
By: **Delegates Bozman, Cane, V. Clagett, Conway, Frush, Heller, King, and Moe**

Introduced and read first time: February 10, 2006

Assigned to: Environmental Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Atlantic Coastal Bays - Leasing Submerged Land for Clam Cultivation -**
 3 **Prohibition**

4 FOR the purpose of prohibiting the leasing of submerged areas for the purpose of
 5 clam cultivation in the Atlantic Coastal Bays; prohibiting clam cultivation for a
 6 certain area within property protected by the Rural Legacy Program;
 7 prohibiting the leasing of a submerged area for a certain area within property
 8 not protected by the Rural Legacy Program; and generally relating to leasing
 9 submerged areas for clam cultivation.

10 BY repealing and reenacting, without amendments,
 11 Article - Natural Resources
 12 Section 4-11A-05(a), (b), and (c)
 13 Annotated Code of Maryland
 14 (2005 Replacement Volume and 2005 Supplement)

15 BY adding to
 16 Article - Natural Resources
 17 Section 4-11A-05(g) and 4-11A-23
 18 Annotated Code of Maryland
 19 (2005 Replacement Volume and 2005 Supplement)

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

22 **Article - Natural Resources**

23 4-11A-05.

24 (a) (1) The Department may lease, in the name of the State, tracts or parcels
 25 of land beneath the waters of the State to residents of the State for protecting, sowing,
 26 bedding, or cultivating oysters or other shellfish, subject to the provisions of this
 27 section. These submerged lands when leased shall be known as leased oyster bottoms.

1 (2) (i) Except as provided in this paragraph, a corporation or joint
2 stock company may not lease or acquire by assignment or otherwise any submerged
3 land of the State for the purposes of this section.

4 (ii) A 4-H club in the State may lease or acquire not more than 10
5 acres of submerged land for the purposes of this section.

6 (iii) 1. An incorporated college or university within the State
7 having an enrollment of at least 700 undergraduate, degree-seeking students may
8 acquire, by assignment, gift, or bequest, submerged land for education and research
9 purposes only.

10 2. An incorporated college or university may not transfer or
11 attempt to transfer any interest in submerged land acquired under the provision of
12 item 1 of this subparagraph to any person, corporation, or joint stock company.

13 3. Any transfer or attempt to transfer an interest in
14 submerged land acquired under the provisions of item 1 of this subparagraph shall be
15 void, and the interest in submerged land shall revert to the State without the
16 necessity of any action by the State.

17 (iv) 1. A nonstock, nonprofit corporation organized under the
18 laws of this State exclusively for educational purposes may lease or acquire not more
19 than two leases consisting of not more than 30 acres each of submerged land in the
20 Severn River for educational or ecological purposes.

21 2. A. Except as provided in sub-sub-subparagraph B of
22 this sub-subparagraph, a nonstock, nonprofit corporation organized exclusively for
23 educational purposes may not transfer or attempt to transfer any interest in
24 submerged land acquired under the provisions of sub-subparagraph 1 of this
25 subparagraph to any person, corporation, or joint stock company.

26 B. The nonprofit, nonstock corporation may harvest oysters
27 in accordance with a harvesting program approved by the Department provided that
28 any revenues from harvesting are maintained by the nonstock, nonprofit corporation
29 exclusively for educational or ecological purposes and for the maintenance and
30 preservation of submerged lands leased by the nonprofit, nonstock corporation.

31 (3) Under regulations that the Department adopts, and in conjunction
32 with the 4-H advisory board in a county, the Department may make equal and
33 matching grants of up to \$1,000 a county for any number of 4-H clubs in a county
34 that:

35 (i) Are actively involved in oyster cultivation research;

36 (ii) Are leasing or acquiring any submerged land under paragraph
37 (2) of this subsection; and

38 (iii) Have received or have a guarantee to receive a research grant
39 from the county for oyster cultivation research.

1 (b) The Department may not lease any of the submerged areas of the State
2 within the jurisdictional boundaries of Dorchester, Kent, Queen Anne's, Somerset and
3 Talbot counties for oyster cultivation. The Department also may not lease any of the
4 submerged areas of the State in the tidewater tributaries of Charles County, except
5 the Patuxent River, for oyster cultivation. This subsection does not affect any existing
6 lease in Somerset County made prior to and effective on June 1, 1952; any lease in
7 Dorchester County made prior to and effective on June 1, 1957; in Charles County
8 made prior to and effective on July 1, 1968 and in Kent, Queen Anne's and Talbot
9 counties made prior to July 1, 1973. This subsection also does not prevent any lessee
10 from renewing, assigning, devising by will or prohibit the descendents of any lessee,
11 his heirs, or next of kin, from inheriting rights by the operation of the laws of descent
12 and distribution. If an existing lease does not provide for renewal, the Department
13 may grant renewal when the lease terminates unless good cause to the contrary is
14 shown. However, a person may not lease more acreage than now authorized by law
15 regardless of the manner in which the lease or the rights under the lease are
16 obtained.

17 (c) A lease may not be granted for any of the following submerged areas of the
18 State, and a person may not acquire by lease, assignment, appropriation, or otherwise
19 any of the enumerated areas: any area beneath any creek, cove, bay, or inlet less than
20 300 feet wide at its mouth at mean low tide; any natural oyster or natural clam bar as
21 defined in this subtitle; any area within 150 feet of any natural oyster or natural clam
22 bar in any county; any area within 600 feet of any natural oyster or clam bar in the
23 Chesapeake Bay; any clam bed as defined by the charts of the Oyster Survey of 1906
24 to 1912 and its amendments. Any lease granted in violation of the provisions of this
25 subsection is null and void and the land described in the lease shall revert to the State
26 as though a lease had not been made.

27 (G) A LEASE MAY NOT BE GRANTED FOR THE PURPOSE OF CLAM CULTIVATION
28 IN SUBMERGED AREAS IN THE ATLANTIC COASTAL BAYS, IN ACCORDANCE WITH §
29 4-11A-23 OF THIS SUBTITLE.

30 4-11A-23.

31 (A) THIS SECTION APPLIES TO A SUBMERGED AREA THAT IS:

32 (1) WITHIN 500 YARDS OF PROPERTY THAT HAS BEEN DESIGNATED AS A
33 RURAL LEGACY AREA IN ACCORDANCE WITH TITLE 5, SUBTITLE 9A OF THIS ARTICLE;
34 OR

35 (2) WITHIN 300 YARDS OF PROPERTY THAT HAS NOT BEEN DESIGNATED
36 AS A RURAL LEGACY AREA.

37 (B) A LEASE FOR A SUBMERGED AREA MAY NOT BE GRANTED FOR THE
38 PURPOSE OF CLAM CULTIVATION IN THE ATLANTIC COASTAL BAYS, AS DEFINED IN
39 TITLE 8, SUBTITLE 18 OF THIS ARTICLE.

40 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
41 October 1, 2006.