

HOUSE BILL 1345

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HB 1355/17 – ENV

8lr1816

By: **Delegates Rose, Adams, Afzali, Beitzel, Buckel, Chang, Cluster, Corderman, Folden, Ghrist, Hornberger, Jacobs, Kittleman, Krebs, Long, Malone, Mautz, McComas, Morgan, Otto, Reilly, Saab, Shoemaker, Szeliga, and Wivell**

Introduced and read first time: February 9, 2018
Assigned to: Environment and Transportation

A BILL ENTITLED

1 AN ACT concerning

2 **Sewerage Systems – Residential Major Subdivisions in Tier III and Tier IV**
3 **Areas**

4 FOR the purpose of authorizing a local jurisdiction to authorize a residential major
5 subdivision served by on-site sewage disposal systems, community sewerage
6 systems, or shared systems in Tier III and Tier IV areas under certain
7 circumstances; exempting certain residential major subdivisions from certain
8 provisions of law; specifying that this Act does not create new development rights;
9 and generally relating to sewerage systems.

10 BY repealing and reenacting, without amendments,
11 Article – Environment
12 Section 9–206(a), (b), (c), and (e)
13 Annotated Code of Maryland
14 (2014 Replacement Volume and 2017 Supplement)

15 BY repealing and reenacting, with amendments,
16 Article – Environment
17 Section 9–206(d), (f), and (g)
18 Annotated Code of Maryland
19 (2014 Replacement Volume and 2017 Supplement)

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

22 **Article – Environment**

23 9–206.

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



1 (a) (1) In this section the following words have the meanings indicated.

2 (2) "Community sewerage system" means a publicly or privately owned
3 sewerage system that serves at least two lots.

4 (3) "Growth tiers" means the tiers adopted by a local jurisdiction in
5 accordance with Title 1, Subtitle 5 of the Land Use Article.

6 (4) "Lot" includes a part of a subdivision that:

7 (i) Is used or is intended to be used as a building site; and

8 (ii) Is not intended to be further subdivided.

9 (5) "Major subdivision" means:

10 (i) The subdivision of land:

11 1. Into new lots, plats, building sites, or other divisions of
12 land defined or described as a major subdivision in a local ordinance or regulation:

13 A. That is in effect on or before January 1, 2012; or

14 B. Adopted on or before December 31, 2012, if a local
15 jurisdiction chooses to create a definition or description applicable solely to this section or
16 if a local ordinance or regulation does not define or describe a major subdivision under item
17 A of this item; or

18 2. If a local jurisdiction has not adopted a definition or
19 description of a major subdivision on or before December 31, 2012, under item 1 of this
20 item, into five or more new lots, plats, building sites, or other divisions of land; and

21 (ii) If the local ordinance or regulation has multiple definitions or
22 descriptions of a major subdivision under item (i) of this paragraph, the definition or
23 description of a major subdivision that is determined by the local jurisdiction to apply for
24 the purposes of this section.

25 (6) "Minor subdivision" means:

26 (i) The subdivision of land:

27 1. Into new lots, plats, building sites, or other divisions of
28 land defined or described as a minor subdivision in a local ordinance or regulation:

29 A. That is in effect on or before January 1, 2012; or

1 B. Adopted on or before December 31, 2012, if a local
2 jurisdiction chooses to create a definition or description applicable solely to this section or
3 if a local ordinance or regulation does not define or describe a minor subdivision under item
4 A of this item, provided that a minor subdivision defined or described in the adopted
5 ordinance or regulation does not exceed seven new lots, plats, building sites, or other
6 divisions of land; or

7 2. If a local jurisdiction has not adopted a definition or
8 description of a minor subdivision on or before December 31, 2012, under item 1 of this
9 item, into fewer than five new lots, plats, building sites, or other divisions of land; and

10 (ii) If the local ordinance or regulation has multiple definitions or
11 descriptions of a minor subdivision under item (i) of this paragraph, the definition or
12 description of a minor subdivision that is determined by the local jurisdiction to apply for
13 the purposes of this section.

