

BY: Education, Health, and Environmental Affairs Committee

AMENDMENTS TO SENATE BILL NO. 247

(First Reading File Bill)

AMENDMENT NO. 1

On page 1, strike beginning with “adding” in line 9 down through “to” in line 10 and substitute “altering the membership of”; strike beginning with “requiring” in line 14 down through “date;” in line 16; in line 16, strike “of Maryland”; strike beginning with the second “of” in line 17 down through “date” in line 19 and substitute “; providing for the calculation and utilization of certain growth allocations by certain local jurisdictions under certain circumstances; requiring local jurisdictions in the Atlantic Coastal Bay’s Critical Area to include certain elements in their local program; requiring the Department of Natural Resources to provide certain assistance to local jurisdictions in the preparation of certain maps or studies; clarifying that agricultural activities are allowed in certain areas in accordance with certain requirements; establishing certain requirements for the Commission and for a local jurisdiction located in the Atlantic Coastal Bays watershed but not in the Atlantic Coastal Bays Critical Area relating to minimum stream buffers; requiring a certain local jurisdiction to submit certain information to the Commission on or before a certain date; establishing certain requirements for a local jurisdiction in the Atlantic Coastal Bays Critical Area relating to the development of a local critical area program; requiring certain local jurisdictions to submit to the Commission on or before a certain date certain information relating to the jurisdiction’s intent to establish a local critical area program”; in line 23, after “circumstances;” insert “requiring programs in the Atlantic Coastal Bays Critical Area to be approved or adopted by the Commission and in effect on or before a certain date; providing that the authority, powers, and responsibilities of the chairman of the Commission apply to the Atlantic Coastal Bays Critical Area;”; in line 24, strike “relative” and substitute “relating”; in line 25, after “approvals” insert “on or”; in line 28, after “circumstances;” insert “authorizing the development of a planned unit development under certain circumstances; authorizing a local jurisdiction to include in its local program, subject to approval by the Commission, an alternative buffer provision for a planned unit development under certain circumstances;”; in the same line, strike “extensions of improvements” and substitute “improvements from extending more than a certain distance over certain wetlands”; and in line 29, after “circumstances;” insert “authorizing a person to extend improvements more than a certain distance”

(Over)

over certain wetlands in accordance with a plan submitted by a local jurisdiction and approved by the Department of the Environment and the Commission; establishing certain requirements for the plan;”.

On page 2, in line 9, after “8-1808.8” insert “, 8-1808.9.”.

AMENDMENT NO. 2

On page 5, in line 31, after “(a)” insert “(1)”.

On page 6, in lines 1, 3, 10, 12, 13, 14, 15, 16, 17, 19, 22, and 28, strike “(1)”, “(2)”, “(i)”, “(ii)”, “(iii)”, “(iv)”, “(v)”, “(vi)”, “(vii)”, “(VIII)”, “(3)”, and “(4)”, respectively, and substitute “(I)”, “(II)”, “1.”, “2.”, “3.”, “4.”, “5.”, “6.”, “7.”, “8.”, “(III)”, and “(IV)”, respectively; and after line 31, insert:

“(2) OF THE 2 WORCESTER COUNTY MEMBERS FROM THE ATLANTIC COASTAL BAYS WATERSHED, ONLY 1 MAY BE A RESIDENT OF A MUNICIPAL CORPORATION.”.

AMENDMENT NO. 3

On page 8, in line 4, after “COMMITTEE” insert “, COMPOSED OF MEMBERS OF THE COMMISSION AND LOCAL CITIZENS AND LOCAL STAKEHOLDER GROUPS.”.

AMENDMENT NO. 4

On page 13, in line 24, after “UNDER” insert “SUBSECTION”.

AMENDMENT NO. 5

On page 14 in line 9, on page 15 in lines 26 and 27, 31, and 35, on page 16 in line 3, and on page 25 in lines 16 and 26 and 27, in each instance, strike “APRIL 17” and substitute “DECEMBER 1”.

AMENDMENT NO. 6

On page 16, strike in their entirety lines 33 through 38, inclusive, and substitute:

“(1) AS PART OF COMPLIANCE WITH THE STORMWATER”

MANAGEMENT REQUIREMENTS OF TITLE 27 OF THE CODE OF MARYLAND REGULATIONS AND TITLE 4, SUBTITLE 2 OF THE ENVIRONMENT ARTICLE, A PROVISION ENCOURAGING THE USE OF BIORETENTION FOR REDEVELOPMENT IN INTENSELY DEVELOPED AREAS;”.

