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By: **Delegate Weir**

Introduced and read first time: February 21, 2000

Assigned to: Rules and Executive Nominations

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Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 25, 2000

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CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Natural Resources - Critical Areas - Reasonable Accommodations**

3 FOR the purpose of ~~adding an element to the list of elements that are included in a~~  
4 ~~local government's critical areas program; requiring the Chesapeake Bay~~  
5 ~~Critical Area Commission to approve a local government's amendment that~~  
6 ~~allows for reasonable accommodations to avoid discrimination on the basis of~~  
7 ~~physical disability; providing that a local government's critical area program~~  
8 ~~shall include provisions for reasonable accommodations in policies and~~  
9 ~~procedures when the accommodations are necessary to avoid discrimination on~~  
10 ~~the basis of physical disability; and generally relating to the Critical Area~~  
11 ~~Protection Program.~~

12 ~~BY renumbering~~  
13 ~~Article - Natural Resources~~  
14 ~~Section 8-1809(k) through (s), respectively~~  
15 ~~to be Section 8-1809(i) through (t), respectively~~  
16 ~~Annotated Code of Maryland~~  
17 ~~(1990 Replacement Volume and 1999 Supplement)~~

18 BY repealing and reenacting, with amendments,  
19 Article - Natural Resources  
20 Section ~~8-1808(b) and 8-1809(j)~~ 8-1808(c)  
21 Annotated Code of Maryland  
22 (1990 Replacement Volume and 1999 Supplement)

23 ~~BY repealing and reenacting, without amendments,~~

1 Article ~~Natural Resources~~  
 2 Section ~~8-1809(h) and (i)~~  
 3 Annotated Code of Maryland  
 4 (1990 Replacement Volume and 1999 Supplement)

5 BY adding to  
 6 Article ~~Natural Resources~~  
 7 Section ~~8-1809(k)~~  
 8 Annotated Code of Maryland  
 9 (1990 Replacement Volume and 1999 Supplement)

10 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
 11 MARYLAND, That Section(s) ~~8-1809(k) through (s)~~, respectively, of Article ~~Natural~~  
 12 Resources of the Annotated Code of Maryland be renumbered to be Section(s)  
 13 ~~8-1809(l) through (t)~~, respectively.

14 SECTION 2. ~~AND BE IT FURTHER ENACTED~~, That the Laws of Maryland  
 15 read as follows:

16 **Article - Natural Resources**

17 ~~8-1808.~~

18 (b) A program shall consist of those elements which are necessary or  
 19 appropriate:

20 (1) To minimize adverse impacts on water quality that result from  
 21 pollutants that are discharged from structures or conveyances or that have run off  
 22 from surrounding lands;

23 (2) To conserve fish, wildlife, and plant habitat; [and]

24 (3) To establish land use policies for development in the Chesapeake Bay  
 25 Critical Area which accommodate growth and also address the fact that, even if  
 26 pollution is controlled, the number, movement, and activities of persons in that area  
 27 can create adverse environmental impacts; AND

28 (4) TO MAKE REASONABLE ACCOMMODATIONS IN POLICIES OR  
 29 PROCEDURES WHEN THE ACCOMMODATIONS ARE NECESSARY TO AVOID  
 30 DISCRIMINATION ON THE BASIS OF PHYSICAL DISABILITY.

31 ~~8-1809.~~

32 (h) (1) As often as necessary but not more than 4 times per calendar year,  
 33 each local jurisdiction may propose program amendments and program refinements  
 34 to its adopted program.

35 (2) (i) Except for program amendments or program refinements  
 36 developed during program review under subsection (g) of this section, a zoning map

1 amendment may be granted by a local approving authority only on proof of a mistake  
2 in the existing zoning.

3 (ii) The requirement in paragraph (2)(i) of this subsection that a  
4 zoning map amendment may be granted only on proof of a mistake does not apply to  
5 proposed changes to a zoning map that:

6 1. Are wholly consistent with the land classifications in the  
7 adopted program; or

8 2. Propose the use of a part of the remaining growth  
9 allocation in accordance with the adopted program.

10 (i) A program may not be amended except with the approval of the  
11 Commission.

12 (j) The Commission shall approve programs and program amendments that  
13 meet:

14 (1) The standards set forth in § 8-1808(b)(1) through [(3)] (4) of this  
15 subtitle; and

16 (2) The criteria adopted by the Commission under § 8-1808 of this  
17 subtitle.

18 (K) THE COMMISSION SHALL APPROVE A PROGRAM AMENDMENT THAT  
19 ALLOWS FOR REASONABLE ACCOMMODATIONS IN POLICIES OR PROCEDURES IN  
20 ORDER TO AVOID DISCRIMINATION ON THE BASIS OF PHYSICAL DISABILITY UNLESS  
21 THE COMMISSION CAN DEMONSTRATE THAT THE AMENDMENT WOULD  
22 FUNDAMENTALLY ALTER THE NATURE OF THE PROGRAM.

23 8-1808.

24 (c) At a minimum, a program sufficient to meet the goals stated in subsection  
25 (b) of this section includes:

26 (1) A map designating the critical area in a local jurisdiction;

27 (2) A comprehensive zoning map for the critical area;

28 (3) As necessary, new or amended provisions of the jurisdiction's:

29 (i) Subdivision regulations;

30 (ii) Comprehensive or master plan;

31 (iii) Zoning ordinances or regulations;

32 (iv) Provisions relating to enforcement; and

1                   (v)     Provisions as appropriate relating to grandfathering of  
2 development at the time the program is adopted or approved by the Commission;

3                   (4)     Provisions requiring that project approvals shall be based on findings  
4 that projects are consistent with the standards stated in subsection (b) of this section;

5                   (5)     Provisions to limit the amount of land covered by buildings, roads,  
6 parking lots, or other impervious surfaces, and to require or encourage cluster  
7 development, where necessary or appropriate;

8                   (6)     Establishment of buffer areas along shorelines within which  
9 agriculture will be permitted only if best management practices are used, provided  
10 that structures or any other use of land which is necessary for adjacent agriculture  
11 shall also be permitted in any buffer area;

12                  (7)     Requirements for minimum setbacks for structures and septic fields  
13 along shorelines;

14                  (8)     Designation of shoreline areas, if any, that are suitable for parks,  
15 hiking, biking, wildlife refuges, scenic drives, public access or assembly, and  
16 water-related recreation such as boat slips, piers, and beaches;

17                  (9)     Designation of shoreline areas, if any, that are suitable for ports,  
18 marinas, and industries that use water for transportation or derive economic benefits  
19 from shore access;

20                  (10)    Provisions requiring that all harvesting of timber in the Chesapeake  
21 Bay Critical Area be in accordance with plans approved by the district forestry board;  
22 [and]

23                  (11)    Provisions establishing that the controls in a program which are  
24 designed to prevent runoff of pollutants will not be required on sites where the  
25 topography prevents runoff from directly or indirectly reaching tidal waters; AND

26                  (12)    PROVISIONS FOR REASONABLE ACCOMMODATIONS IN POLICIES OR  
27 PROCEDURES WHEN THE ACCOMMODATIONS ARE NECESSARY TO AVOID  
28 DISCRIMINATION ON THE BASIS OF PHYSICAL DISABILITY.

29     SECTION-3. 2. AND BE IT FURTHER ENACTED, That this Act shall take  
30 effect July 1, 2000.