14 (7) “On-site sewage disposal” means the disposal of sewage beneath the
15 soil surface.

16 (8) (i) “On-site sewage disposal system” means a sewage treatment
17 unit, collection system, disposal area, and related appurtenances.

18 (ii) “On-site sewage disposal system” includes a shared facility or
19 community sewerage system that disposes of sewage effluent beneath the soil surface.

20 (9) “Public sewer” means a community, shared, or multiuse sewerage
21 system.

22 (10) “Shared facility” means a sewerage system that:

23 (i) Serves more than one:

24 1. Lot and is owned in common by the users;

25 2. Condominium unit and is owned in common by the users
26 or by a condominium association;

27 3. User and is located on individual lots owned by the users;
28 or

29 4. User on one lot and is owned in common by the users; or

30 (ii) Is located wholly or partly on any of the common elements of a
31 condominium; or

32 (iii) Serves a housing or another multiple ownership cooperative.

1 (11) “State agency” means:

2 (i) The Maryland Agricultural Land Preservation Foundation;

3 (ii) The Maryland Environmental Trust;

4 (iii) The Department of Natural Resources; or

5 (iv) The Maryland–National Capital Park and Planning
6 Commission.

7 (12) “Subdivision” means a division of a tract or parcel of land into at least
8 two lots for the immediate or future purpose of sale or building development.

9 (b) (1) Subsections (f) through (i) and subsection (l) of this section apply to
10 residential subdivisions.

11 (2) Subsections (f) through (i) do not apply to an application for approval of
12 a residential subdivision under § 9–512(e) of this title if:

13 (i) 1. By October 1, 2012, a submission for preliminary plan
14 approval is made to a local jurisdiction that includes, at a minimum, the preliminary
15 engineering, density, road network, lot layout, and existing features of the proposed site
16 development;

17 2. By July 1, 2012, in a local jurisdiction that requires a soil
18 percolation test before a submission for preliminary approval:

19 A. An application for a soil percolation test approval for all
20 lots that will be included in the submission for preliminary approval is made to the local
21 health department; and

22 B. Within 18 months after approval of the soil percolation
23 tests for the lots that will be included in the submission for preliminary approval, a
24 submission for preliminary approval is made to a local jurisdiction that includes, at a
25 minimum, the preliminary engineering, density, road network, lot layout, and existing
26 features of the proposed site development; or

27 3. By July 1, 2012, in a local jurisdiction that requires a soil
28 percolation test before a submission for preliminary approval and the local jurisdiction does
29 not accept applications for soil percolation tests year round:

30 A. Documentation that a Maryland professional engineer or
31 surveyor has prepared and certified under seal a site plan in anticipation of an application
32 for soil percolation tests;

33 B. An application for a soil percolation test approval for all

1 lots that will be included in the submission for preliminary approval is made to the local
2 health department at the next available soil percolation test season; and

3 C. Within 18 months after approval of the soil percolation
4 tests for the lots that will be included in the submission for preliminary approval, a
5 submission for preliminary approval is made to a local jurisdiction that includes, at a
6 minimum, the preliminary engineering, density, road network, lot layout, and existing
7 features of the proposed site development; and

8 (ii) By October 1, 2016, the preliminary plan is approved.

9 (c) (1) Subsections (f) through (i) and subsection (l) of this section do not apply
10 to covenants, restrictions, conditions, or conservation easements that were created or
11 entered into at any time under § 2–118 of the Real Property Article for the benefit of, or
12 held by, a State agency or a local jurisdiction for the purpose of conserving natural resources
13 or agricultural land.

14 (2) Subsections (f) through (i) of this section may not be construed as
15 granting any additional rights in covenants, restrictions, conditions, or conservation
16 easements that were created or entered into at any time under § 2–118 of the Real Property
17 Article for the benefit of, or held by, a State agency or a local jurisdiction for the purpose of
18 conserving natural resources or agricultural land.

