

SENATE BILL 963

M1

6lr2657
CF 6lr2653

By: **Senators Eckardt and Hershey**

Introduced and read first time: February 5, 2016

Assigned to: Education, Health, and Environmental Affairs

A BILL ENTITLED

1 AN ACT concerning

2 **Harris Creek Oyster Restoration – Vessel Damage – Compensation**

3 FOR the purpose of authorizing a vessel owner to file a claim with the Department of
4 Natural Resources for the payment of damages if certain persons make an error or
5 omission related to the required depth of navigable water in the Harris Creek Oyster
6 Restoration Project and, as a result of the error or omission, the vessel sustains
7 damages; establishing certain procedures for a claim; establishing a certain statute
8 of limitations for a claim; establishing a certain cap on the amount that may be paid
9 under a claim; establishing certain sources of funds for payment under a claim;
10 requiring, after certain notice and a hearing, the Department to approve the claim,
11 and order the payment of any damages to the vessel owner, or deny the claim;
12 requiring the Department to deny a claim under certain circumstances; providing for
13 the appeal to the Talbot County Circuit Court of a denial of a claim; establishing the
14 jurisdiction of the Circuit Court; and generally relating to compensation for vessel
15 damage sustained in the Harris Creek Oyster Restoration Project.

16 BY adding to

17 Article – Natural Resources

18 Section 8–724.2

19 Annotated Code of Maryland

20 (2012 Replacement Volume and 2015 Supplement)

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

23 **Article – Natural Resources**

24 **8–724.2.**

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 **(A) (1) A VESSEL OWNER MAY FILE A CLAIM WITH THE DEPARTMENT FOR**
2 **THE PAYMENT OF DAMAGES IF THE DEPARTMENT OR AN EMPLOYEE OF THE**
3 **DEPARTMENT IN THE COURSE OF EMPLOYMENT MAKES AN ERROR OR OMISSION**
4 **RELATED TO THE REQUIRED DEPTH OF NAVIGABLE WATER IN THE HARRIS CREEK**
5 **OYSTER RESTORATION PROJECT AND, AS A RESULT OF THE ERROR OR OMISSION,**
6 **THE VESSEL SUSTAINS DAMAGES.**

7 **(2) A CLAIM FOR PAYMENT SHALL:**

8 **(I) INCLUDE A REQUEST FOR A HEARING ON THE MATTER; AND**

9 **(II) BE MADE IN THE MANNER THAT THE DEPARTMENT**
10 **REQUIRES.**

11 **(3) A CLAIM FOR PAYMENT MAY NOT BE MADE UNLESS IT IS FILED**
12 **WITH THE DEPARTMENT WITHIN 1 YEAR FROM THE DATE THE CAUSE OF ACTION**
13 **AROSE.**

14 **(4) THE AMOUNT OF PAYMENT MADE FOR A CLAIM MAY NOT EXCEED**
15 **\$400,000.**

16 **(5) PAYMENT FOR A CLAIM MAY BE MADE FROM DEPARTMENT FUNDS**
17 **OR THE STATE INSURANCE TRUST FUND UNDER § 12-104 OF THE STATE**
18 **GOVERNMENT ARTICLE.**

19 **(B) AFTER NOTICE TO ALL INTERESTED PARTIES AND A HEARING ON THE**
20 **CLAIM, THE DEPARTMENT MAY:**

21 **(1) APPROVE THE CLAIM AND ORDER THE PAYMENT OF ANY**
22 **DAMAGES TO THE VESSEL OWNER; OR**

23 **(2) DENY THE CLAIM.**

24 **(C) THE DEPARTMENT SHALL ORDER THAT A CLAIM BE DENIED IF IT FINDS**
25 **THAT THE DAMAGES RESULTED FROM A RECKLESS OR NEGLIGENT ACT OF THE**
26 **VESSEL OWNER.**

27 **(D) (1) A VESSEL OWNER WHOSE CLAIM IS DENIED MAY APPEAL THE**
28 **DECISION OF THE DEPARTMENT TO THE TALBOT COUNTY CIRCUIT COURT.**

29 **(2) THE TALBOT COUNTY CIRCUIT COURT HAS JURISDICTION TO**
30 **EXAMINE THE FACTS OF THE CASE AND TO DETERMINE IF THE VESSEL OWNER IS**
31 **ENTITLED TO RECOVER ANY DAMAGES.**

1 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
2 October 1, 2016.