

BY: Environmental Matters Committee

AMENDMENTS TO SENATE BILL NO. 247

(Third Reading File Bill)

AMENDMENT NO. 1

On page 1, in line 17, after “purposes” insert “; requiring certain local programs to classify certain areas as intensely developed areas;”; in line 21, strike “Bay’s” and substitute “Bays”; in line 22, strike “certain elements” and substitute “a certain element”; in the same line, after “program;” insert “authorizing local jurisdictions in the Atlantic Coastal Bays Critical Area to include certain elements in their local program;”; and in line 26, after “requirements” insert “under a certain circumstance”.

On page 2, strike beginning with “prohibiting” in line 23 down through “plan;” in line 29; and in line 31, strike “a certain definition” and substitute “certain definitions; prohibiting certain applications of this Act; providing for a certain calculation of a certain growth allocation in a certain area; providing for certain development conditions for certain planned unit developments under a certain circumstance”.

On page 3, strike in their entirety lines 2 through 6, inclusive.

AMENDMENT NO. 2

On page 7, strike beginning with “CHIEF” in line 21 down through “WATERSHED” in line 23 and substitute “MAYOR OF OCEAN CITY”.

AMENDMENT NO. 3

On page 13, after line 5, insert:

“(F) IN ADOPTING THE INITIAL LAND CLASSIFICATION FOR THE ATLANTIC COASTAL BAYS CRITICAL AREA, THE LOCAL PROGRAM:

(1) OF THE TOWN OF OCEAN CITY SHALL CLASSIFY AS AN

(Over)

INTENSELY DEVELOPED AREA THAT AREA THAT IS WITHIN THE MUNICIPAL BOUNDARIES OF OCEAN CITY AS OF JANUARY 1, 2002; AND

(2) OF WORCESTER COUNTY SHALL CLASSIFY AS AN INTENSELY DEVELOPED AREA THAT AREA LOCATED ON THE WESTERN MAINLAND THAT IS EAST OF GOLF COURSE ROAD, SOUTH OF CHARLES STREET, AND NORTH OF ROUTE 707 (OLD BRIDGE ROAD).”;

and in line 6, strike “(F)” and substitute “(G)”.

AMENDMENT NO. 4

On page 14, strike in their entirety lines 10 through 19, inclusive, and substitute:

“(D) (1) SUBJECT TO THE CONDITIONS UNDER PARAGRAPHS (2) AND (3) OF THIS SUBSECTION, IF A JURISDICTION HAS WITHIN ITS TERRITORIAL LIMITS AN AREA THAT IS SUBJECT TO THE CHESAPEAKE BAY CRITICAL AREA PROGRAM AND AN AREA THAT IS SUBJECT TO THE ATLANTIC COASTAL BAYS CRITICAL AREA PROGRAM, THE GROWTH ALLOCATION FOR THAT JURISDICTION MAY BE UTILIZED WITHIN EITHER CRITICAL AREA, AS THE JURISDICTION’S LOCAL PROGRAM CONSIDERS APPROPRIATE.

(2) A LOCAL JURISDICTION’S PROGRAM MAY NOT UTILIZE THE GROWTH ALLOCATION FROM ANOTHER CRITICAL AREA UNLESS THE GROWTH ALLOCATION REMAINING IN EITHER CRITICAL AREA IS INSUFFICIENT TO ALLOW APPROVAL OF A GROWTH ALLOCATION PROPOSAL ASSOCIATED WITH A PROGRAM AMENDMENT FOR WHICH THE LOCAL PROGRAM SEEKS COMMISSION APPROVAL.

(3) A LOCAL JURISDICTION’S PROGRAM MAY NOT TRANSFER MORE THAN 150 ACRES OF GROWTH ALLOCATION TO ANOTHER CRITICAL AREA.”;

and in line 33, strike “BROTHER, SISTER,”.

AMENDMENT NO. 5

On pages 17 and 18, strike in their entirety the lines beginning with line 30 on page 17

through line 4 on page 18.

On page 18, in line 11, strike “(2)” and substitute “(A)”; in the same line, after “SECTION,” insert “EACH LOCAL JURISDICTION IN THE ATLANTIC COASTAL BAYS CRITICAL AREA SHALL INCLUDE IN ITS LOCAL CRITICAL AREA PROTECTION PROGRAM”; strike beginning with “; AND” in line 16 down through “JURISDICTIONS” in line 24; and in lines 29 and 38, in each instance, strike “(A)(2)” and substitute “(A)”.

