

SENATE BILL 795

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2004 Regular Session  
4r2782  
CF 4r2783

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By: **Senator Dyson (Chairman, Joint Committee on the Chesapeake and Atlantic Coastal Bays Critical Area)**

Introduced and read first time: February 16, 2004

Assigned to: Rules

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A BILL ENTITLED

1 AN ACT concerning

2 **Chesapeake and Atlantic Coastal Bays Critical Area Protection Program -**  
3 **Dwelling Units**

4 FOR the purpose of requiring a local jurisdiction to include all dwelling units in  
5 calculating a certain dwelling unit density ratio under the Chesapeake and  
6 Atlantic Coastal Bays Critical Area Protection Program; defining the term  
7 "dwelling unit" as it applies to the critical area program; providing for the  
8 application of this Act; and generally relating to dwelling units in the  
9 Chesapeake and Atlantic Coastal Bays Critical Area.

10 BY repealing and reenacting, with amendments,  
11 Article - Natural Resources  
12 Section 8-1802(a) and 8-1808.1(e)  
13 Annotated Code of Maryland  
14 (2000 Replacement Volume and 2003 Supplement)

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

17 **Article - Natural Resources**

18 8-1802.

19 (a) (1) In this subtitle the following words have the meanings indicated.

20 (2) "Atlantic Coastal Bays" means the Assawoman, Isle of Wight,  
21 Sinepuxent, Newport, and Chincoteague Bays.

22 (3) "Atlantic Coastal Bays Critical Area" means the initial planning area  
23 identified under § 8-1807 of this subtitle.

24 (4) "Chesapeake Bay Critical Area" means the initial planning area  
25 identified under § 8-1807 of this subtitle.

1 (5) "Commission" means the Critical Area Commission for the  
2 Chesapeake and Atlantic Coastal Bays established in this subtitle.

3 (6) "Critical Area" means the Chesapeake Bay Critical Area and the  
4 Atlantic Coastal Bays Critical Area.

5 (7) "Development" means any activity that materially affects the  
6 condition or use of dry land, land under water, or any structure.

7 (8) (I) "DWELLING UNIT" MEANS A SINGLE UNIT PROVIDING  
8 COMPLETE, INDEPENDENT LIVING FACILITIES FOR AT LEAST ONE PERSON,  
9 INCLUDING PERMANENT PROVISIONS FOR SANITATION, COOKING, EATING,  
10 SLEEPING, AND OTHER ACTIVITIES ROUTINELY ASSOCIATED WITH DAILY LIFE.

11 (II) "DWELLING UNIT" INCLUDES A LIVING QUARTERS FOR A  
12 DOMESTIC OR OTHER EMPLOYEE OR TENANT, AN IN-LAW OR ACCESSORY  
13 APARTMENT, A GUEST HOUSE, OR A CARETAKER RESIDENCE.

14 (9) "Growth allocation" means the number of acres of land in the  
15 Chesapeake Bay Critical Area or Atlantic Coastal Bays Critical Area that a local  
16 jurisdiction may use to create new intensely developed areas and new limited  
17 development areas.

18 [(9)] (10) "Includes" means includes or including by way of illustration  
19 and not by way of limitation.

20 [(10)] (11) "Land classification" means the designation of land in the  
21 Chesapeake Bay Critical Area or Atlantic Coastal Bays Critical Area in accordance  
22 with the criteria adopted by the Commission as an intensely developed area or  
23 district, a limited development area or district, or a resource conservation area or  
24 district.

25 [(11)] (12) "Local jurisdiction" means a county, or a municipal  
26 corporation with planning and zoning powers, in which any part of the Chesapeake  
27 Bay Critical Area or the Atlantic Coastal Bays Critical Area, as defined in this  
28 subtitle, is located.

29 [(12)] (13) (i) "Program" means the critical area protection program of  
30 a local jurisdiction.

31 (ii) "Program" includes any amendments to the program.

32 [(13)] (14) (i) "Program amendment" means any change to an adopted  
33 program that the Commission determines will result in a use of land or water in the  
34 Chesapeake Bay Critical Area or the Atlantic Coastal Bays Critical Area in a manner  
35 not provided for in the adopted program.

36 (ii) "Program amendment" includes a change to a zoning map that  
37 is not consistent with the method for using the growth allocation contained in an  
38 adopted program.

1            [(14)]    (15)    (i)    "Program refinement" means any change to an adopted  
2 program that the Commission determines will result in a use of land or water in the  
3 Chesapeake Bay Critical Area or the Atlantic Coastal Bays Critical Area in a manner  
4 consistent with the adopted program.

5                            (ii)    "Program refinement" includes:

6    1.    A change to a zoning map that is consistent with the  
7 development area designation of an adopted program; and

8    2.    The use of the growth allocation in accordance with an  
9 adopted program.

10            [(15)]    (16)    (i)    "Project approval" means the approval of development,  
11 other than development by a State or local government agency, in the Chesapeake  
12 Bay Critical Area or the Atlantic Coastal Bays Critical Area by the appropriate local  
13 approval authority.

14                            (ii)    "Project approval" includes:

15    1.    Approval of subdivision plats and site plans;

16    2.    Inclusion of areas within floating zones;

17    3.    Issuance of variances, special exceptions, and conditional  
18 use permits; and

19    4.    Approval of rezoning.

20                            (iii)    "Project approval" does not include building permits.

21 8-1808.1.

22    (e)    In calculating the 1-in-20 acre density of development that is permitted  
23 on a parcel located within the resource conservation area, a local jurisdiction [may]:

24            (1)    SHALL COUNT EACH DWELLING UNIT, REGARDLESS OF THE SIZE OF  
25 THE DWELLING UNIT, ITS LOCATION OR CONFIGURATION, OR ANY RESTRICTIONS ON  
26 ITS OCCUPANCY; AND

27            (2)    MAY permit the area of any private wetlands located on the property  
28 to be included, under the following conditions:

29                            [(1)]    (I)    The density of development on the upland portion of the  
30 parcel may not exceed 1 dwelling unit per 8 acres; and

31                            [(2)]    (II)    The area of private wetlands shall be estimated on the basis  
32 of vegetative information as designated on the State wetlands maps.

33    SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be  
34 construed to apply only prospectively and may not be applied or interpreted to have

1 any effect on or application to any dwelling unit in existence or for which all necessary  
2 permits for construction had been issued before the effective date of this Act.

3 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take  
4 effect June 1, 2004.