
By: Delegates La Vay, O'Donnell, V. Mitchell, and Wood

Introduced and read first time: January 29, 1997

Assigned to: Environmental Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Critical Area - Impervious Surfaces - Exemption**

3 FOR the purpose of exempting certain surfaces from the calculation of certain
4 impervious surfaces under the Chesapeake Bay Critical Area Program.

5 BY repealing and reenacting, with amendments,
6 Article - Natural Resources
7 Section 8-1808.3
8 Annotated Code of Maryland
9 (1990 Replacement Volume and 1996 Supplement)

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

12 **Article - Natural Resources**

13 8-1808.3.

14 (a) This section applies notwithstanding:

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

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

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

20 (C) FOR PURPOSES OF THIS SECTION, ANY CALCULATION OF AREA COVERED
21 BY MAN-MADE IMPERVIOUS SURFACES MAY NOT INCLUDE AN AREA COVERED BY A
22 GAPPED WOODEN DECK WITH PERVIOUS SURFACE UNDERNEATH, OR THE WATER
23 SURFACE OF A SWIMMING POOL.

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

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

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1 (2) If a parcel or lot one-half acre or less in size existed on or before
2 December 1, 1985, then man-made impervious surfaces are limited to 25% of the parcel
3 or lot.

4 (3) If a parcel or lot greater than one-half acre and less than one acre in
5 size existed on or before December 1, 1985, then man-made impervious surfaces are
6 limited to 15% of the parcel or lot.

7 (4) If an individual lot 1 acre or less in size is part of a subdivision approved
8 after December 1, 1985, then man-made impervious surfaces of the lot may not exceed
9 25% of the lot. However, the total of the impervious surfaces over the entire subdivision
10 may not exceed 15%.

11 [(e)] (F) This section does not apply to a trailer park that was in residential use
12 on or before December 1, 1985.

13 [(f)] (G) A local jurisdiction may allow a property owner to exceed the impervious
14 surface limits provided in subsection [(d)] (E)(2) and (3) of this section if the following
15 conditions exist:

16 (1) New impervious surfaces on the property have been minimized;

17 (2) For a lot or parcel one-half acre or less in size, total impervious surfaces
18 do not exceed impervious surface limits in subsection [(d)] (E)(2) of this section by more
19 than 25% or 500 square feet, whichever is greater;

20 (3) For a lot or parcel greater than one-half acre and less than one acre in
21 size, total impervious surfaces do not exceed impervious surface limits in subsection
22 [(d)] (E)(3) of this section or 5,445 square feet, whichever is greater;

23 (4) Water quality impacts associated with runoff from the new impervious
24 surfaces can be and have been minimized through site design considerations or use of best
25 management practices approved by the local jurisdiction to improve water quality; and

26 (5) The property owner performs onsite mitigation as required by the local
27 jurisdiction to offset potential adverse water quality impacts from the new impervious
28 surfaces, or the property owner pays a fee to the local jurisdiction in lieu of performing
29 the onsite mitigation.

30 [(g)] (H) All fees in lieu collected by a local jurisdiction under subsection [(f)]
31 (G)(5) of this section must be used to fund projects that improve water quality within the
32 critical area consistent with the jurisdiction's local critical area protection program.

33 [(h)] (I) A local jurisdiction may grant a variance from the provisions of this
34 section in accordance with regulations adopted by the Commission concerning variances
35 as part of local program development set forth in COMAR 27.01.11 and notification of
36 project applications set forth in COMAR 27.03.01.

37 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
38 October 1, 1997.