On page 19, strike in their entirety lines 1 through 7, inclusive, and substitute:

“(C) EACH LOCAL JURISDICTION IN THE ATLANTIC COASTAL BAYS CRITICAL AREA MAY INCLUDE IN ITS LOCAL CRITICAL AREA PROTECTION PROGRAM:

(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;

(2) A PROVISION APPLYING BUFFER REQUIREMENTS TO TRIBUTARY STREAMS LOCATED OUTSIDE THE CRITICAL AREA AND WITHIN THE ATLANTIC COASTAL BAYS WATERSHED THAT ARE NOTED AS PERENNIAL AND INTERMITTENT STREAMS IN THE ATLANTIC COASTAL BAYS WATERSHED THAT ARE SO 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; AND

(3) TO THE EXTENT OTHERWISE PERMITTED BY LAW, A PROVISION REGARDING IMPROVEMENTS OVER STATE OR PRIVATE WETLANDS, INCLUDING CRITERIA FOR THE PROTECTION OF WATER QUALITY AND FISH, WILDLIFE, AND PLANT HABITATS, AND THE USE AND CONSTRUCTION OF PRIVATE AND COMMUNITY PIERS IN THE LOCAL JURISDICTION.

(D) ON REQUEST, THE DEPARTMENT SHALL ASSIST A LOCAL JURISDICTION

(Over)

IN THE PREPARATION OF:

(1) ANY MORE DETAILED MAPS OR STUDIES NECESSARY TO IMPLEMENT THE BUFFER PROVISIONS UNDER SUBSECTION (C)(2) OF THIS SECTION; AND

(2) THE WETLAND PROTECTION PROVISIONS UNDER SUBSECTION (C) (3) OF THIS SECTION.

(E) IF A LOCAL JURISDICTION ADOPTS PROVISIONS CONSISTENT WITH SUBSECTION (C)(2) OF THIS SECTION, AGRICULTURAL ACTIVITIES ARE PERMITTED IN THE BUFFER OUTSIDE THE CRITICAL AREA AND IN THE ATLANTIC COASTAL BAYS WATERSHED THAT ARE IN ACCORDANCE WITH TITLE 27 OF THE CODE OF MARYLAND REGULATIONS UNDER AN APPROVED SOIL CONSERVATION AND WATER QUALITY PLAN.”;

in line 19, strike “REQUIRING A MINIMUM” and substitute “APPLYING A”; strike beginning with “OF” in line 19 down through “REGULATIONS” in line 21; and strike beginning with “IF” in line 27 down through “(D)” in line 31.

AMENDMENT NO. 6

On page 28, in line 13, after “(III)” insert “1.”; and after line 16, insert:

“2. “PLANNED UNIT DEVELOPMENT” INCLUDES A RESIDENTIAL PLANNED COMMUNITY.”.

AMENDMENT NO. 7

On pages 31 and 32, strike in their entirety the lines beginning with line 7 on page 31 through line 37 on page 32.

AMENDMENT NO. 8

On page 32, after line 37, insert:

“SECTION 2. AND BE IT FURTHER ENACTED, That:

(a) (1) Except as provided in subsection (b) of this section, this Act may not be construed to apply to the initial development of a planned unit development, as defined in § 5-1601 of the Natural Resources Article, and including a residential planned community:

(i) for which the following are issued prior to June 1, 2002:

1. a valid Step III approval in accordance with the current Worcester County Zoning and Subdivision Control Ordinance; and

2. at least 3 of the following State permits:

A. groundwater discharge or surface water discharge;

B. nontidal wetlands;

C. water quality certification; and

D. water appropriation; and

(ii) which is subdivided into recorded and legally buildable lots.

(2) The growth allocation for Worcester County's Atlantic Coastal Bays resource conservation area shall be reduced by an amount equal to the total acreage exempted under this subsection that is or would be located in a resource conservation area multiplied by 25%.

(b) (1) Except as provided in paragraph (2) of this subsection, if a planned unit development described in subsection (a) of this section includes an inland marina built after April 8, 2002:

(i) at least 85% of the dwelling units in the planned unit development shall comply with the buffer requirements in COMAR 27.01.09.01; and

(ii) no dwelling unit may have a buffer of less than 50 feet from existing or proposed tidal waters, tidal wetlands, or tributary streams.

(2) Paragraph (1) of this subsection may not apply to those dwelling units immediately adjacent to tidal waters in an inland marina built after April 8, 2002.

SECTION 3. AND BE IT FURTHER ENACTED, That, for the purpose of making improvements, this Act may not be construed to apply to a property:

(1) that, as of January 1, 2002, has received a valid special exception for fairground or racetrack use in an agricultural district; and

(2) is used consistently with that special exception.

SECTION 4. AND BE IT FURTHER ENACTED, That this Act may not be construed to apply to the initial development of the undeveloped property in Ocean City, Maryland, known locally as "Holland's Island," in accordance with the final site plan approval received on March 27, 2002."

On page 33, in line 1, strike "2." and substitute "5.".