
By: **Chairman, Environmental Matters Committee (By Request -
Departmental - Environment)**

Introduced and read first time: February 2, 2004

Assigned to: Environmental Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Water Management Administration - Wetlands and Waterways Programs**
3 **Fees**

4 FOR the purpose of authorizing the collection of certain application and processing
5 fees to administer regulatory programs for the management, conservation, and
6 protection of tidal wetlands, nontidal wetlands, and waterways, including the
7 100-year floodplain; authorizing the collection of monetary compensation at
8 marinas constructed over State wetlands; establishing a special fund dedicated
9 to the administration of the wetlands and waterways regulatory programs
10 within the Department of the Environment; specifying the use of other special
11 funds; and generally relating to the wetlands and waterways programs.

12 BY adding to
13 Article - Environment
14 Section 5-203(g) and 5-203.1
15 Annotated Code of Maryland
16 (1996 Replacement Volume and 2003 Supplement)

17 BY repealing and reenacting, with amendments,
18 Article - Environment
19 Section 16-205
20 Annotated Code of Maryland
21 (1996 Replacement Volume and 2003 Supplement)

22 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
23 MARYLAND, That the Laws of Maryland read as follows:

1 **Article - Environment**

2 5-203.

3 (G) (1) THE DEPARTMENT MAY ADOPT RULES AND REGULATIONS
4 NECESSARY TO ADMINISTER TITLE 5, SUBTITLES 5 AND 9, AND TITLE 16 OF THIS
5 ARTICLE, IN ACCORDANCE WITH § 10-111(A) OF THE STATE GOVERNMENT ARTICLE.

6 (2) A RULE OR REGULATION ADOPTED UNDER THIS SUBSECTION SHALL
7 SET REASONABLE APPLICATION AND PROCESSING FEES FOR PERMITS AND
8 LICENSES ISSUED BY THE DEPARTMENT OR THE BOARD OF PUBLIC WORKS UNDER §§
9 5-503, 5-906, 16-202, 16-302, AND 16-307 OF THIS ARTICLE.

10 (3) A RULE OR REGULATION ADOPTED UNDER THIS SUBSECTION SHALL
11 ESTABLISH A REASONABLE FEE SCHEDULE THAT:

12 (I) PROVIDES FINANCIAL INCENTIVES TO CONSERVE THE STATE'S
13 TIDAL WETLANDS, NONTIDAL WETLANDS, AND WATERWAYS;

14 (II) RELATES TO THE ANTICIPATED COST TO THE DEPARTMENT OF
15 REGULATING AND MONITORING ACTIVITIES WITHIN TIDAL WETLANDS, NONTIDAL
16 WETLANDS, AND WATERWAYS; AND

17 (III) SUPPORTS THE ANTICIPATED NEEDS OF THE DEPARTMENT
18 FOR PROGRAM DEVELOPMENT ACTIVITIES, INCLUDING:

19 1. CONDUCTING WATERSHED STUDIES, FUNCTIONAL
20 RESOURCE ASSESSMENTS, AND EDUCATIONAL PROGRAMS;

21 2. MONITORING AND ASSESSING THE CUMULATIVE IMPACTS
22 ASSOCIATED WITH REGULATED ACTIVITIES ON THE STATE'S WETLANDS AND
23 WATERWAYS; AND

24 3. PROVIDING TECHNICAL ASSISTANCE TO LOCAL
25 GOVERNMENTS.

26 (4) IN ADOPTING A RULE OR REGULATION UNDER THIS SUBSECTION,
27 THE DEPARTMENT SHALL CONSULT WITH REPRESENTATIVES OF THE REGULATED
28 COMMUNITY.

29 (5) ALL APPLICATION AND PROCESSING FEES COLLECTED BY THE
30 DEPARTMENT UNDER THIS SUBSECTION SHALL BE PAID INTO THE WETLANDS AND
31 WATERWAYS PROGRAM FUND.

32 5-203.1.

33 (A) THERE IS A WETLANDS AND WATERWAYS PROGRAM FUND.

34 (B) ALL FEES IMPOSED UNDER § 5-203 SHALL BE PAID INTO THE WETLANDS
35 AND WATERWAYS PROGRAM FUND.