On page 17, strike in their entirety lines 1 through 6, inclusive; and strike in their entirety lines 20 through 23, inclusive.

AMENDMENT NO. 7

On page 17, in line 7, strike “(3)” and substitute “(2) EXCEPT AS PROVIDED IN SUBSECTION (B) (2) OF THIS SECTION,”; in line 12, strike “(4)” and substitute “(3)”; and in the same line, after “PROVISION” insert “REQUIRING A MINIMUM BUFFER OF 25 FEET AND”.

AMENDMENT NO. 8

On page 17, after line 19, insert:

“(B) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, THE PROVISIONS OF THIS SUBTITLE REPLACE THE REQUIREMENTS OF THE FOREST CONSERVATION ACT PROVIDED UNDER TITLE 5, SUBTITLE 16 OF THIS ARTICLE WITHIN THE ATLANTIC COASTAL BAYS CRITICAL AREA.

(2) SUBSECTION (A)(2) OF THIS SECTION AND PARAGRAPH (1) OF THIS SUBSECTION DO NOT APPLY TO:

(I) DEVELOPMENT OF A SINGLE LOT FOR THE PURPOSE OF CONSTRUCTING A DWELLING INTENDED FOR THE USE OF THE OWNER, OR A CHILD OR GRANDCHILD OF THE OWNER, IF THE DEVELOPMENT DOES NOT RESULT IN THE CUTTING, CLEARING, OR GRADING OF MORE THAN 40,000 SQUARE FEET OF FOREST, AND THE LOT WAS LEGALLY RECORDED PRIOR TO JULY 31, 1994; OR

(II) A SINGLE LOT THAT IS PART OF A PROJECT THAT HAS OTHERWISE COMPLIED WITH THE FOREST CONSERVATION ACT.

(Over)

(3) FOR PURPOSES OF SUBSECTION (A)(2) OF THIS SECTION, FOREST OR DEVELOPED WOODLAND COVER MAY INCLUDE TREES, WOODY PLANTS, AND SHRUBS, AND ANY LANDSCAPING UNDER AN APPROVED LANDSCAPING PLAN.

(C) THE DEPARTMENT SHALL ASSIST A LOCAL JURISDICTION IN THE PREPARATION OF ANY MORE DETAILED MAPS OR STUDIES NECESSARY TO MEET THE REQUIREMENTS OF SUBSECTION (A) OF THIS SECTION.

(D) IN ACCORDANCE WITH TITLE 27 OF THE CODE OF MARYLAND REGULATIONS, AGRICULTURAL ACTIVITIES ARE PERMITTED IN THE BUFFER OUTSIDE THE CRITICAL AREA AND IN THE ATLANTIC COASTAL BAYS WATERSHED UNDER AN APPROVED SOIL CONSERVATION AND WATER QUALITY PLAN.”.

AMENDMENT NO. 9

On page 17, after line 23, insert:

“8-1808.9.

(A) THE PROVISIONS OF THIS SECTION APPLY TO A LOCAL JURISDICTION THAT IS LOCATED IN THE ATLANTIC COASTAL BAYS WATERSHED AND NOT IN THE ATLANTIC COASTAL BAYS CRITICAL AREA.

(B) ON OR BEFORE JULY 15, 2002, A LOCAL JURISDICTION SUBJECT TO THE PROVISIONS OF THIS SECTION SHALL SUBMIT TO THE COMMISSION A WRITTEN STATEMENT OF ITS INTENT EITHER:

(1) TO ADOPT PROVISIONS REQUIRING A MINIMUM BUFFER OF 25 FEET AND APPLYING THE REQUIREMENTS OF TITLE 27 OF THE CODE OF MARYLAND REGULATIONS TO PERENNIAL AND INTERMITTENT STREAMS THAT ARE WITHIN THE BOUNDARIES OF THE LOCAL JURISDICTION AND ARE NOTED ON THE MOST RECENT U.S. GEOLOGICAL SURVEY 7-1/2 MINUTE TOPOGRAPHIC QUADRANGLE MAPS (SCALE 1:24,000) OR ON MORE DETAILED MAPS OR STUDIES AT THE DISCRETION OF THE LOCAL JURISDICTION; OR

(2) NOT TO ADOPT THE PROVISIONS.

