

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

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 19, 2008

CHAPTER _____

1 AN ACT concerning

2 **Wetlands - Construction of Structure on Pier - ~~Dorchester County~~ Exception**

3 FOR the purpose of ~~exempting Dorchester County from certain provisions limiting~~
4 authorizing the Board of Public Works to issue a license for the construction of a
5 dwelling unit or other non-water dependent structure on a pier located on State
6 ~~or private~~ wetlands in Dorchester County under certain circumstances;
7 authorizing the Secretary of the Environment to issue a license for the
8 construction of a dwelling unit or other non-water dependent structure on a
9 pier located on State wetlands under certain circumstances; and generally
10 relating to construction of dwelling units or other non-water dependent
11 structures on piers.

12 BY repealing and reenacting, with amendments,
13 Article - Environment
14 Section 16-104
15 Annotated Code of Maryland
16 (2007 Replacement Volume and 2007 Supplement)

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

19 **Article - Environment**

20 16-104.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike-out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 (a) This section does not apply to any project involving the construction of a
 2 dwelling unit or other non-water dependent structure on a pier located on State or
 3 private wetlands in ~~DORCHESTER AND~~ Prince George's ~~{County}~~ **COUNTIES**.

4 (b) (1) Except as provided in paragraphs (2) ~~and~~, (3), and (4) of this
 5 subsection, notwithstanding any other provision of law, the Board of Public Works
 6 may not issue a license under this title for any project involving the construction of a
 7 dwelling unit or other non-water dependent structure on a pier located on State
 8 wetlands.

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

13 **(3) THE BOARD OF PUBLIC WORKS MAY ISSUE A LICENSE FOR A**
 14 **PROJECT INVOLVING THE CONSTRUCTION OF A NON-WATER DEPENDENT**
 15 **STRUCTURE ON A PIER LOCATED ON STATE WETLANDS IF:**

16 **(I) THE PROJECT IS LOCATED IN A MARINA OWNED BY THE**
 17 **STATE, A COUNTY, OR A MUNICIPAL CORPORATION;**

18 **(II) THE PROJECT WILL ENHANCE MARITIME**
 19 **TRANSPORTATION, THE PRESERVATION OF HISTORIC LIGHTHOUSES, OR THE**
 20 **CONSTRUCTION OF HISTORICALLY ACCURATE REPLICAS;**

21 **(III) THE PROJECT IS APPROVED BY LOCAL PLANNING AND**
 22 **ZONING AUTHORITIES;**

23 **(IV) THE PROJECT IS LOCATED IN A PRIORITY FUNDING**
 24 **AREA AS DESIGNATED UNDER TITLE 5, SUBTITLE 7B OF THE STATE FINANCE**
 25 **AND PROCUREMENT ARTICLE; AND**

26 **(V) THE PROJECT IS LOCATED IN AN AREA THAT HAS BEEN**
 27 **EXCLUDED FROM A LOCAL CRITICAL AREA PROGRAM ADOPTED OR APPROVED**
 28 **BY THE CRITICAL AREA COMMISSION FOR THE CHESAPEAKE AND ATLANTIC**
 29 **COASTAL BAYS UNDER § 8-1807(C)(1)(I)1 OF THE NATURAL RESOURCES**
 30 **ARTICLE.**

31 ~~(3)~~ **(4)** The Board of Public Works may issue a license for a project
 32 involving the construction of a dwelling unit or other non-water dependent structure
 33 on a pier located on State wetlands if:

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

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

11 (iii) The project is approved by local planning and zoning
12 authorities;

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

17 (v) The project allows public access to tidal waters, if
18 appropriate.

19 ~~(4)~~ **(5)** Except for projects under paragraph (2) of this subsection, and in
20 addition to all other provisions of this section, all projects involving the construction of
21 a dwelling unit or other non-water dependent facility on a pier located on State or
22 private wetlands within the Chesapeake Bay Critical Area may not be issued a
23 wetlands permit unless:

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

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

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

35 (c) (1) Except as provided in ~~paragraph~~ **PARAGRAPHS (2) AND (3)** of this
36 subsection, notwithstanding any other provision of law, the Secretary may not issue a
37 permit under this title for any project involving the construction of a dwelling unit or
38 other non-water dependent structure on a pier located on private wetlands.

1 **(2) THE SECRETARY MAY ISSUE A LICENSE FOR A PROJECT**
2 **INVOLVING THE CONSTRUCTION OF A NON-WATER DEPENDENT STRUCTURE ON**
3 **A PIER LOCATED ON PRIVATE WETLANDS IF:**

4 **(I) THE PROJECT IS LOCATED IN A MARINA OWNED BY THE**
5 **STATE, A COUNTY, OR A MUNICIPAL CORPORATION;**

6 **(II) THE PROJECT WILL ENHANCE MARITIME**
7 **TRANSPORTATION, THE PRESERVATION OF HISTORIC LIGHTHOUSES, OR THE**
8 **CONSTRUCTION OF HISTORICALLY ACCURATE REPLICAS;**

9 **(III) THE PROJECT IS APPROVED BY LOCAL PLANNING AND**
10 **ZONING AUTHORITIES;**

11 **(IV) THE PROJECT IS LOCATED IN A PRIORITY FUNDING**
12 **AREA AS DESIGNATED UNDER TITLE 5, SUBTITLE 7B OF THE STATE FINANCE**
13 **AND PROCUREMENT ARTICLE; AND**

14 **(V) THE PROJECT IS LOCATED IN AN AREA THAT HAS BEEN**
15 **EXCLUDED FROM A LOCAL CRITICAL AREA PROGRAM ADOPTED OR APPROVED**
16 **BY THE CRITICAL AREA COMMISSION FOR THE CHESAPEAKE AND ATLANTIC**
17 **COASTAL BAYS UNDER § 8-1807(C)(1)(I)1 OF THE NATURAL RESOURCES**
18 **ARTICLE.**

19 ~~(2)~~ **(3)** The Secretary may issue a permit for a project involving the
20 construction of a dwelling unit or other non-water dependent structure on a pier
21 located on private wetlands if:

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

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

35 (iii) The project is approved by local planning and zoning
36 authorities;

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

5 (v) The project allows public access to tidal waters, if
6 appropriate.

7 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
8 ~~October~~ June 1, 2008.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.