1 (C) THE DEPARTMENT SHALL USE THE WETLANDS AND WATERWAYS
2 PROGRAM FUND FOR ACTIVITIES RELATED TO:

3 (1) PROGRAM DEVELOPMENT ASSOCIATED WITH THIS ARTICLE AS
4 PROVIDED BY THE STATE BUDGET;

5 (2) MANAGEMENT, CONSERVATION, PROTECTION, AND PRESERVATION
6 OF THE STATE'S WETLANDS AND WATERWAYS; AND

7 (3) REMOVAL OF WATERWAY OBSTRUCTIONS, THE FAILURE OF WHICH
8 HAS THE POTENTIAL TO CAUSE POLLUTION OF THE WATERS OF THE STATE.

9 (D) NOTWITHSTANDING ANY LAW TO THE CONTRARY, UNEXPENDED MONEYS
10 AND ANY ACCRUED INTEREST IN THE FUND SHALL NOT REVERT TO THE GENERAL
11 FUND AT THE END OF A FISCAL YEAR.

12 16-205.

13 (a) The Board may require as a condition to issuance of a wetlands license
14 that compensation be made to the State, of a kind and in an amount deemed
15 appropriate by the Board.

16 (B) (1) IN THIS SUBSECTION, "MARINA" MEANS A FACILITY FOR THE
17 MOORING, DOCKING, OR STORING OF MORE THAN 10 VESSELS ON TIDAL NAVIGABLE
18 WATERS.

19 (2) THE BOARD SHALL REQUIRE THE OWNER OF ANY PUBLIC OR
20 PRIVATE COMMERCIAL MARINA CONSTRUCTED OVER STATE WETLANDS TO MAKE
21 ANNUAL COMPENSATION TO THE STATE, ASSESSED AT A RATE OF \$50 PER SLIP AND
22 PAYABLE TO THE DEPARTMENT ON OR BEFORE JUNE 30 OF EACH YEAR.

23 (3) THE ASSESSMENT RATE MAY BE ADJUSTED BY A MAJORITY ACTION
24 OF THE BOARD.

25 [(b)] (C) Monetary compensation received by the State in conjunction with a
26 wetlands license OR MARINA may not be applied to the State annuity bond fund
27 account.

28 [(c)] (D) (1) There is created a special fund, known as the TIDAL Wetlands
29 Compensation Fund. [Any monetary compensation paid to the State in conjunction
30 with a wetlands license shall be credited to the Wetlands Compensation Fund.]

31 (2) THE FOLLOWING MONEY SHALL BE DEPOSITED IN THE TIDAL
32 WETLANDS COMPENSATION FUND:

33 (I) ANY MONETARY COMPENSATION PAID BY AN APPLICANT
34 INSTEAD OF ENGAGING IN THE CREATION, RESTORATION, OR ENHANCEMENT OF A
35 TIDAL WETLAND; AND

1 (II) ANY CIVIL OR CRIMINAL PENALTY IMPOSED BY A COURT IN
2 ACCORDANCE WITH THIS TITLE.

3 [(d)] (E) Funds in the TIDAL Wetlands Compensation Fund may be
4 appropriated only for [acquisition and conservation of wetland areas by the State,
5 including cost sharing assistance to landowners in the management and control of
6 phragmites under Title 8, Subtitle 21 of the Natural Resources Article] THE
7 CREATION, RESTORATION, OR ENHANCEMENT OF TIDAL WETLANDS, INCLUDING:

8 (1) ACQUISITION OF LAND;

9 (2) ACQUISITION OF EASEMENTS;

10 (3) MAINTENANCE OF MITIGATION SITES;

11 (4) PURCHASE OF CREDITS IN MITIGATION BANKS;

12 (5) COST SHARING ASSISTANCE TO LANDOWNERS IN THE MANAGEMENT
13 AND CONTROL OF PHRAGMITES UNDER TITLE 8, SUBTITLE 21 OF THE NATURAL
14 RESOURCES ARTICLE; AND

15 (6) CONTRACTUAL SERVICES NECESSARY TO ACCOMPLISH THE INTENT
16 OF THIS SUBSECTION.

17 [(e)] (F) Funds [appropriated in the budget for wetlands acquisition and
18 conservation under this section] CREDITED AND ANY INTEREST ACCRUED TO THE
19 TIDAL WETLANDS COMPENSATION FUND:

20 (1) Shall remain available until expended; and

21 (2) May not be reverted TO THE GENERAL FUND under any other
22 provision of law.

23 (G) ALL MONETARY COMPENSATION OTHER THAN THAT SPECIFIED IN
24 SUBSECTION (D)(2) SHALL BE DEPOSITED IN THE WETLANDS AND WATERWAYS
25 PROGRAM FUND.

26 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
27 October 1, 2004.