

# HOUSE BILL 729

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By: **Delegates McConkey, Beidle, George, Glenn, Holmes, Sossi, and Weir**  
Introduced and read first time: February 10, 2009  
Assigned to: Environmental Matters

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## A BILL ENTITLED

1 AN ACT concerning

2 **Chesapeake and Atlantic Coastal Bays Critical Area – Prospective Land**  
3 **Purchases – Inspections**

4 FOR the purpose of requiring a local jurisdiction to inspect a lot or parcel that is in the  
5 Chesapeake Bay or Atlantic Coastal Bays critical area at the request of a  
6 prospective purchaser to determine if a critical area violation exists on the lot or  
7 parcel; establishing that a certain subsequent purchaser of a lot or parcel in the  
8 critical area is not liable for certain criminal or civil penalties for certain  
9 violations under certain circumstances; authorizing a local jurisdiction to  
10 impose a certain inspection fee; requiring a local jurisdiction that performs an  
11 inspection under this Act to provide the prospective purchaser with a certain  
12 report; authorizing the recordation in the appropriate land records of an  
13 inspection report and certain remedial action taken to address critical area  
14 violations; requiring the Chesapeake and Atlantic Coastal Bays Critical Area  
15 Commission to adopt regulations to establish standards and procedures for  
16 inspections performed and remedies required under this Act; and generally  
17 relating to local inspections for a prospective purchaser of a lot or parcel in the  
18 Chesapeake and Atlantic Coastal Bays critical area.

19 BY repealing and reenacting, with amendments,  
20 Article – Natural Resources  
21 Section 8–1806  
22 Annotated Code of Maryland  
23 (2007 Replacement Volume and 2008 Supplement)

24 BY repealing and reenacting, with amendments,  
25 Article – Real Property  
26 Section 3–102  
27 Annotated Code of Maryland  
28 (2003 Replacement Volume and 2008 Supplement)

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.  
[Brackets] indicate matter deleted from existing law.



BY adding to  
Article – Real Property  
Section 10–206  
Annotated Code of Maryland  
(2003 Replacement Volume and 2008 Supplement)

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

**Article – Natural Resources**

8–1806.

(a) The Commission has all powers necessary for carrying out the purposes  
of this subtitle, including the following:

(1) In accordance with Title 2, Subtitle 5 (Joint Committee on  
Administrative, Executive and Legislative Review) and Title 10, Subtitle 1  
(Administrative Procedure Act) of the State Government Article, to adopt and amend  
regulations as authorized under this subtitle for the administration and enforcement  
of the State and local programs;

(2) To conduct hearings in connection with policies, proposed  
programs, and proposed regulations or amendments to regulations;

(3) To contract for consultant or other services; and

(4) To establish an advisory committee, composed of members of the  
Commission and local citizens and local stakeholder groups, to make recommendations  
to the Commission with respect to Atlantic Coastal Bays Critical Area programs.

(b) Regulations adopted or amended under subsection (a)(1) of this section  
shall:

(1) Establish comprehensive standards and procedures for:

(i) Buffer establishment, maintenance, measurement,  
mitigation, and enforcement;

(ii) Buffer exemption areas;

(iii) Impacts of shore erosion control activities on the buffer;

(iv) Community piers;

(v) Commercial marinas;

(vi) Water dependent facilities;

- 1 (vii) Public water access;
- 2 (viii) The protection and conservation of the buffer as a State  
3 water quality and habitat resource essential to the restoration of the Chesapeake and  
4 Atlantic Coastal Bays;
- 5 (ix) Mapping the critical area, with respect to revision of the  
6 1,000-foot boundary and voluntary additions of property to the critical area;
- 7 (x) Development in the critical area, with respect to:
- 8 1. Clearing, grading, and construction activity;
- 9 2. Clustering to promote conservation of natural site  
10 features;
- 11 3. Flexibility for redevelopment;
- 12 4. Stormwater management;
- 13 5. Application of the 10% pollutant reduction rule;
- 14 6. Forest and developed woodlands protections;
- 15 7. Clearing of natural vegetation;
- 16 8. Lot coverage standards;
- 17 9. Commission review of local provisions for lot  
18 consolidation; and
- 19 10. The exclusion of State tidal wetlands from  
20 calculations of density, forest and developed woodlands protections, limitations on  
21 clearing natural vegetation, and lot coverage standards;
- 22 (xi) Consistent enforcement of State and local critical area law,  
23 with respect to the establishment of minimum penalties and mitigation requirements;
- 24 (xii) Growth allocation applications, with respect to:
- 25 1. The deduction of growth allocation acreage;
- 26 2. Commission review and determinations;
- 27 3. Accommodation of variations among local  
28 jurisdictions concerning land uses in the resource conservation area that do not  
29 require growth allocation;

