

Department of Legislative Services
Maryland General Assembly
2015 Session

FISCAL AND POLICY NOTE

House Bill 963 (Delegate McMillan)
Environment and Transportation

**Chesapeake and Atlantic Coastal Bays Critical Area - Lot Coverage - Calculation
for Swimming Pools**

This bill requires that, under the critical area law, “lot coverage” for a swimming pool be calculated based on 50% of the surface area of the swimming pool if it is constructed in a manner that allows for the absorption of six additional inches of water during a rain event.

Fiscal Summary

State Effect: Special fund property tax revenues may increase, at least minimally, due to increased assessed property values. Expenditures are not affected.

Local Effect: Local government property tax revenues may increase, at least minimally, due to increased assessed property values. Expenditures are not materially affected.

Small Business Effect: Potential meaningful.

Analysis

Current Law: The critical area law has the purpose of fostering more sensitive development activity for certain shoreline areas to minimize damage to water quality and natural habitats. It is implemented through programs established and implemented by local governments subject to State oversight. Among other things, the law limits “lot coverage” in limited development areas and resource conservation areas in the critical area to 15% of a parcel or lot, with specified exceptions. The critical area generally consists of land within 1,000 feet of the Chesapeake and Atlantic coastal bays and waters of, and land under, the bays and their tributaries. There are three land classifications in the critical area – intensely developed areas, limited development areas, and resource conservation areas – which serve

to recognize existing land uses and development in the critical area and limit the intensity of future development.

“Lot coverage” means the percentage of a total lot or parcel that is (1) occupied by a structure, accessory structure, parking area, driveway, walkway, or roadway or (2) covered with gravel, stone, shell, impermeable decking, a paver, permeable pavement, or any manmade material. It includes the ground area covered or occupied by a stairway or impermeable deck, but does not include (1) a fence or wall that is less than one foot in width that has not been constructed with a footer; (2) specified walkways that provide direct access to a community or private pier; (3) a wood mulch pathway; or (4) a deck with gaps to allow water to pass freely.

Background: Chapter 794 of 1984 established the Chesapeake Bay Critical Area Protection Program in order to minimize damage to water quality and wildlife habitat by fostering more sensitive development activity along the shoreline areas of the Chesapeake Bay and its tributaries. The goals of the program include the protection of water quality, the conservation of habitat, and the accommodation of future growth and development without adverse environmental impacts.

Chapter 794 identified the Critical Area as all land within 1,000 feet of the mean high water line of tidal waters or the landward edge of tidal wetlands and all waters of and lands under the Chesapeake Bay and its tributaries. In 2002, the affected area was expanded to include the State’s coastal bays. Under current law, the 1,000-foot wide Critical Area encompasses approximately 680,000 acres (or roughly 11% of the land area in the State) and spans 64 local jurisdictions (16 counties, Baltimore City, and 47 other municipalities). Efforts are underway to develop updated and uniform maps of the Critical Area using modern technology.

The 1984 legislation also created a statewide Chesapeake Bay Critical Area Commission (now called the Critical Area Commission for the Chesapeake and Atlantic Coastal Bays) that oversees the development and implementation of local land use programs dealing with the Critical Area. Each local jurisdiction is charged with the primary responsibility for development and implementation of its own local program; that local authority, however, is subject to commission review and approval.

It is unclear to what extent similar exceptions for the surface area of a swimming pool exist in water quality-related statutes or regulations in other states. As one example, however, a North Carolina statute that requires the state’s Environmental Management Commission to develop and implement stormwater runoff rules and programs excludes the water area of a swimming pool from the definition of “built-upon area.”

State Revenues: Special fund (Annuity Bond Fund) property tax revenues may increase, at least minimally, to the extent construction resulting from the bill's changes increases the assessed value of the affected properties. The State property tax rate is \$0.112 per \$100 of assessment.

Debt service payments on the State's general obligation bonds are paid from the Annuity Bond Fund. Revenue sources for the fund include State property taxes, premiums from bond sales, and repayments from certain State agencies, subdivisions, and private organizations. General funds may be appropriated directly to the Annuity Bond Fund to make up any differences between the debt service payments and funds available from property taxes and other sources.

Local Revenues: Local government property tax revenues may similarly increase, at least minimally, due to increase assessed property values. County real property tax rates range from \$0.527 per \$100 of assessed value in Talbot County to \$2.248 in Baltimore City, with rates in many counties in the range of \$1.00 per \$100 of assessed value.

Small Business Effect: To the extent the bill results in increased construction activity on lots in the critical area to install swimming pools, or for other construction under freed up lot coverage space due to reduced lot coverage of swimming pools, small businesses whose services are used may benefit.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Department of Natural Resources; Maryland Department of the Environment; Anne Arundel, Baltimore, Calvert, and Kent counties; North Carolina General Assembly; Department of Legislative Services

Fiscal Note History: First Reader - March 12, 2015
md/lgc

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