

SENATE BILL 777

M2

8lr2417

By: **Senator Hershey**

Introduced and read first time: February 5, 2018

Assigned to: Education, Health, and Environmental Affairs

A BILL ENTITLED

1 AN ACT concerning

2 **Aquaculture Leases – Notice – Homeowners Associations**

3 FOR the purpose of requiring the Department of Natural Resources to notify certain
4 homeowners associations of certain applications for certain aquaculture leases to be
5 issued in the Chesapeake Bay or in the Atlantic Coastal Bays; and generally relating
6 to notice of applications for aquaculture leases.

7 BY repealing and reenacting, with amendments,
8 Article – Natural Resources
9 Section 4–11A–09
10 Annotated Code of Maryland
11 (2012 Replacement Volume and 2017 Supplement)

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

14 **Article – Natural Resources**

15 4–11A–09.

16 (a) A person who wishes to obtain an aquaculture, water column, or submerged
17 land lease shall pay a nonrefundable application fee established by the Department, in
18 consultation with the Aquaculture Coordinating Council, and complete and submit an
19 application to the Department.

20 (b) An application for an aquaculture lease, water column lease, or submerged
21 land lease shall include:

22 (1) A declaration that the applicant intends to actively use the leased area
23 for commercial purposes; and

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



- 1 (2) A proposed plan for active use of the lease that shall include:
- 2 (i) The lessee's source and quantity of shellfish seed;
- 3 (ii) The methods and means the applicant will use to grow shellfish;
- 4 (iii) The quantity of shellfish that the lessee expects to plant and
5 harvest, and the time for planting and harvesting, during the initial 3 years of the lease;
6 and
- 7 (iv) A description of the labor, materials, and equipment to be used
8 by the lessee.
- 9 (c) The requirements for active use of a lease shall include:
- 10 (1) Annually planting at least one-fourth of the leased area at a minimum
11 density of 1,000,000 shellfish seed per acre; or
- 12 (2) Complying with any other requirements established by the
13 Department.
- 14 (d) (1) The term of a lease is 20 years.
- 15 (2) Except for a demonstration lease under § 4-11A-11 of this subtitle, a
16 lease may be of any size provided that the leaseholder actively uses the area.
- 17 (3) The Department shall establish, in consultation with the Aquaculture
18 Coordinating Council, an annual amount of rent and an aquaculture development
19 surcharge for an aquaculture, water column, or submerged land lease.
- 20 (4) The Department, as it considers necessary to protect the public health,
21 safety, and welfare, may:
- 22 (i) Deny a lease application for reasonable cause; or
- 23 (ii) Include any conditions in a lease.
- 24 (e) If an application for an aquaculture lease meets the requirements of this
25 subtitle, the Department shall survey the leased area and issue a lease to the applicant.
- 26 (f) If an application for a submerged land lease in an area preapproved for leasing
27 in the Atlantic Coastal Bays meets the requirements of this subtitle, the Department shall
28 survey the leased area and issue a submerged land lease to the applicant.
- 29 (g) (1) If an application for a submerged land or water column lease in the
30 Chesapeake Bay or in the Atlantic Coastal Bays meets the requirements of this subtitle:

1 (i) The applicant for the lease shall mark the proposed area with a
2 stake; and

3 (ii) The Department shall:

4 1. Advertise the application on the website of the
5 Department and once a week for 2 weeks in a newspaper published in the county or counties
6 where the proposed lease is to be located;

7 2. Notify the owners of property **AND ANY HOMEOWNERS**
8 **ASSOCIATION THAT GOVERNS PROPERTY** directly in front of the proposed activity;

9 3. Notify each Chair of an Oyster Committee in the county in
10 which the proposed activity is located; and

11 4. Notify other interested parties that the Department
12 deems appropriate.

13 (2) (i) Within 30 days of publication of the last advertisement under
14 paragraph (1) of this subsection, any person who has a specific right, duty, privilege, or
15 interest that is different from that held by the general public and may be adversely affected
16 by the proposed lease may file a petition with the Department protesting the issuance of
17 the lease.

18 (ii) The protest shall be heard in accordance with the requirements
19 of the Administrative Procedure Act under Title 10, Subtitle 2 of the State Government
20 Article.

21 (iii) The Department shall hold a public informational meeting on the
22 issuance of a lease on the request of any person.

23 (iv) Immediately after termination of the period prescribed in
24 subparagraph (i) of this paragraph for filing a petition or after a final decision dismissing
25 a protest, the Department shall survey the proposed leased area and issue a lease to the
26 applicant.

27 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
28 October 1, 2018.