19 (d) **(1)** Subsections (f) through (i) and subsection (l) of this section do not:

20 **[(1)] (I)** Affect a local transfer of development rights program authorized
21 under § 10–324 of the Local Government Article or Title 7, Subtitle 2 or § 22–105 of the
22 Land Use Article; or

23 **[(2)] (II)** Diminish the local development rights transferred in these
24 transfer of development rights programs.

25 **(2) SUBSECTION (F)(2) AND (3) OF THIS SECTION DOES NOT CREATE**
26 **NEW DEVELOPMENT RIGHTS.**

27 (e) Subsections (f) through (i) and subsection (l) of this section may not be
28 construed as prohibiting a local jurisdiction from altering the definition or description of a
29 major or minor subdivision in a local ordinance or regulation for local zoning or
30 development purposes.

31 (f) **(1)** On or after December 31, 2012, a local jurisdiction:

32 **[(1)] (I)** May not authorize a residential major subdivision served by
33 on-site sewage disposal systems, community sewerage systems, or shared systems until
34 the local jurisdiction adopts the growth tiers in accordance with § 5–104 of the Land Use
35 Article; or

1 **[(2)] (II)** If the local jurisdiction has not adopted the growth tiers in
2 accordance with § 5–104 of the Land Use Article, may authorize:

3 **[(i)] 1.** A residential minor subdivision served by on–site sewage
4 disposal systems if the residential subdivision otherwise meets the requirements of this
5 title; or

6 **[(ii)] 2.** A major or minor subdivision served by public sewer in a
7 Tier I area.

8 **(2) A LOCAL JURISDICTION MAY AUTHORIZE A RESIDENTIAL MAJOR**
9 **SUBDIVISION SERVED BY ON–SITE SEWAGE DISPOSAL SYSTEMS, COMMUNITY**
10 **SEWERAGE SYSTEMS, OR SHARED SYSTEMS IN TIER III AREAS IF:**

11 **(I) 1. THE DEVELOPMENT RIGHTS LIMITED UNDER**
12 **PARAGRAPH (1) OF THIS SUBSECTION AND SUBSECTION (G) OF THIS SECTION**
13 **EXISTED ON DECEMBER 1, 2012; OR**

14 **2. THE DEVELOPMENT RIGHTS LIMITED UNDER**
15 **PARAGRAPH (1) OF THIS SUBSECTION AND SUBSECTION (G) OF THIS SECTION**
16 **EXISTED UNDER THE MANNER IN WHICH AN AREA, A PLAT, OR A LOT WAS ZONED ON**
17 **OR BEFORE DECEMBER 1, 2012;**

18 **(II) AT LEAST 10% OF THE REMAINING PORTION OF THE LOCAL**
19 **JURISDICTION’S TIER III AREA IS PROTECTED AS:**

20 **1. A FEDERAL, STATE, OR LOCAL PARK, FOREST,**
21 **NATURAL AREA, OR EDUCATIONAL AREA;**

22 **2. A FEDERAL, STATE, OR LOCAL CULTURAL AREA OR**
23 **HISTORIC AREA; OR**

24 **3. A FEDERAL, STATE, OR LOCAL NATURAL RESOURCE**
25 **EASEMENT, HISTORIC PRESERVATION EASEMENT, OR AGRICULTURAL**
26 **CONSERVATION EASEMENT; AND**

27 **(III) AT LEAST 25% OF THE REMAINING PORTION OF THE LOCAL**
28 **JURISDICTION’S TOTAL LAND IS PROTECTED FROM DEVELOPMENT AS:**

29 **1. A FEDERAL, STATE, OR LOCAL PARK, FOREST,**
30 **NATURAL AREA, OR EDUCATIONAL AREA;**

31 **2. A FEDERAL, STATE, OR LOCAL CULTURAL AREA OR**

1 HISTORIC AREA; OR

2 3. A FEDERAL, STATE, OR LOCAL NATURAL RESOURCE
3 EASEMENT, HISTORIC PRESERVATION EASEMENT, OR AGRICULTURAL
4 CONSERVATION EASEMENT.

