

HOUSE BILL 612

Q1

EMERGENCY BILL

8lr2068

CF 8lr2075

By: **Delegates Kullen, Elmore, Haddaway, Mathias, Smigiel, and Sossi**

Introduced and read first time: January 31, 2008

Assigned to: Ways and Means

A BILL ENTITLED

1 AN ACT concerning

2 **Property Tax Assessment – Commercial Waterfront Property**

3 FOR the purpose of establishing commercial waterfront property as a subclass of real
4 property for assessment purposes; providing for the assessment of certain
5 commercial waterfront property based on its use instead of its market value;
6 requiring the State Department of Assessments and Taxation to adopt certain
7 regulations; requiring the Department to provide certain notice to certain
8 property owners; providing for certain applications for property to be assessed
9 as commercial waterfront property; providing for the termination of a certain
10 use assessment and the imposition of a certain penalty under certain
11 circumstances; providing for the distribution of the proceeds from a certain
12 penalty; defining certain terms declaring the intent of the General Assembly;
13 making this Act an emergency measure; and generally relating to the
14 assessment of certain commercial waterfront property for property tax
15 purposes.

16 BY repealing and reenacting, with amendments,
17 Article – Tax – Property
18 Section 8–101(b)
19 Annotated Code of Maryland
20 (2007 Replacement Volume)

21 BY adding to
22 Article – Tax – Property
23 Section 8–228.1
24 Annotated Code of Maryland
25 (2007 Replacement Volume)

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

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 **Article – Tax – Property**

2 8–101.

3 (b) Real property is a class of property and is divided into the following
4 subclasses:5 (1) land that is actively devoted to farm or agricultural use, assessed
6 under § 8–209 of this title;

7 (2) marshland, assessed under § 8–210 of this title;

8 (3) woodland, assessed under § 8–211 of this title;

9 (4) land of a country club or golf course, assessed under §§ 8–212
10 through 8–217 of this title;11 (5) land that is used for a planned development, assessed under §§
12 8–220 through 8–225 of this title;13 (6) rezoned real property that is used for residential purposes,
14 assessed under §§ 8–226 through 8–228 of this title;

15 (7) operating real property of a railroad;

16 (8) operating real property of a public utility;

17 (9) property valued under § 8–105(a)(3) of this subtitle;

18 (10) conservation property, assessed under § 8–209.1 of this title; [and]

19 **(11) COMMERCIAL WATERFRONT PROPERTY, ASSESSED UNDER §**
20 **8–228.1 OF THIS TITLE; AND**21 **[(11)] (12) all other real property that is directed by this article to be**
22 **assessed.**23 **8–228.1.**24 **(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE**
25 **MEANINGS INDICATED.**26 **(2) “COMMERCIAL FISHING OPERATION” MEANS ANY ACTIVITY**
27 **FOR WHICH A PERSON IS REQUIRED TO POSSESS A TIDAL FISHING LICENSE**
28 **UNDER § 4–701 OF THE NATURAL RESOURCES ARTICLE.**

1 **(3) “COMMERCIAL MARINA” MEANS A MARINA USED FOR**
2 **COMMERCIAL PURPOSES.**

3 **(4) (I) “COMMERCIAL WATERFRONT PROPERTY” MEANS REAL**
4 **PROPERTY THAT:**

5 **1. IS ADJACENT TO THE TIDAL WATERS OF THE**
6 **STATE;**

7 **2. IS USED PRIMARILY FOR A COMMERCIAL FISHING**
8 **OPERATION OR AS A COMMERCIAL MARINA; AND**

9 **3. FOR THE MOST RECENT 3-YEAR PERIOD, HAS**
10 **PRODUCED AN AVERAGE ANNUAL GROSS INCOME OF AT LEAST \$1,000.**

11 **(II) “COMMERCIAL WATERFRONT PROPERTY” INCLUDES**
12 **LAND THAT IS ADJACENT TO OR UNDER IMPROVEMENTS USED PRIMARILY FOR A**
13 **COMMERCIAL FISHING OPERATION OR AS A COMMERCIAL MARINA.**

14 **(B) THE GENERAL ASSEMBLY STATES THAT IT IS IN THE GENERAL**
15 **PUBLIC INTEREST TO PROVIDE FOR THE VALUATION AND ASSESSMENT OF**
16 **COMMERCIAL WATERFRONT PROPERTY THAT IS USED FOR COMMERCIAL**
17 **FISHING OR COMMERCIAL MARINA PURPOSES ON THE BASIS OF THAT USE AND**
18 **NOT UPON A GREATER VALUE ATTRIBUTABLE TO POTENTIAL USES OTHER THAN**
19 **AS COMMERCIAL WATERFRONT PROPERTY.**

20 **(C) (1) (I) FOR PROPERTY TO BE ASSESSED AS COMMERCIAL**
21 **WATERFRONT PROPERTY UNDER THIS SECTION:**

22 **1. THE PROPERTY OWNER SHALL APPLY TO THE**
23 **SUPERVISOR ON OR BEFORE APRIL 1 IMMEDIATELY PRECEDING THE FIRST**
24 **TAXABLE YEAR FOR WHICH THE USE ASSESSMENT IS SOUGHT; AND**

25 **2. THE APPLICATION SHALL ESTABLISH TO THE**
26 **SATISFACTION OF THE DEPARTMENT THAT THE PROPERTY IS COMMERCIAL**
27 **WATERFRONT PROPERTY.**