(C) IF A LOCAL JURISDICTION STATES THE LOCAL JURISDICTION'S INTENT NOT TO ADOPT PROVISIONS MEETING THE REQUIREMENTS OF THIS SECTION OR FAILS TO SUBMIT A TIMELY STATEMENT OF INTENT, THE COMMISSION SHALL PREPARE AND ADOPT THE PROVISIONS FOR THE LOCAL JURISDICTION.

(D) IF A LOCAL JURISDICTION STATES THE LOCAL JURISDICTION'S INTENT TO ADOPT PROVISIONS MEETING THE REQUIREMENTS OF THIS SECTION, THE LOCAL JURISDICTION SHALL SUBMIT THE PROVISIONS TO THE COMMISSION AND ADOPT THE PROVISIONS IN ACCORDANCE WITH THE SCHEDULE OF SUBMISSIONS FOR THE ATLANTIC COASTAL BAYS CRITICAL AREA PROGRAM SET FORTH UNDER § 8-1809 OF THIS SUBTITLE.”.

AMENDMENT NO. 10

On page 25, in line 2, strike “SUBSECTION (B)” and substitute “SUBSECTIONS (B), (C), AND (D)”; in line 8, strike “AND”; in the same line after “THAT” insert “:

(1)”;

in line 9, strike “THESE” and substitute “THE LOTS OR”; in line 10, strike “AS FAR AS” and substitute “TO THE EXTENT”; in line 12, strike “, AND THESE” and substitute “; AND

(2) THE”;

in the same line, after “PROCEDURES” insert “DEVELOPED IN ACCORDANCE WITH ITEM (1) OF THIS SUBSECTION”; in line 21, strike “COUNTED BY” and substitute “DEDUCTED FROM”; in lines 21 and 22, strike “JURISDICTION AGAINST THE GROWTH INCREMENT” and substitute “JURISDICTION'S GROWTH ALLOCATION”; in line 23, strike “TITLE” and substitute “SUBTITLE”; and after line 23, insert:

“(C) (1) (I) IN THIS SUBSECTION AND SUBSECTION (D) OF THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(II) “BAYSIDE MIXED USE DISTRICT” MEANS A DISTRICT OF EXISTING LARGE BAYSIDE PARCELS THAT:

1. ARE ESSENTIALLY UNDEVELOPED WITH PERMANENT STRUCTURES;

2. ARE SUITABLE FOR LARGE-SCALE COMMERCIAL OR MIXED USE DEVELOPMENT; AND

3. OFFER THE OPPORTUNITY FOR WELL-PLANNED, EFFICIENT, AND DIVERSIFIED COMPREHENSIVE DEVELOPMENT.

(III) “PLANNED UNIT DEVELOPMENT” MEANS A DEVELOPMENT COMPRISED OF A COMBINATION OF LAND USES OR VARYING INTENSITIES OF THE SAME LAND USE IN ACCORDANCE WITH AN INTEGRATED PLAN THAT PROVIDES FLEXIBILITY IN LAND USE DESIGN APPROVED BY THE LOCAL JURISDICTION.

(2) A PLANNED UNIT DEVELOPMENT IN A BAYSIDE MIXED USE DISTRICT THAT HAS RECEIVED THE LOCAL JURISDICTION’S FINAL SITE APPROVAL AND IS LEGALLY BUILDABLE AFTER DECEMBER 1, 2001 BUT PRIOR TO PROGRAM APPROVAL MAY BE DEVELOPED IF:

(I) DEVELOPMENT OF THE LAND CONFORMS TO THE REQUIREMENTS OF THIS TITLE AND TITLE 27 OF THE CODE OF MARYLAND REGULATIONS;

(II) THE AREA IS DEDUCTED FROM THE LOCAL JURISDICTION’S GROWTH ALLOCATION IN ACCORDANCE WITH § 8-1808.1(B) OF THIS SUBTITLE AND COMAR 27.01.02.06; OR

(III) THE LAND:

1. IS DESIGNATED AS AN INTENSELY DEVELOPED AREA;

2. IS EXEMPTED FROM THE BUFFER DESIGNATION IN COMAR 27.01.09; AND
3. IS PART OF A PROJECT THAT COMPLIES WITH TITLE 4, SUBTITLE 2 OF THE ENVIRONMENT ARTICLE.

