

BY: Environmental Matters Committee

AMENDMENTS TO HOUSE BILL NO. 294
(First Reading File Bill)

AMENDMENT NO. 1

On page 1, in line 5, strike “(MDE)” ; in the same line, after “conditions;” insert “altering the process by which a person may apply for, receive, and maintain inculpable person status;”; in lines 6 and 18, in each instance, strike “MDE” and substitute “the Department”; in line 8, strike “authorizing MDE to develop” and substitute “requiring the Department to adopt”; in the same line, after “procedures” insert “and requirements”; in line 9, after “procedures” insert “and deadlines”; in line 10, strike “MDE’s” and substitute “the Department’s”; in line 12, after “notice;” insert “establishing certain liability protections for certain participants and successors in interest to certain property;”; in line 14, after “conditions;” insert “establishing certain fees for certain conditions on certain property;”; in line 15, strike “damage” and substitute “damages”; in line 16, after “circumstances;” insert “clarifying that certain actions by the Department do not affect certain active enforcement actions;”; strike beginning with “requiring” in line 17 down through “conditions;” in line 18; and in line 25, strike “defining” and substitute “altering the definitions of”.

On page 2, in line 8, strike “7-510(a),”.

AMENDMENT NO. 2

On pages 2 and 3, strike in their entirety the lines beginning with line 31 on page 2 through line 14 on page 3, inclusive, and substitute:

“(A) IN ADDITION TO BEING SUBJECT TO PENALTIES UNDER §§ 7-266 AND 7-267 OF THIS SUBTITLE AND COST RECOVERY UNDER § 7-221 OF THIS SUBTITLE, A RESPONSIBLE PERSON WHO FAILS WITHOUT SUFFICIENT CAUSE TO COMPLY WITH A FINAL ORDER ISSUED UNDER THIS SUBTITLE IS SUBJECT TO PUNITIVE DAMAGES, NOT EXCEEDING THREE TIMES THE AMOUNT OF ANY COSTS THAT ARE INCURRED BY THE STATE:

(Over)

(1) AFTER THE DATE OF THE FINAL DECISION AS PROVIDED IN SUBSECTION (B) OF THIS SECTION; AND

(2) AS A RESULT OF THE RESPONSIBLE PERSON'S FAILURE TO COMPLY WITH THE FINAL ORDER.

(B) (1) BEFORE SEEKING THE PUNITIVE DAMAGES AUTHORIZED BY SUBSECTION (A) OF THIS SECTION, THE DEPARTMENT SHALL ISSUE TO THE RESPONSIBLE PERSON A DETERMINATION THAT THE RESPONSIBLE PERSON FAILED WITHOUT SUFFICIENT CAUSE TO COMPLY WITH A FINAL ORDER ISSUED UNDER THIS SUBTITLE.

(2) A RESPONSIBLE PERSON SUBJECT TO A DETERMINATION ISSUED BY THE DEPARTMENT UNDER PARAGRAPH (1) OF THIS SUBSECTION IS ENTITLED TO A CONTESTED CASE HEARING TO DETERMINE WHETHER THE RESPONSIBLE PERSON HAD SUFFICIENT CAUSE FOR THE FAILURE TO COMPLY WITH THE FINAL ORDER.

(3) FOLLOWING A FINAL DECISION UPHOLDING THE DETERMINATION ISSUED BY THE DEPARTMENT, THE STATE MAY COMMENCE A CIVIL ACTION AGAINST THE RESPONSIBLE PERSON TO RECOVER THE PUNITIVE DAMAGES.”.

AMENDMENT NO. 3

On page 3, in line 20, strike “OR A PORTION OF A PROPERTY”.

On page 5, in line 15, strike “1.”; in lines 16 and 22, strike “A.” and “B.”, respectively, and substitute “1.” and “2.”, respectively; and strike beginning with the second “AND” in line 25 down through “PROPERTY;” in line 28.

On page 10, strike in their entirety lines 8 through 16, inclusive.

AMENDMENT NO. 4

On page 3, in line 28, strike “MAY INCLUDE” and substitute “INCLUDES”; and in line 33, strike “ARE” and substitute “IS”.

AMENDMENT NO. 5

On page 4, in line 19, strike “an applicant’s” and substitute “A PERSON’S”; in line 20, strike “§”; in the same line, strike “7-506(E)(1)(I) of”; in the same line, strike “participant’s” and substitute “PERSON’S”; in lines 22 and 25, in each instance, strike “APPLICANT” and substitute “PERSON”; in line 22, strike “7-506(A)” and substitute “7-506(A)(1)(I), (II), AND (III)”; in line 23, strike “AN APPLICANT’S” and substitute “THE PERSON’S”; in line 26, strike “APPLICANT’S” and substitute “PERSON’S”; and after line 28, insert:

“(3) NOTWITHSTANDING PARAGRAPH (1) OF THIS SUBSECTION, THE DEPARTMENT’S APPROVAL OF A PERSON’S STATUS AS AN INCULPABLE PERSON EXPIRES IF THE APPLICATION, INCLUDING ANY APPLICABLE FEES, REQUIRED UNDER THIS SUBTITLE IS NOT FILED WITHIN 6 MONTHS AFTER THE APPROVAL OF A PERSON’S STATUS AS AN INCULPABLE PERSON.”.

AMENDMENT NO. 6

On page 5, in line 22, strike “IF” and substitute “UNLESS”; in line 23, after “CONCLUDES” insert a comma; in the same line, after “ASSESSMENT” insert “, ANY PUBLIC COMMENTS SUBMITTED DURING THE PUBLIC COMMENT PERIOD, AND INFORMATION IN THE DEPARTMENT’S FILES,”; and in the same line, after “ARE” insert “NO”.

AMENDMENT NO. 7

On page 5, in line 37, strike “AND”.

On page 6, in line 2, after “PROPERTY” insert “; AND

(III) AN APPLICATION FEE OF \$2,000 FOR EACH APPLICATION SUBMITTED SUBSEQUENT TO THE INITIAL APPLICATION FOR CONTIGUOUS OR ADJACENT PROPERTIES THAT ARE PART OF THE SAME PLANNED UNIT DEVELOPMENT OR A SIMILAR DEVELOPMENT PLAN”;

in line 4, after “DETERMINING” insert “WHETHER”; and in the same line, strike “APPLICANT’S STATUS FOR A DEMONSTRATION OF” and substitute “APPLICANT HAS DEMONSTRATED”.

AMENDMENT NO. 8

On page 6, in line 19, strike “AND”; and in line 22, after “OBTAINED” insert “; AND”

(III) THE TIME PERIOD DURING WHICH
THE DEPARTMENT WILL RECEIVE AND CONSIDER WRITTEN
COMMENTS FROM THE PUBLIC”.

AMENDMENT NO. 9

On page 8, in line 35, strike “§ 7-506(D)(2)” and substitute “SUBPARAGRAPH (I)”; and in the same line, strike “SECTION” and substitute “PARAGRAPH”.

On page 9, in line 2, strike “, SUBJECT TO APPROVAL BY THE DEPARTMENT,”; and in line 33, strike “INFORMATION” and substitute “INFORMATIONAL”.

On page 13, in line 33, strike “DID NOT AUTHORIZE” and substitute “AUTHORIZED”.

AMENDMENT NO. 10

On page 10, in line 2, after “section” insert “OR 5 DAYS AFTER THE PUBLIC INFORMATIONAL MEETING REQUIRED UNDER THIS SECTION, WHICHEVER IS LATER”; and in line 4, strike “45” and substitute “40”.