

Department of Legislative Services

Maryland General Assembly

2004 Session

FISCAL AND POLICY NOTE

Revised

House Bill 1345 (Delegate Frush) (Chairman, Joint Committee on the Chesapeake and Atlantic Coastal Bays Critical Area)

Environmental Matters

Education, Health, and Environmental Affairs

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

This bill requires a local jurisdiction, in calculating the 1-in-20 acre density of development permitted on a parcel within a resource conservation area (RCA) under the Chesapeake and Atlantic Coastal Bays Critical Area Protection Program, to count each “dwelling unit,” except under specified conditions. The bill establishes specified reporting requirements.

The bill takes effect June 1, 2004.

Fiscal Summary

State Effect: While the bill could result in a decrease in the construction of dwelling units in some counties, the bill would not significantly affect State operations or finances.

Local Effect: The bill would not significantly affect local operations or finances.

Small Business Effect: Minimal.

Analysis

Bill Summary: “Dwelling unit” means a single unit providing complete, independent living facilities for at least one person including permanent provisions for sanitation, cooking, eating, sleeping, and other activities routinely associated with daily life. The

term includes living quarters for a domestic or other employee or tenant, an in-law or accessory apartment, a guest house, or a caretaker residence.

Within an RCA, a local jurisdiction may consider one additional dwelling unit per lot or parcel as part of a primary dwelling unit if the additional dwelling unit meets specified criteria. Each local jurisdiction must maintain records on these additional dwelling units and report quarterly to the Chesapeake and Atlantic Coastal Bays Critical Area Commission; the commission, in turn, must report annually to specified committees of the General Assembly.

Current Law: Chapter 794 of 1984 established the Chesapeake Bay Critical Area Protection Program in the Department of Natural Resources to foster more sensitive development activity in a consistent and uniform manner along shoreline areas of the Chesapeake Bay and its tributaries. Chapter 433 of 2002 expanded the Chesapeake Bay Critical Area Law to include the Atlantic Coastal Bays and their tributaries. Each local jurisdiction has primary responsibility for developing and implementing a local program, subject to review and approval by the Chesapeake and Atlantic Coastal Bays Critical Area Commission.

Parts of the critical areas include RCAs, which are characterized by natural environments or by activities such as agriculture, aquaculture, commercial forestry, and fisheries. In an RCA, new development is limited to a 1-in-20 acre density requirement. In calculating the density, a local jurisdiction may permit the area of any private wetlands located on the property to be included under specified conditions.

Background: According to the commission, local jurisdictions are inconsistent in how they calculate the 1-in-20 acre density of development with respect to dwelling units. While the first portion of the bill's definition of "dwelling unit" is the definition already used by local programs, the statute is silent as to how guest houses and other similar structures relate to this definition. Furthermore, there is no statutory requirement as to how these guest houses and similar structures are to be handled in the density calculation. As a result, some local programs count them in the density calculation, while others do not. This bill is intended to clarify the original intent of the density calculation and provide consistency across local programs.

Additional Information

Prior Introductions: None.

Cross File: SB 795 (Senator Dyson) (Chairman, Joint Committee on the Chesapeake and Atlantic Coastal Bays Critical Area) – Education, Health, and Environmental Affairs.

Information Source(s): Department of Natural Resources, Harford County, Carroll County, Montgomery County, Department of Legislative Services

Fiscal Note History: First Reader - March 17, 2004
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