

# SENATE BILL 920

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EMERGENCY BILL

3lr2996

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By: **Senator Dyson**

Introduced and read first time: February 13, 2013

Assigned to: Rules

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## A BILL ENTITLED

1 AN ACT concerning

2 **Chesapeake Bay – Submerged Land and Water Column Leases – Riparian**  
3 **Owners**

4 FOR the purpose of exempting certain Chesapeake Bay submerged land leases and  
5 water column leases from a certain setback requirement; authorizing a  
6 submerged land lease or a water column lease of a riparian owner or a lawful  
7 occupant of the riparian property to be located a certain minimum distance from  
8 a shallow-draft federal navigational channel; making this Act an emergency  
9 measure; and generally relating to submerged land leases and water column  
10 leases in the Chesapeake Bay.

11 BY repealing and reenacting, with amendments,  
12 Article – Natural Resources  
13 Section 4–11A–06 and 4–11A–08  
14 Annotated Code of Maryland  
15 (2012 Replacement Volume)

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

18 **Article – Natural Resources**

19 4–11A–06.

20 (a) This section applies to a submerged land lease in the Chesapeake Bay  
21 that is not in an Aquaculture Enterprise Zone.

22 (b) (1) (i) Subject to subparagraph (ii) of this paragraph, the  
23 Department may issue to a person a submerged land lease in waters of the  
24 Chesapeake Bay after the Department of the Environment classifies the waters as:

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 1. Approved, conditionally approved, or restricted for  
2 harvest; or

3 2. Prohibited, provided that the lease is used exclusively  
4 for the planting and gathering of seed for aquaculture and the leaseholder complies  
5 with the requirements of the National Shellfish Sanitation Program as implemented  
6 by the Department.

7 (ii) The Department may issue a submerged land lease in the  
8 waters of the Chesapeake Bay to a corporation only if:

9 1. The corporation is organized under the laws of the  
10 State; and

11 2. More than 50% of the stock in the corporation is  
12 owned by residents of the State.

13 (2) A submerged land lease may not be located:

14 (i) Within a minimum of 50 feet of shoreline or any pier without  
15 the written permission of the riparian owner at the time of initial application for the  
16 lease;

17 (ii) Within 150 feet of the public shellfish fishery or a registered  
18 pound net site;

19 (iii) Within 150 feet of an oyster reserve or any Yates Bar located  
20 in an oyster sanctuary;

21 (iv) **[Within] EXCEPT AS PROVIDED IN PARAGRAPH (4) OF**  
22 **THIS SUBSECTION, WITHIN** 150 feet of a federal navigational channel;

23 (v) Subject to paragraph (3) of this subsection, in any creek,  
24 cove, bay, or inlet less than 300 feet wide at its mouth at mean low tide; or

25 (vi) In an SAV Protection Zone.

26 (3) Paragraph (2)(v) of this subsection does not apply to a riparian  
27 owner or a lawful occupant of the riparian property.

28 **(4) A SUBMERGED LAND LEASE OF A RIPARIAN OWNER OR A**  
29 **LAWFUL OCCUPANT OF THE RIPARIAN PROPERTY MAY BE LOCATED 50 FEET OR**  
30 **MORE FROM A SHALLOW-DRAFT FEDERAL NAVIGATIONAL CHANNEL.**

31 (c) A person with a submerged land lease in the Chesapeake Bay may  
32 cultivate shellfish on the submerged land, in temporary protective enclosures

1 approved by the Department on the surface of the submerged land, or in any other  
2 manner authorized by the Department.

3 (d) Notwithstanding any other provision of this subtitle, a lease of  
4 submerged land located within a sanctuary must be compatible with oyster restoration  
5 and must satisfy the criteria for permissible leasing within a sanctuary as provided in  
6 regulations adopted under this subtitle.

7 4-11A-08.

8 (a) This section applies to a water column lease in the waters of the State.

9 (b) The Department may issue to a person a water column lease in waters of  
10 the State after the Department of the Environment classifies the waters as:

11 (1) Approved, conditionally approved, or restricted for harvest; or

12 (2) Prohibited, provided that the lease is used exclusively for the  
13 planting and gathering of seed for aquaculture and the leaseholder complies with the  
14 requirements of the National Shellfish Sanitation Program as implemented by the  
15 Department.

16 (c) (1) A water column lease may not be located:

17 (i) Within a minimum of 50 feet of shoreline or any pier without  
18 the written permission of the riparian owner at the time of initial application for the  
19 lease;

20 (ii) Within 150 feet of the public shellfish fishery or a registered  
21 pound net site;

22 (iii) Within 150 feet of an oyster reserve or any Yates Bar located  
23 in an oyster sanctuary;

24 (iv) **[Within] EXCEPT AS PROVIDED IN PARAGRAPH (3) OF**  
25 **THIS SUBSECTION, WITHIN** 150 feet of a federal navigational channel;

26 (v) Subject to paragraph (2) of this subsection, in any creek,  
27 cove, bay, or inlet less than 300 feet wide at its mouth at mean low tide;

28 (vi) In an SAV Protection Zone; or

29 (vii) In a setback or buffer from the Assateague Island National  
30 Seashore established by the Department.

31 (2) The provisions of paragraph (1)(v) of this subsection do not apply to  
32 the riparian owner or a lawful occupant of the riparian property.

1           **(3) A WATER COLUMN LEASE OF A RIPARIAN OWNER OR A**  
2 **LAWFUL OCCUPANT OF THE RIPARIAN PROPERTY MAY BE LOCATED 50 FEET OR**  
3 **MORE FROM A SHALLOW-DRAFT FEDERAL NAVIGATIONAL CHANNEL.**

4           (d) A person with a water column lease in the waters of the State may  
5 cultivate shellfish:

6           (1) Subject to approval by the United States Army Corps of Engineers,  
7 on or under the surface of the water in a floating structure; or

8           (2) In any other manner authorized by the Department.

9           SECTION 2. AND BE IT FURTHER ENACTED, That this Act is an emergency  
10 measure, is necessary for the immediate preservation of the public health or safety,  
11 has been passed by a yea and nay vote supported by three-fifths of all the members  
12 elected to each of the two Houses of the General Assembly, and shall take effect from  
13 the date it is enacted.