

BY: Economic and Environmental Affairs Committee

AMENDMENTS TO SENATE BILL NO. 607

(First Reading File Bill)

AMENDMENT NO. 1

On page 1, in line 2, strike “- Variances”; in line 5, strike “defining a certain term;” and substitute “requiring a local jurisdiction, in considering an application for a variance, to consider reasonable use of the entire parcel or lot for which the variance is requested; providing that certain provisions of this Act do not apply to certain permits or activities which comply with certain buffer exemption plans or buffer management plans; revising the period of time for the review of certain critical area programs by local jurisdictions;”; in line 6, strike “the granting of variances under”; and in line 15, after “8-1808” insert “and 8-1809(g)”.

AMENDMENT NO. 2

On page 1, after line 17, insert:

“Preamble

WHEREAS, State lawmakers in 1984 recognized the importance of fostering more sensitive development activity along the shoreline areas of the Chesapeake Bay and its tributaries, from the standpoint of protecting and preserving water quality and natural habitats, with the adoption of the Chesapeake Bay Critical Area Protection Act; and

WHEREAS, The grandfathering provisions of the enabling Act and its accompanying Criteria provided certain exemptions for grandfathered properties from density limits, the Criteria expressly provided that grandfathered properties were not exempt from Habitat Protection Area (HPA) or water-dependent facilities requirements; and

WHEREAS, The Criteria provide that variances to a jurisdiction’s local Critical Area Program may be granted in certain circumstances; and

(Over)

WHEREAS, Recent decisions by the Maryland Court of Appeals have held that a variance may be granted if the regulations would deny development on a specific portion of an applicant's property rather than considering alternative locations on-site; and

WHEREAS, The Court of Appeals has ruled that a local Board of Appeals, when determining if denial of a variance would deny an applicant rights commonly enjoyed by others in the Critical Area, may compare a proposal to nonconforming uses or development that predated implementation of a local Critical Area program; and

WHEREAS, The Court of Appeals has ruled that an applicant for a variance from Critical Area requirements may generally satisfy the variance standards of a local zoning ordinance, rather than satisfy all of the standards; and

WHEREAS, These recent rulings by the Court of Appeals are contrary to the intent of the General Assembly in enacting the Chesapeake Bay Critical Area Protection Act; and

WHEREAS, It is the intent of this Act to overrule these recent decisions of the Court of Appeals regarding variances to Critical Area regulations; now, therefore,".

AMENDMENT NO. 3

On page 4, in line 29, strike "EXCEPT AS PROVIDED IN SUBSECTION (D) OF THIS SECTION,"; strike in their entirety lines 33 through 36, inclusive; and in line 37, strike "(2)" and substitute "(D) (1)".

On page 5, in line 8, strike "UNDER" and substitute "IN ACCORDANCE WITH THE PROVISIONS OF"; after line 9, insert:

"(2) IN CONSIDERING AN APPLICATION FOR A VARIANCE, A LOCAL JURISDICTION SHALL CONSIDER THE REASONABLE USE OF THE ENTIRE PARCEL OR LOT FOR WHICH THE VARIANCE IS REQUESTED.

(3) THIS SUBSECTION DOES NOT APPLY TO BUILDING PERMITS OR ACTIVITIES THAT COMPLY WITH A BUFFER EXEMPTION PLAN OR BUFFER MANAGEMENT PLAN OF A LOCAL JURISDICTION WHICH HAS BEEN APPROVED BY

THE COMMISSION.”;

and after line 26, insert:

“8-1809.

(g) Each local jurisdiction shall review its entire program and propose any necessary amendments to its entire program, including local zoning maps, at least every [4] 6 years [beginning with the 4-year anniversary of the date that the program became effective and every 4 years after that date] IN COORDINATION WITH THE REVIEW OF THE COMPREHENSIVE PLAN BY THE PLANNING COMMISSION AS REQUIRED UNDER ARTICLE 66B, §§ 1.03(B) AND 3.05(B) OF THE CODE. Each local jurisdiction shall send in writing to the Commission, within 60 days after [each 4-year anniversary,] THE COMPLETION OF ITS REVIEW, the following information:

- (1) A statement certifying that the required review has been accomplished;
- (2) Any necessary requests for program amendments, program refinements, or other matters that the local jurisdiction wishes the Commission to consider;
- (3) An updated resource inventory; and
- (4) A statement quantifying acreages within each land classification, the growth allocation used, and the growth allocation remaining.”.

(Over)