By: Delegates Mautz, Adams, and T. Branch
Introduced and read first time: February 11, 2022
Assigned to: Environment and Transportation

A BILL ENTITLED

AN ACT concerning

Environment – Exception to Nonstructural Shoreline Stabilization Requirements

FOR the purpose of providing an exception to the requirement that certain improvements to protect a person’s property against erosion consist of nonstructural shoreline stabilization measures; creating an exemption from a certain waiver process; and generally relating to shoreline stabilization measures.

BY repealing and reenacting, with amendments,

Article – Environment
Section 16–201
Annotated Code of Maryland
(2014 Replacement Volume and 2021 Supplement)

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

Article – Environment

16–201.

(a) (1) A person who is the owner of land bounding on navigable water is entitled to any natural accretion to the person’s land, to reclaim fast land lost by erosion or avulsion during the person’s ownership of the land to the extent of provable existing boundaries.

(2) The person may make improvements into the water in front of the land to preserve that person’s access to the navigable water or, subject to subsection (c) OF THIS SECTION, protect the shore of that person against erosion.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.
[Brackets] indicate matter deleted from existing law.
(3) After an improvement has been constructed IN ACCORDANCE WITH PARAGRAPH (2) OF THIS SUBSECTION, the improvement is the property of the owner of the land to which the improvement is attached.

(4) (I) A right covered in this subtitle does not preclude the owner from developing any other use approved by the Board.

(II) The right to reclaim lost fast land relates only to fast land lost after January 1, 1972, and the burden of proof that the loss occurred after this date is on the owner of the land.

(b) The rights of any person, as defined in this subtitle, which existed prior to July 1, 1973 in relation to natural accretion of land are deemed to have continued to be in existence subsequent to July 1, 1973 to July 1, 1978.

(c) (1) Improvements to protect a person’s property against erosion shall consist of nonstructural shoreline stabilization measures that preserve the natural environment, such as marsh creation, except IN AREAS:

(i) [In areas designated] DESIGNATED by Department mapping as appropriate for structural shoreline stabilization measures; [and]

(ii) [In areas where] WHERE the person can demonstrate to the Department’s satisfaction that such measures are not feasible, including areas of excessive erosion, areas subject to heavy tides, and areas too narrow for effective use of nonstructural shoreline stabilization measures; OR

(III) DETERMINED BY A LICENSED MARINE CONTRACTOR TO BE UNSUITABLE FOR NONSTRUCTURAL SHORELINE STABILIZATION MEASURES.

(2) (i) Subject to [subparagraph] SUBPARAGRAPHS (ii) AND (III) of this paragraph, in consultation with the Department of Natural Resources, the Department shall adopt regulations to implement the provisions of this subsection.

(ii) Regulations adopted by the Department under subparagraph (i) of this paragraph shall include a waiver process that exempts a person from the requirements of paragraph (1) of this subsection on a demonstration to the Department’s satisfaction that nonstructural shoreline stabilization measures are not feasible for the person’s property.

(III) A PERSON SHALL BE EXEMPT FROM THE WAIVER PROCESS ESTABLISHED UNDER SUBPARAGRAPH (II) OF THIS PARAGRAPH IF A LICENSED MARINE CONTRACTOR DETERMINES THAT THE PERSON’S PROPERTY IS NOT SUITABLE FOR NONSTRUCTURAL STABILIZATION MEASURES.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act is an emergency
measure, is necessary for the immediate preservation of the public health or safety, has
been passed by a yea and nay vote supported by three–fifths of all the members elected to
each of the two Houses of the General Assembly, and shall take effect from the date it is
enacted.