
By: **Delegates V. Clagett and McMillan**
Introduced and read first time: February 13, 2004
Assigned to: Environmental Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Municipal Corporations - Decisions of Port Wardens - Appeals**

3 FOR the purpose of authorizing an aggrieved party to appeal a decision of a board of
4 port wardens concerning the discharge of the duties of the port wardens to the
5 circuit court for the appropriate county if authorized by the municipal
6 corporation by ordinance; and generally relating to appeals from the decisions of
7 a board of port wardens created by a municipal corporation.

8 BY repealing and reenacting, with amendments,
9 Article 23A - Corporations - Municipal
10 Section 2(b)(23A)
11 Annotated Code of Maryland
12 (2001 Replacement Volume and 2003 Supplement)

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

15 **Article 23A - Corporations - Municipal**

16 2.

17 (b) In addition to, but not in substitution of, the powers which have been, or
18 may hereafter be, granted to it, such legislative body also shall have the following
19 express ordinance-making powers:

20 (23A) The municipal corporation may provide for the creation,
21 appointment, duties, and powers of a board of port wardens to exercise jurisdiction
22 within the limits of the municipal corporation.

23 (i) A board of port wardens may regulate the placement, erection,
24 or construction of structures or other barriers within or on the waters of the
25 municipality, including but not limited to the issuing of licenses to create or build
26 wharves or piers and the issuing of permits for mooring piles, floating wharves,
27 buoys, or anchors, taking into account the present and proposed uses, and the effect of
28 present and proposed uses on marine life, wildlife, conservation, water pollution,

1 erosion, navigational hazards, the effect of the proposed use on congestion within the
2 waters, the effect on other riparian property owners, and the present and projected
3 needs for any proposed commercial or industrial use. The port wardens shall have the
4 power to regulate the materials and construction for the aforesaid improvements and
5 to make certain that any improvements in the waters within the municipality do not
6 render the navigation too close and confined. This provision in no way intends to
7 affect or conflict with any zoning power of a municipality.

8 (ii) No person may build any wharf or pier, or carry out any earth or
9 other material for the purpose of building a wharf or pier, nor shall any persons place
10 or erect mooring piles, floating wharves, buoys, or anchors without a license or permit
11 from the port wardens. If any person violates the provisions of this section, or if any
12 person builds any wharf or pier a greater distance into the waters of the port, or in a
13 different form, or of different materials than determined and allowed by the wardens,
14 he is subject to a fine as imposed by the legislative body of the municipal corporation.

15 (iii) In all differences that arise between any aggrieved party and
16 the port wardens of that municipal corporation concerning the discharge of the duties
17 of the port wardens, an appeal may be taken to the legislative body of the municipal
18 corporation OR, IF AUTHORIZED BY THE MUNICIPAL CORPORATION BY ORDINANCE,
19 TO THE CIRCUIT COURT FOR THE APPROPRIATE COUNTY.

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