

HOUSE BILL 1266

M3

8lr3183
CF SB 757

By: **Delegates Cane, Eckardt, and Haddaway**

Introduced and read first time: February 8, 2008

Assigned to: Environmental Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Wetlands – Construction of Structure on Pier – Dorchester County**

3 FOR the purpose of exempting Dorchester County from certain provisions limiting the
4 construction of a dwelling unit or other non–water dependent structure on a
5 pier located on State or private wetlands in Dorchester County; and generally
6 relating to construction of dwelling units or other non–water dependent
7 structures on piers.

8 BY repealing and reenacting, with amendments,
9 Article – Environment
10 Section 16–104
11 Annotated Code of Maryland
12 (2007 Replacement Volume and 2007 Supplement)

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

15 **Article – Environment**

16 16–104.

17 (a) This section does not apply to any project involving the construction of a
18 dwelling unit or other non–water dependent structure on a pier located on State or
19 private wetlands in **DORCHESTER AND Prince George’s [County] COUNTIES**.

20 (b) (1) Except as provided in paragraphs (2) and (3) of this subsection,
21 notwithstanding any other provision of law, the Board of Public Works may not issue a
22 license under this title for any project involving the construction of a dwelling unit or
23 other non–water dependent structure on a pier located on State wetlands.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (2) This section does not prohibit or restrict the Board of Public Works
2 from issuing a license for a project involving the construction of a dwelling unit or
3 other non–water dependent structure on a pier located within the Critical Area that
4 was issued a permit by the Secretary on or before January 1, 1989.

5 (3) The Board of Public Works may issue a license for a project
6 involving the construction of a dwelling unit or other non–water dependent structure
7 on a pier located on State wetlands if:

8 (i) The project is constructed on a pier in existence as of
9 December 1, 1985 that can be verified by a Department of Natural Resources aerial
10 photograph dated 1985, accompanied by a map of the area;

11 (ii) The project does not require an expansion of the pier greater
12 than 25% of the area of piers or dry docks removed on the same property; however,
13 additional expansion may be allowed in the amount of 10% of the water coverage
14 eliminated by removing complete piers from the same or other properties. If the
15 horizontal surface area of a pier to be removed is not intact but the remaining pilings
16 identify its previous size, that area may be used in determining the additional
17 expansion permitted. The project expansion based on water coverage eliminated can
18 be considered only if all nonfunctional piers on the property are removed except for the
19 project pier. The total expansion may not exceed 35% of the original size of the piers
20 and dry docks removed;

21 (iii) The project is approved by local planning and zoning
22 authorities;

23 (iv) The project is located in an intensely developed area, as
24 designated in programs adopted or approved by the Critical Area Commission for the
25 Chesapeake and Atlantic Coastal Bays under Title 8, Subtitle 18 of the Natural
26 Resources Article; and

27 (v) The project allows public access to tidal waters, if
28 appropriate.

29 (4) Except for projects under paragraph (2) of this subsection, and in
30 addition to all other provisions of this section, all projects involving the construction of
31 a dwelling unit or other non–water dependent facility on a pier located on State or
32 private wetlands within the Chesapeake Bay Critical Area may not be issued a
33 wetlands permit unless:

34 (i) The applicant demonstrates that the construction and
35 operation of the project will not have a long term adverse effect on the water quality of
36 the adjacent body of water in accordance with standards established by the local
37 jurisdiction's critical areas program;

1 (ii) The applicant is required to improve the water quality of
2 existing stormwater runoff from the project site into adjoining waters in accordance
3 with standards established by the local jurisdiction's critical areas program; and

4 (iii) The applicant demonstrates that any sewer lines or other
5 utility lines extended for the pier will not adversely affect the water quality of
6 adjoining waters in accordance with standards established by the local jurisdiction's
7 critical areas program.

8 (c) (1) Except as provided in paragraph (2) of this subsection,
9 notwithstanding any other provision of law, the Secretary may not issue a permit
10 under this title for any project involving the construction of a dwelling unit or other
11 non-water dependent structure on a pier located on private wetlands.

12 (2) The Secretary may issue a permit for a project involving the
13 construction of a dwelling unit or other non-water dependent structure on a pier
14 located on private wetlands if:

15 (i) The project is constructed on a pier in existence as of
16 December 1, 1985 that can be verified by a Department of Natural Resources aerial
17 photograph dated 1985, accompanied by a map of the area;

18 (ii) The project does not require an expansion of the pier greater
19 than 25% of the area of piers or dry docks removed on the same property; however,
20 additional expansion may be allowed in the amount of 10% of the water coverage
21 eliminated by removing complete piers from the same or other properties. If the
22 horizontal surface area of a pier to be removed is not intact but the remaining pilings
23 identify its previous size, that area may be used in determining the additional
24 expansion permitted. The project expansion based on water coverage eliminated can
25 be considered only if all nonfunctional piers on the property are removed except for the
26 project pier. The total expansion may not exceed 35% of the original size of the piers
27 and dry docks removed;

28 (iii) The project is approved by local planning and zoning
29 authorities;

30 (iv) The project is located in an intensely developed area, as
31 designated in programs adopted or approved by the Critical Area Commission for the
32 Chesapeake and Atlantic Coastal Bays under Title 8, Subtitle 18 of the Natural
33 Resources Article; and

34 (v) The project allows public access to tidal waters, if
35 appropriate.

36 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
37 October 1, 2008.