5 (3) A LOCAL JURISDICTION MAY AUTHORIZE A RESIDENTIAL MAJOR
6 SUBDIVISION SERVED BY ON-SITE SEWAGE DISPOSAL SYSTEMS, COMMUNITY
7 SEWERAGE SYSTEMS, OR SHARED SYSTEMS IN TIER IV AREAS IF:

8 (i) 1. THE DEVELOPMENT RIGHTS LIMITED UNDER
9 PARAGRAPH (1) OF THIS SUBSECTION AND SUBSECTION (G) OF THIS SECTION
10 EXISTED ON DECEMBER 1, 2012; OR

11 2. THE DEVELOPMENT RIGHTS LIMITED UNDER
12 PARAGRAPH (1) OF THIS SUBSECTION AND SUBSECTION (G) OF THIS SECTION
13 EXISTED UNDER THE MANNER IN WHICH AN AREA, A PLAT, OR A LOT WAS ZONED ON
14 OR BEFORE DECEMBER 1, 2012;

15 (ii) AT LEAST 20% OF THE REMAINING PORTION OF THE LOCAL
16 JURISDICTION'S TIER IV AREA IS PROTECTED AS:

17 1. A FEDERAL, STATE, OR LOCAL PARK, FOREST,
18 NATURAL AREA, OR EDUCATIONAL AREA;

19 2. A FEDERAL, STATE, OR LOCAL CULTURAL AREA OR
20 HISTORIC AREA; OR

21 3. A FEDERAL, STATE, OR LOCAL NATURAL RESOURCE
22 EASEMENT, HISTORIC PRESERVATION EASEMENT, OR AGRICULTURAL
23 CONSERVATION EASEMENT; AND

24 (iii) AT LEAST 30% OF THE REMAINING PORTION OF THE LOCAL
25 JURISDICTION'S TOTAL LAND IS PROTECTED FROM DEVELOPMENT AS:

26 1. A FEDERAL, STATE, OR LOCAL PARK, FOREST,
27 NATURAL AREA, OR EDUCATIONAL AREA;

28 2. A FEDERAL, STATE, OR LOCAL CULTURAL AREA OR
29 HISTORIC AREA; OR

30 3. A FEDERAL, STATE, OR LOCAL NATURAL RESOURCE
31 EASEMENT, HISTORIC PRESERVATION EASEMENT, OR AGRICULTURAL

1 **CONSERVATION EASEMENT.**

2 (g) (1) Except as provided in [subsection (f)(2)] **SUBSECTION (F)(1)(II), (2),**
3 **AND (3)** of this section and subject to subsection (i) of this section, a local jurisdiction may
4 authorize a residential subdivision plat only if:

5 (i) All lots proposed in an area designated for Tier I growth will be
6 served by public sewer;

7 (ii) All lots proposed in an area designated for Tier II growth:

8 1. Will be served by public sewer; or

9 2. If the subdivision is a minor subdivision, may be served by
10 on-site sewage disposal systems;

11 (iii) Except as provided in subsection (h) of this section, the
12 subdivision is a minor subdivision served by individual on-site sewage disposal systems in
13 a Tier III or Tier IV area; or

14 (iv) The subdivision is a major subdivision served by on-site sewage
15 disposal systems, a community system, or a shared facility located in a Tier III area and
16 has been recommended by the local planning board in accordance with § 5-104 of the Land
17 Use Article.

18 (2) Any delay in the approval of a residential subdivision plat under this
19 subsection may not be construed as applying to any deadline for approving or disapproving
20 a subdivision plat under Division II or § 5-201 of the Land Use Article or a local ordinance.

21 **SECTION 2. AND BE IT FURTHER ENACTED,** That this Act shall take effect
22 October 1, 2018.