

HOUSE BILL 389

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EMERGENCY BILL

6lr1851

By: **Delegates O'Donnell, Anderton, Arentz, Aumann, Cluster, Ghrist, Glass, Grammer, Hornberger, Jacobs, Kittleman, Krebs, Long, Malone, Mautz, McComas, McConkey, McKay, McMillan, Metzgar, W. Miller, Morgan, Otto, Rey, Rose, Saab, Shoemaker, Stein, Vogt, and West**

Introduced and read first time: January 28, 2016

Assigned to: Environment and Transportation

Committee Report: Favorable

House action: Adopted

Read second time: February 23, 2016

CHAPTER _____

1 AN ACT concerning

2 **Chesapeake and Atlantic Coastal Bays Critical Area Protection Program –**
3 **Intrafamily Transfers**

4 FOR the purpose of altering the definition of “immediate family” as it relates to intrafamily
5 transfers of certain property authorized in a local jurisdiction’s Chesapeake and
6 Atlantic Coastal Bays Critical Area protection program; making this Act an
7 emergency measure; and generally relating to the Chesapeake and Atlantic Coastal
8 Bays Critical Area protection program.

9 BY repealing and reenacting, with amendments,
10 Article – Natural Resources
11 Section 8–1808.2
12 Annotated Code of Maryland
13 (2012 Replacement Volume and 2015 Supplement)

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

16 **Article – Natural Resources**

17 8–1808.2.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 (a) (1) In this section the following words have the meanings indicated.

2 (2) “Bona fide intrafamily transfer” means a transfer to a member of the
3 owner’s immediate family of a portion of the owner’s property for the purpose of
4 establishing a residence for that family member.

5 (3) “Immediate family” means a father, mother, son, daughter,
6 grandfather, grandmother, grandson, [or] granddaughter, **OR SIBLING**.

7 (b) Notwithstanding density limitations established in criteria of the
8 Commission, as part of its local program, a local jurisdiction may submit provisions by
9 which an owner of a parcel of land in the resource conservation area may be permitted to
10 make bona fide intrafamily transfers.

11 (c) If a local jurisdiction includes provisions for bona fide intrafamily transfers as
12 part of its local program, the local jurisdiction shall permit a bona fide intrafamily transfer
13 to be made only from parcels of land that:

14 (1) Were of record on March 1, 1986 in the Chesapeake Bay Critical Area
15 or on June 1, 2002 in the Atlantic Coastal Bays Critical Area; and

16 (2) Are 7 acres or more and less than 60 acres in size.

17 (d) A bona fide intrafamily transfer from a parcel of land shall be a subdivision of
18 the parcel of land that is subject to local approval under Title 5 or Title 23 of the Land Use
19 Article or under any subdivision control provisions of a charter county.

20 (e) (1) A local jurisdiction:

21 (i) May approve the subdivision of a parcel of land into the number
22 of lots indicated in this subsection by means of a bona fide intrafamily transfer; and

23 (ii) May not approve any greater subdivision of the parcel of land or
24 any portion of the parcel of land.

25 (2) A parcel that is 7 acres or more and less than 12 acres in size may be
26 subdivided into 2 lots.

27 (3) A parcel that is 12 acres or more and less than 60 acres in size may be
28 subdivided into 3 lots. The lots may be created at different times.

29 (f) (1) As a condition of approval, a local jurisdiction shall require that:

30 (i) Any deed for a lot that is created by a bona fide intrafamily
31 transfer shall contain a covenant stating that the lot is created subject to the provisions of
32 this section; and

1 (ii) A lot created by a bona fide intrafamily transfer may not be
2 conveyed subsequently to any person other than a member of the owner’s immediate family,
3 except under procedures established pursuant to subsection (g) of this section.

4 (2) This subsection does not prevent the conveyance of the lot to a third
5 party as security for a mortgage or deed of trust.

6 (g) If a local jurisdiction includes provisions for bona fide intrafamily transfers as
7 part of the local jurisdiction’s local program, the local jurisdiction shall establish standards
8 and procedures, subject to the approval of the Commission, by which the local jurisdiction
9 will permit the subsequent conveyance of lots to persons other than immediate family
10 members. The standards and procedures shall assure that:

11 (1) The lot was created as part of a bona fide intrafamily transfer and not
12 with the intent of subdividing the original parcel of land for purposes of ultimate
13 commercial sale; and

14 (2) (i) A change in circumstances has occurred since the original
15 transfer was made that is not inconsistent with this subtitle and that warrants an
16 exception; or

17 (ii) Other circumstances that are consistent with this subtitle and
18 with the Commission’s criteria to maintain land areas necessary to support the protective
19 uses of agriculture, forestry, open space, and natural habitats in resource conservation
20 areas warrant an exception.

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

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.