

BY: Environmental Matters Committee

AMENDMENTS TO HOUSE BILL NO. 1345

(First Reading File Bill)

AMENDMENT NO. 1

On page 1, in line 6, after “Program” insert “, with a certain exception”; and in line 7, after the semicolon insert “authorizing a local jurisdiction to consider one additional dwelling unit as part of a primary dwelling unit under certain circumstances and for certain purposes; providing for the construction of this Act; prohibiting the separate subdivision or conveyance of certain dwelling units under certain circumstances; requiring a local jurisdiction to maintain certain records and to report to the Critical Area Commission for the Chesapeake and Atlantic and Coastal Bays on a certain basis; requiring the Commission to report to certain legislative committees on a certain basis;”.

AMENDMENT NO. 2

On page 1, after line 14, insert:

“Preamble

WHEREAS, It is the intent of the General Assembly to clarify the definition of “dwelling unit” and to include all structures meeting that definition for the purpose of density calculations in the resource conservation area of the critical area; and

WHEREAS, The General Assembly realizes that, subject to certain limitations and local discretion, some local governments may prefer to provide a degree of flexibility in regard to an additional dwelling unit that may be considered part of a primary dwelling unit for density calculations; and

WHEREAS, It is the intent of the General Assembly to monitor the effect of this clarification and flexibility and their related density calculations, particularly as these refinements may impact the implementation of local critical area programs, and to provide further clarification, if necessary, to ensure that local programs are implemented in accordance with underlying legislative intent; now,

therefore.”.

AMENDMENT NO. 3

On page 3, in line 22, strike “In” and substitute “(1) EXCEPT AS AUTHORIZED UNDER PARAGRAPH (2) OF THIS SUBSECTION, IN”; in lines 24, 27, 29, and 31, strike “(1)”, “(2)”, “(I)”, and “(II)”, respectively, and substitute “(I)”, “(II)”, “1.”, and “2.”, respectively; strike beginning with “, REGARDLESS” in line 24 down through “OCCUPANCY” in line 26; and after line 32, insert:

“(2) (I) WITHIN A RESOURCE CONSERVATION AREA, A LOCAL JURISDICTION MAY CONSIDER ONE ADDITIONAL DWELLING UNIT PER LOT OR PARCEL AS PART OF A PRIMARY DWELLING UNIT FOR THE PURPOSE OF THE DENSITY CALCULATION UNDER THIS SUBSECTION IF THE ADDITIONAL DWELLING UNIT:

1. A. IS LOCATED WITHIN THE PRIMARY DWELLING UNIT OR ITS ENTIRE PERIMETER IS WITHIN 100 FEET OF THE PRIMARY DWELLING UNIT;

B. DOES NOT EXCEED 900 SQUARE FEET IN TOTAL ENCLOSED AREA; AND

C. IS SERVED BY THE SAME SEWAGE DISPOSAL SYSTEM AS THE PRIMARY DWELLING UNIT; OR

2. A. IS LOCATED WITHIN THE PRIMARY DWELLING UNIT;

B. BY ITS CONSTRUCTION, DOES NOT INCREASE THE AMOUNT OF IMPERVIOUS SURFACE ALREADY ATTRIBUTED TO THE PRIMARY DWELLING UNIT; AND

C. IS SERVED BY THE SAME SEWAGE DISPOSAL SYSTEM AS THE PRIMARY DWELLING UNIT.

(II) THE PROVISIONS OF THIS PARAGRAPH MAY NOT BE CONSTRUED TO REQUIRE A LOCAL JURISDICTION TO CONSIDER AN ADDITIONAL DWELLING UNIT AS PART OF A PRIMARY DWELLING UNIT FOR THE PURPOSE OF THE DENSITY CALCULATION UNDER THIS SUBSECTION.

(III) AN ADDITIONAL DWELLING UNIT MEETING ALL THE CRITERIA UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH THAT IS SEPARATE FROM THE PRIMARY DWELLING UNIT MAY NOT BE SUBDIVIDED OR CONVEYED SEPARATELY FROM THE PRIMARY DWELLING UNIT.

(3) (I) EACH LOCAL JURISDICTION SHALL:

1. MAINTAIN RECORDS OF ALL BUILDING PERMITS ISSUED UNDER THIS SUBSECTION FOR ADDITIONAL DWELLING UNITS CONSIDERED PART OF A PRIMARY DWELLING UNIT; AND

2. PROVIDE THIS INFORMATION ON A QUARTERLY BASIS TO THE COMMISSION.

(II) BEGINNING ON NOVEMBER 1, 2004 AND ANNUALLY THEREAFTER, THE COMMISSION SHALL REPORT, SUBJECT TO § 2-1246 OF THE STATE GOVERNMENT ARTICLE, TO THE SENATE EDUCATION, HEALTH, AND ENVIRONMENTAL AFFAIRS COMMITTEE, THE HOUSE ENVIRONMENTAL MATTERS COMMITTEE, AND THE JOINT COMMITTEE ON THE CHESAPEAKE AND ATLANTIC COASTAL BAYS CRITICAL AREA REGARDING THE CONSTRUCTION OF ADDITIONAL DWELLING UNITS CONSIDERED PART OF A PRIMARY DWELLING UNIT UNDER THIS SUBSECTION.

(4) THE PROVISIONS OF THIS SUBSECTION:

(I) APPLY TO DENSITY CALCULATIONS ONLY; AND

(II) MAY NOT BE CONSTRUED TO AUTHORIZE A LOCAL JURISDICTION TO GRANT A VARIANCE, UNLESS THE VARIANCE IS GRANTED IN ACCORDANCE WITH THE REQUIREMENTS OF § 8-1808(D) OF THIS SUBTITLE.”.