

Department of Legislative Services  
Maryland General Assembly  
2016 Session

FISCAL AND POLICY NOTE  
Third Reader

House Bill 389

(Delegate O'Donnell, *et al.*)

Environment and Transportation

Education, Health, and Environmental Affairs

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Chesapeake and Atlantic Coastal Bays Critical Area Protection Program -  
Intrafamily Transfers

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This emergency bill expands the definition of “immediate family” to include a sibling, under provisions that allow a local jurisdiction to provide, as part of its local Critical Area program, for bona fide intrafamily transfers of a parcel of land in the resource conservation area to establish a residence for the immediate family member.

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**Fiscal Summary**

**State Effect:** The bill is not expected to materially affect State finances.

**Local Effect:** The bill is not expected to materially affect local government finances.

**Small Business Effect:** Minimal or none.

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**Analysis**

**Current Law/Background:**

*Bona Fide Intrafamily Transfers*

A “bona fide intrafamily transfer” is a transfer to a member of the owner’s immediate family of a portion of the owner’s property for the purpose of establishing a residence for that family member. “Immediate family” means a father, mother, son, daughter, grandfather, grandmother, grandson, or granddaughter.

Notwithstanding density limitations established in criteria of the Critical Area Commission for the Chesapeake and Atlantic Coastal Bays, as part of its local program, a local jurisdiction may submit provisions by which an owner of a parcel of land in the resource conservation area may be permitted to make bona fide intrafamily transfers. If a local jurisdiction includes provisions for bona fide intrafamily transfers as part of its local program, specified criteria apply to a local jurisdiction's approval of such transfers, including a limitation on the number of lots a parcel may be divided into and assurances that the parcel is not subdivided with the intent of ultimate commercial sale.

Local jurisdictions were first authorized to include provisions for intrafamily transfers in their local programs in 1986. According to the Department of Natural Resources, not all jurisdictions have included those provisions in their programs.

### *Chesapeake and Atlantic Coastal Bays Critical Area Protection Program*

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. 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.

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.

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## **Additional Information**

**Prior Introductions:** None.

**Cross File:** None.

**Information Source(s):** Department of Natural Resources, Maryland Association of Counties, Maryland Municipal League, Department of Legislative Services

**Fiscal Note History:** First Reader - February 8, 2016  
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