28 **(II) FOR GOOD CAUSE, THE DEPARTMENT MAY ACCEPT AN**
29 **APPLICATION AFTER APRIL 1 BUT ON OR BEFORE MAY 1 IMMEDIATELY**
30 **PRECEDING THE TAXABLE YEAR FOR WHICH THE USE ASSESSMENT IS SOUGHT.**

31 **(2) COMMERCIAL WATERFRONT PROPERTY SHALL BE ASSESSED**
32 **BASED ON ITS USE AS COMMERCIAL WATERFRONT PROPERTY AND NOT AT ITS**
33 **MARKET VALUE BASED ON ITS HIGHEST AND BEST USE.**

1 **(3) THE DEPARTMENT SHALL ADOPT REGULATIONS TO CARRY**
2 **OUT THE USE ASSESSMENT PROVIDED UNDER THIS SECTION.**

3 **(4) (I) THE DEPARTMENT SHALL GIVE NOTICE TO OWNERS OF**
4 **PROPERTIES THAT THE DEPARTMENT IDENTIFIES AS POTENTIALLY ELIGIBLE**
5 **FOR USE ASSESSMENT UNDER THIS SECTION.**

6 **(II) THE NOTICE SHALL INCLUDE ANY INFORMATION**
7 **NEEDED TO CONVEY:**

- 8 **1. ELIGIBILITY REQUIREMENTS;**
9 **2. FILING DEADLINES;**
10 **3. APPLICABLE LIMITATIONS; AND**
11 **4. CONTACT INFORMATION FOR APPLICATION**
12 **FORMS.**

13 **(5) THE DEPARTMENT SHALL NOTIFY AN APPLICANT IN WRITING**
14 **IF THE APPLICANT IS NOT ELIGIBLE FOR USE ASSESSMENT UNDER THIS**
15 **SECTION.**

16 **(D) (1) IF ANY PART OF COMMERCIAL WATERFRONT PROPERTY IS**
17 **USED FOR A PURPOSE OTHER THAN AS COMMERCIAL WATERFRONT PROPERTY:**

18 **(I) THAT PART OF THE PROPERTY CEASES TO BE**
19 **COMMERCIAL WATERFRONT PROPERTY;**

20 **(II) THE USE ASSESSMENT UNDER THIS SECTION**
21 **TERMINATES AS TO THAT PART OF THE PROPERTY; AND**

22 **(III) THE DEPARTMENT SHALL VALUE AND ASSESS THAT**
23 **PART OF THE PROPERTY IN ACCORDANCE WITH SUBTITLE 1 OF THIS TITLE.**

24 **(2) IF A USE ASSESSMENT UNDER THIS SECTION IS TERMINATED**
25 **UNDER PARAGRAPH (1) OF THIS SUBSECTION, THE OWNER WHO PAID TAXES**
26 **BASED ON THE USE ASSESSMENT UNDER THIS SECTION SHALL PAY TO THE**
27 **DEPARTMENT A PENALTY AS CALCULATED IN PARAGRAPH (3) OF THIS**
28 **SUBSECTION.**

29 **(3) (I) THE PENALTY DUE UNDER THIS SUBSECTION IS**
30 **CALCULATED BASED ON MULTIPLYING:**

1 **1. THE DIFFERENCE BETWEEN THE ASSESSMENT OF**
2 **THAT PART OF THE PROPERTY AS TO WHICH THE USE ASSESSMENT IS**
3 **TERMINATED BASED ON ITS USE AS COMMERCIAL WATERFRONT PROPERTY AND**
4 **THE ASSESSMENT REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION; AND**

5 **2. THE SUM OF THE STATE, COUNTY, AND**
6 **MUNICIPAL TAX RATES FOR THE CURRENT TAX YEAR.**

7 **(II) THE TOTAL PENALTY DUE UNDER THIS SUBSECTION**
8 **EQUALS THE AMOUNT DETERMINED IN SUBPARAGRAPH (I) OF THIS PARAGRAPH**
9 **MULTIPLIED BY THE NUMBER OF YEARS, NOT EXCEEDING 3, FOR WHICH THE**
10 **OWNER RECEIVED A USE ASSESSMENT UNDER THIS SECTION.**

11 **(III) ANNUAL INTEREST AT THE RATE OF 12% SHALL APPLY**
12 **TO THE PENALTY CALCULATED UNDER THIS PARAGRAPH.**

13 **(4) THE PROCEEDS OF THE PENALTY COLLECTED UNDER THIS**
14 **SUBSECTION SHALL BE DISTRIBUTED TO THE STATE, COUNTY, AND MUNICIPAL**
15 **GOVERNMENTS IN THE PROPORTION THAT EACH TAX RATE BEARS TO THE**
16 **TOTAL OF THE STATE, COUNTY, AND MUNICIPAL TAX RATES.**

17 SECTION 2. AND BE IT FURTHER ENACTED, That, notwithstanding the
18 provisions of § 8-228.1(c)(1) of the Tax – Property Article as enacted by Section 1 of
19 this Act, for the taxable year that begins July 1, 2008:

20 (1) An owner of commercial waterfront property may apply for a
21 commercial waterfront property use assessment on or before June 30, 2008; and

22 (2) For good cause shown, the State Department of Assessments and
23 Taxation may accept an application for a commercial waterfront property use
24 assessment after June 30, 2008, but before August 1, 2008.

25 SECTION 3. AND BE IT FURTHER ENACTED, That this Act is an emergency
26 measure, is necessary for the immediate preservation of the public health or safety,
27 has been passed by a ye and nay vote supported by three-fifths of all the members
28 elected to each of the two Houses of the General Assembly, and shall take effect from
29 the date it is enacted.