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**By: Senators Collins and Stone**

Introduced and read first time: February 2, 1996

Assigned to: Economic and Environmental Affairs

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Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 18, 1996

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CHAPTER \_\_\_\_

1 AN ACT concerning

2 **Chesapeake Bay Critical Area - Impervious Surface Limits**

3 FOR the purpose of altering a provision of the Critical Areas Law to require that a local  
4 jurisdiction amend its local critical area protection program to meet certain  
5 requirements by a certain date; providing that if a parcel or lot of a certain size  
6 existed before a certain date, man-made impervious surfaces are limited to a  
7 certain percentage of the lot; authorizing a local jurisdiction to allow a property  
8 owner to exceed ~~the~~ certain impervious surface limits under certain circumstances;  
9 requiring that certain fees collected by a local jurisdiction be used to fund projects  
10 that improve water quality within the critical area consistent with certain local  
11 programs; and generally relating to impervious surface limits in the Chesapeake Bay  
12 Critical Area.

13 BY repealing and reenacting, with amendments,  
14 Article - Natural Resources  
15 Section 8-1808.3  
16 Annotated Code of Maryland  
17 (1990 Replacement Volume and 1995 Supplement)

18 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
19 MARYLAND, That the Laws of Maryland read as follows:

20 **Article - Natural Resources**

21 8-1808.3.

22 (a) This section applies notwithstanding:

23 (1) Any other provision of this subtitle; or

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1 (2) Any criteria or guideline of the Commission adopted under this subtitle.

2 (b) This section controls over any other requirement concerning impervious  
3 surfaces limitations in limited development areas and resource conservation areas in the  
4 critical area.

5 (c) On or before December 31, [1990] 1996, a local jurisdiction shall amend its  
6 local critical area protection program to meet the provisions of this section.

7 (d) (1) Except as otherwise provided in this subsection for stormwater runoff,  
8 man-made impervious surfaces are limited to 15% of a parcel or lot.

9 (2) If a parcel or lot one-half acre or less in size [was in residential use or  
10 zoned for residential purposes] EXISTED on or before December 1, 1985, then  
11 man-made impervious surfaces [associated with that use] are limited to 25% of the  
12 parcel or lot.

13 (3) [If a parcel or lot one-fourth acre or less in size was in nonresidential  
14 use on or before December 1, 1985, then man-made impervious surfaces associated with  
15 that development are limited to 25% of the parcel or lot] IF A PARCEL OR LOT  
16 GREATER THAN ONE-HALF ACRE AND LESS THAN ONE ACRE IN SIZE EXISTED ON  
17 OR BEFORE DECEMBER 1, 1985, THEN MAN-MADE IMPERVIOUS SURFACES ARE  
18 LIMITED TO 15% OF THE PARCEL OR LOT.

19 (4) If an individual lot 1 acre or less in size is part of a subdivision approved  
20 after December 1, 1985, then man-made impervious surfaces of the lot may not exceed  
21 25% of the lot. However, the total of the impervious surfaces over the entire subdivision  
22 may not exceed 15%.

23 (e) This section does not apply to a trailer park that was in residential use on or  
24 before December 1, 1985.

25 (F) A LOCAL JURISDICTION MAY ALLOW A PROPERTY OWNER TO EXCEED  
26 THE IMPERVIOUS SURFACE LIMITS PROVIDED IN SUBSECTION (D)(2) ~~THROUGH (4)~~  
27 AND (3) OF THIS SECTION IF THE FOLLOWING CONDITIONS EXIST:

28 (1) NEW IMPERVIOUS SURFACES ON THE PROPERTY HAVE BEEN  
29 MINIMIZED;

30 (2) FOR A LOT OR PARCEL ONE-HALF ACRE OR LESS IN SIZE, TOTAL  
31 IMPERVIOUS SURFACES DO NOT EXCEED IMPERVIOUS SURFACE LIMITS IN  
32 SUBSECTION (D)(2) OF THIS SECTION BY MORE THAN 25% OR 500 SQUARE FEET,  
33 WHICHEVER IS GREATER;

34 (3) FOR A LOT OR PARCEL GREATER THAN ONE-HALF ACRE AND LESS  
35 THAN ONE ACRE IN SIZE, TOTAL IMPERVIOUS SURFACES DO NOT EXCEED  
36 IMPERVIOUS SURFACE LIMITS IN SUBSECTION (D)(3) OF THIS SECTION OR 5,445  
37 SQUARE FEET, WHICHEVER IS GREATER;

38 ~~(2)~~ (4) WATER QUALITY IMPACTS ASSOCIATED WITH RUNOFF FROM  
39 THE NEW IMPERVIOUS SURFACES CAN BE AND HAVE BEEN MINIMIZED THROUGH  
40 SITE DESIGN CONSIDERATIONS OR USE OF BEST MANAGEMENT PRACTICES  
41 APPROVED BY THE LOCAL JURISDICTION TO IMPROVE WATER QUALITY; AND

1                   ~~(3)~~ (5) THE PROPERTY OWNER PERFORMS ONSITE MITIGATION AS  
2 REQUIRED BY THE LOCAL JURISDICTION TO OFFSET POTENTIAL ADVERSE WATER  
3 QUALITY IMPACTS FROM THE NEW IMPERVIOUS SURFACES, OR THE PROPERTY  
4 OWNER PAYS A FEE TO THE LOCAL JURISDICTION IN LIEU OF PERFORMING THE  
5 ONSITE MITIGATION.

6                   (G) ALL FEES IN LIEU COLLECTED BY A LOCAL JURISDICTION UNDER  
7 SUBSECTION (F)(3) OF THIS SECTION MUST BE USED TO FUND PROJECTS THAT  
8 IMPROVE WATER QUALITY WITHIN THE CRITICAL AREA CONSISTENT WITH THE  
9 JURISDICTION'S LOCAL CRITICAL AREA PROTECTION PROGRAM.

10                  [(f)] (H) A local jurisdiction may grant a variance from the provisions of this  
11 section in accordance with regulations adopted by the Commission concerning variances  
12 as part of local program development set forth in COMAR 27.01.11 and notification of  
13 project applications set forth in COMAR 27.03.01.

14                  SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
15 October 1, 1996.