27 6. Provisions applicable to areas requested for exclusion  
28 from the critical area;

(xv) In consultation with the Department of the Environment, surface mining in the critical area; [and]

(xvi) The application for and processing of a variance, with respect to:

1. Amending a variance application;
2. Advance notice to the Commission;
3. The contents of a complete variance application;
4. Ensuring that Commission recommendations are made part of the variance record;
5. The use of variance standards; and
6. Notice of a variance decision; and

**(XVII) CRITICAL AREA INSPECTIONS PERFORMED BY A LOCAL JURISDICTION AND ACTIONS REQUIRED TO REMEDY CRITICAL AREA VIOLATIONS ON A LOT OR PARCEL UNDER § 10-206 OF THE REAL PROPERTY ARTICLE; AND**

(2) Provide flexibility wherever possible in order to accommodate variations among local programs.

(c) The members of the Commission who reside in the Atlantic Coastal Bays Watershed shall serve on any committee established under subsection (a)(4) of this section.

**Article – Real Property**

3–102.

(a) (1) Any other instrument affecting property, including any contract for the grant of property, or any subordination agreement establishing priorities between interests in property may be recorded.

(2) The following instruments also may be recorded:

(i) Any notice of deferred property footage assessment for street construction;

(ii) Any boundary survey plat signed and sealed by a professional land surveyor or property line surveyor licensed in the State;

(iii) Any assumption agreement by which a person agrees to assume the liability of a debt or other obligation secured by a mortgage or deed of trust;

(iv) Any release of personal liability of a borrower or guarantor under a mortgage or under a note or other obligation secured by a deed of trust; [or]

(v) A ground rent redemption certificate or a ground rent extinguishment certificate issued under § 8-110 of this article or a ground lease extinguishment certificate issued under § 8-708 of this article; **OR**

**(VI) AN INSPECTION REPORT ON CRITICAL AREA VIOLATIONS AND ANY ACTION TAKEN TO REMEDY CRITICAL AREA VIOLATIONS, AS REQUIRED UNDER § 10-206 OF THIS ARTICLE.**

(3) The recording of any instrument constitutes constructive notice from the date of recording.

(b) This section may not be construed to authorize the recording of a subdivision plat without any prior review and approval otherwise required by law.

**10-206.**

**(A) A LOCAL JURISDICTION SHALL INSPECT A LOT OR PARCEL THAT IS IN THE JURISDICTION'S CRITICAL AREA AT THE REQUEST OF A PROSPECTIVE PURCHASER OF THE LOT OR PARCEL TO DETERMINE IF A VIOLATION OF TITLE 8, SUBTITLE 18 OF THE NATURAL RESOURCES ARTICLE EXISTS ON THE LOT OR PARCEL.**

**(B) IF A LOT OR PARCEL IS INSPECTED UNDER SUBSECTION (A) OF THIS SECTION AND NO VIOLATION IS DISCOVERED OR ANY VIOLATION DISCOVERED IS REMEDIED, A SUBSEQUENT PURCHASER WHO REQUESTED THE INSPECTION IS NOT LIABLE FOR CRIMINAL OR CIVIL PENALTIES UNDER TITLE 8, SUBTITLE 18 OF THE NATURAL RESOURCES ARTICLE FOR A SUBSEQUENTLY DISCOVERED VIOLATION THAT OCCURRED BEFORE THE TIME OF THE INSPECTION.**

**(C) (1) A LOCAL JURISDICTION THAT PERFORMS AN INSPECTION UNDER THIS SECTION SHALL PROVIDE THE PROSPECTIVE PURCHASER WITH A FINAL REPORT DESCRIBING:**

**(I) THE PROPERTY INSPECTED;**

**(II) ANY VIOLATIONS DISCOVERED;**

1                               (III) ANY CITATIONS ISSUED AND REMEDIES RECOMMENDED  
2 BY THE LOCAL JURISDICTION; AND

3                               (IV) ANY REMEDIES FINALLY IMPLEMENTED.

4                               (2) A LOCAL JURISDICTION MAY IMPOSE AN INSPECTION FEE ON  
5 A PROSPECTIVE PURCHASER IN AN AMOUNT TO COVER THE COST OF THE  
6 INSPECTION.

7               SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
8 October 1, 2009.