

**Department of Legislative Services**  
Maryland General Assembly  
2007 Session

**FISCAL AND POLICY NOTE**  
**Revised**

House Bill 549

(Anne Arundel County Delegation)

Environmental Matters

Judicial Proceedings

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**Anne Arundel County - Chesapeake Bay Critical Area - Violations of Local Law  
- Statute of Limitations - Disclosure in Real Estate Sales**

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This bill provides that violations of local laws in Anne Arundel County that occur in the Chesapeake Bay Critical Area and relate to environmental protection or natural resource conservation must be prosecuted within three years of the commission of the offense. If Anne Arundel County or the State has initiated an enforcement action for a violation of these laws in the Chesapeake Bay Critical Area, a seller of the real property where the violation occurred must make certain disclosures to the buyer.

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**Fiscal Summary**

**State Effect:** To the extent the bill allows for additional violations of Anne Arundel County laws to be successfully prosecuted in District Court, general fund revenues could increase due to the collection of fines for criminal offenses. The number of additional cases is not expected to be substantial.

**Local Effect:** To the extent the bill allows for additional violations of Anne Arundel County laws to be successfully prosecuted, county revenues could increase due to collection of fines for civil offenses. Despite the expected benefit to the county of being able to prosecute additional cases in specific situations, the number of additional cases is not expected to be substantial.

**Small Business Effect:** None.

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## Analysis

**Bill Summary:** Violations of local laws relating to environmental protection or natural resource conservation include those regulating grading, sediment control, stormwater management, zoning, construction, or health and public safety.

The seller of real property where a violation occurred and an enforcement action has been initiated by Anne Arundel County or the State, must disclose in the disclosure statement of a contract for sale of the real property: (1) the nature of the violation; (2) the status of any ongoing proceedings to enforce the violation; and (3) any actions the buyer of the real property may be required to take with respect to the property in order to cure the violation. If, however, the violation is cured by the seller, and the buyer would have no further obligation to cure the violation, disclosure is not required.

**Current Law:** State law specifies that prosecution of a misdemeanor and prosecution or suit for a fine, penalty, or forfeiture must be instituted within one year of the offense being committed. In a federal District Court case, the provision specifying the one-year limitation for a fine, suit, penalty, or forfeiture was interpreted to apply to both criminal and civil actions for penalties, fines, and forfeitures.

In Anne Arundel County, civil offenses carry a range of penalties. Some offenses, including violations of grading and stormwater management laws, can, in certain cases, be subject to fines of up to \$5,000 for a first offense and \$10,000 for a subsequent offense. Imposition of a civil fine does not preclude criminal prosecution for the same violation.

Any violation of a local law in the county is a misdemeanor and subject to a fine of up to \$1,000 or imprisonment up to six months or both, though violations can carry heavier penalties if otherwise provided for. Violations of stormwater management laws, for example, can carry a fine of up to \$5,000 or imprisonment for one year or both.

**Background:** Extending the statute of limitations for environmental protection or conservation-related violations of local laws in Anne Arundel County in the Chesapeake Bay Critical Area could improve the county's ability to successfully prosecute violations where delayed discovery of violations would prevent a court action from being instituted within one year.

An instance where the current one-year statute of limitations has kept the county from prosecuting a violation occurred with respect to Little Dobbins Island in Pasadena where land use violations occurred between 2000 and 2002 but were not discovered until 2004.

The county could not prosecute those responsible due to the statute of limitations and had to file a civil suit in an attempt to abate the violations.

The Chesapeake Bay Critical Area, created by the Critical Area Act of 1984, encompasses all land within 1,000 feet of the mean high water line of tidal waters or the landward edge of tidal wetland and all waters of and land under the Chesapeake Bay and its tributaries. Land within the Critical Area is categorized into Intensely Developed Areas, Limited Development Areas, and Resource Conservations Areas, allowing local governments to focus development toward existing developed areas and designate areas for resource conservation and utilization activities.

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** SB 408 (Anne Arundel County Senators) – Judicial Proceedings.

**Information Source(s):** Judiciary (Administrative Office of the Courts), Department of Natural Resources, Maryland Department of the Environment, Anne Arundel County, Department of Legislative Services

**Fiscal Note History:** First Reader - February 26, 2007  
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