. ZONING

§183-41 REPEALED. L 1994, c 270, §3.

Cross References

For present provisions, see chapter 183C.

" **§183-42 Strip mining; prior approval of license or permit.** No original permit or license for strip mining on land within the forest reserve boundaries shall be issued by any officer or agency of the State without the prior approval and concurrence of the department. In determining whether to grant or withhold such approval, the department shall be guided by the standards set forth in chapter 183C. [L 1957, c 234, §3; am L Sp 1959 2d, c 1, §22; am L 1961, c 132, §2; Supp, §19-71; HRS §183-42; am L 1981, c 85, §9; am L 1995, c 11, §4 and c 69, §3]

" **§183-43 REPEALED.** L 1994, c 270, §4.

Cross References

For present provision, see §183C-8.

" **§183-44 Fishponds; rules.** (a) The board shall adopt rules concerning the application and issuance of permits for the repair, strengthening, reinforcement, and maintenance of fishponds pursuant to chapter 183C. The rules shall specify the extent:

- (1) Of repairs, strengthening, reinforcement, and maintenance for which no permit is necessary, but for which the owner shall be required to notify the board in writing of the owner's intent to perform them which notification shall be submitted not less than ten days before performing the repairs, strengthening, reinforcement, or maintenance, and for which receipt and lack of action by the board within the ten-day notice period shall constitute approval;
 - (2) Of repairs, strengthening, reinforcement, and maintenance for which a permit shall be required which shall be requested in writing by the owner.
- (b) For the purposes of this section:
- (1) "Emergency repairs" means that work necessary to repair damages to fishponds arising from natural forces or events of human creation not due to the wilful neglect of the owner, of such a character that the efficiency, esthetic character or health of the fishpond, neighboring activities of persons, or existing flora or fauna will be endangered in the absence of correction of existing conditions by repair, strengthening, reinforcement, or maintenance.
 - (2) "Repairs and maintenance" of fishponds means any work performed relative to the walls, floor, or other traditional natural feature of the fishpond and its appurtenances, the purposes of which are to maintain the fishpond in its natural state and safeguard it from damage from environmental and natural forces.

Repairs, strengthening, reinforcement, and maintenance and emergency repair of fishponds shall not be construed as actions "proposing any use" within the context of section 343-5. [L 1975, c 27, pt of §2; am L 1976, c 57, §2; gen ch 1985; am L 1995, c 11, §5 and c 69, §4]

" **§183-45 Accreted land.** No structure, retaining wall, dredging, grading, or other use which interferes or may interfere with the future natural course of the beach, including further accretion or erosion, shall be permitted on accreted land as judicially decreed under section 501-33 or 669-1(e). This section shall not in any way be construed to affect state or county property.

Any structure or action in violation of this section shall be immediately removed or stopped and the property owner shall be fined in accordance with section 183C-7. Any action taken to impose or collect the penalty provided for in this section shall be considered a civil action. [L 1985, c 221, §1; am L 1995, c 11, §6]