(D) A LOCAL JURISDICTION MAY INCLUDE IN THE JURISDICTION'S LOCAL CRITICAL AREA PROTECTION PROGRAM, TO BE APPROVED BY THE COMMISSION, AN ALTERNATIVE BUFFER PROVISION FOR THE DEVELOPMENT OF A PLANNED UNIT DEVELOPMENT IN ACCORDANCE WITH THE PLANNED UNIT DEVELOPMENT'S STEP III APPROVAL, PROVIDED THAT:

(1) THE PLANNED UNIT DEVELOPMENT RECEIVED STEP III APPROVAL FROM THE LOCAL JURISDICTION PRIOR TO DECEMBER 1, 2001;

(2) THE PLANNED UNIT DEVELOPMENT HAS RECEIVED THE LOCAL JURISDICTION'S FINAL SUBDIVISION APPROVAL AND IS LEGALLY BUILDABLE AFTER DECEMBER 1, 2001 BUT PRIOR TO PROGRAM APPROVAL;

(3) THE AREA IS DEDUCTED FROM THE LOCAL JURISDICTION'S GROWTH ALLOCATION IN ACCORDANCE WITH § 8-1808.1(B) OF THIS SUBTITLE AND COMAR 27.01.02.06, IF APPLICABLE;

(4) THE PROVISION INCLUDES MEASURES THAT PROTECT WATER QUALITY AND FISH, WILDLIFE, AND PLANT HABITATS IN ACCORDANCE WITH THE INTENT OF TITLE 8, SUBTITLE 18 OF THIS ARTICLE AND TITLE 27 OF THE CODE OF MARYLAND REGULATIONS; AND

(5) AT LEAST 75% OF THE DWELLING UNITS IN THE PLANNED UNIT DEVELOPMENT COMPLY WITH THE BUFFER REQUIREMENTS IN COMAR 27.01.09.01 AND NO DWELLING UNIT HAS A BUFFER OF LESS THAN 50 FEET FROM EXISTING OR PROPOSED TIDAL WATERS, TIDAL WETLANDS, OR TRIBUTARY STREAMS.”;

and in line 24, strike “(C)” and substitute “(E)”.

AMENDMENT NO. 11

On page 27, in line 26, strike “25” and substitute “75”; and after line 28, insert:

“(3) (I) A PERSON IN THE ATLANTIC COASTAL BAYS CRITICAL AREA MAY EXTEND IMPROVEMENTS MORE THAN 75 FEET OVER STATE WETLANDS PURSUANT TO A PLAN SUBMITTED BY A LOCAL JURISDICTION AND APPROVED BY THE DEPARTMENT AND THE CRITICAL AREA COMMISSION FOR THE CHESAPEAKE AND ATLANTIC COASTAL BAYS.

“(II) ANY PLAN APPROVED UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH SHALL INCLUDE CRITERIA FOR THE PROTECTION OF WATER QUALITY AND FISH, WILDLIFE, AND PLANT HABITATS AND SHALL COMPREHENSIVELY ADDRESS THE USE AND CONSTRUCTION OF PRIVATE AND COMMUNITY PIERS IN THE LOCAL JURISDICTION.

“(III) THE DEPARTMENT SHALL ASSIST A LOCAL JURISDICTION IN THE PREPARATION OF THE PLAN REQUIRED UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH.”.

On page 28, in line 14, strike “25” and substitute “75”; and after line 16, insert:

“(C) (1) A PERSON IN THE ATLANTIC COASTAL BAYS CRITICAL AREA MAY EXTEND IMPROVEMENTS MORE THAN 75 FEET OVER STATE WETLANDS PURSUANT TO A PLAN SUBMITTED BY A LOCAL JURISDICTION AND APPROVED BY THE DEPARTMENT AND THE CRITICAL AREA COMMISSION FOR THE CHESAPEAKE AND ATLANTIC COASTAL BAYS.

“(2) ANY PLAN APPROVED UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL INCLUDE CRITERIA FOR THE PROTECTION OF WATER QUALITY AND FISH, WILDLIFE, AND PLANT HABITATS AND SHALL COMPREHENSIVELY ADDRESS THE USE AND CONSTRUCTION OF PRIVATE AND COMMUNITY PIERS IN



THE LOCAL JURISDICTION.

(3) THE DEPARTMENT SHALL ASSIST A LOCAL JURISDICTION IN THE PREPARATION OF THE PLAN REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION.”.