

# SENATE BILL 64

M1

(2lr0372)

## ENROLLED BILL

— *Education, Health, and Environmental Affairs/Environment and Transportation* —

Introduced by **Senator Carozza**

Read and Examined by Proofreaders:

\_\_\_\_\_  
Proofreader.

\_\_\_\_\_  
Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this

\_\_\_\_\_ day of \_\_\_\_\_ at \_\_\_\_\_ o'clock, \_\_\_\_\_ M.

\_\_\_\_\_  
President.

### CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Beach Erosion Control District – State– and City–Owned Structures**

3 FOR the purpose of exempting the repair, renovation, reconstruction, or expansion of  
4 certain existing structures in the Beach Erosion Control District from a certain  
5 prohibition under certain circumstances and subject to certain requirements;  
6 *repealing certain exemptions from a certain prohibition for the widening of the*  
7 *boardwalk in Ocean City and the construction of certain restroom facilities in the*  
8 *District*; and generally relating to the Beach Erosion Control District.

9 BY repealing and reenacting, with amendments,

10 Article – Natural Resources

11 Section 8–1102

12 Annotated Code of Maryland

13 (2012 Replacement Volume and 2021 Supplement)

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#### EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.

*Italics indicate opposite chamber/conference committee amendments.*



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

3 **Article – Natural Resources**

4 8–1102.

5 (a) (1) Except as otherwise provided in paragraphs (2) [and (3)] **THROUGH (4)**  
6 of this subsection, for the purposes of maintaining the Atlantic Coast beaches of the State  
7 and the Beach Erosion Control District, the integrity and continuity of the dunal system  
8 and assuring adequate maintenance of the beaches, Beach Erosion Control District, and  
9 dunal system, to provide for shore erosion and sediment control and storm protection, and  
10 to minimize structural interference with the littoral drift of sand and any anchoring  
11 vegetation, any land clearing, construction activity, or the construction or placement of  
12 permanent structures within the Beach Erosion Control District is prohibited.

13 (2) This prohibition does not apply to any project or activity approved by  
14 the Department and the appropriate soil conservation district specifically for storm control;  
15 beach erosion and sediment control; maintenance projects designed to benefit the Beach  
16 Erosion Control District; ~~the widening of the boardwalk in Ocean City up to an additional~~  
17 ~~40 feet to the east between South Second Street and the south side of Worcester Street and~~  
18 ~~from the south side of Somerset Street to the southerly terminus of the steel and concrete~~  
19 ~~bulkhead at 4th Street, and an additional 80 feet to the east between the south side of~~  
20 ~~Worcester Street and the south side of Somerset Street to include associated appurtenances~~  
21 ~~and construction of one restroom facility in an easterly direction between South Second~~  
22 ~~Street and the southerly terminus of the steel and concrete bulkhead at 4th Street for the~~  
23 ~~purpose of public health, safety, and welfare;~~ and a planned public utility pipeline carrying  
24 treated sewage effluent from a unit not exceeding 14 million gallons per day, if, in addition  
25 to the approvals required by all other applicable federal and local laws and regulations, it  
26 is approved by the Board of Public Works as essential to the public health, safety, and  
27 welfare of the citizens of Worcester County, after having received the permission of the  
28 Secretaries of the Environment and Natural Resources, and the Secretary of Planning,  
29 including a guarantee that in any contract under this provision a person will not make any  
30 significant permanent environmental disruption to the area, and the construction area for  
31 the purpose of laying a single pipe with a diameter not exceeding 36 inches is limited to a  
32 single 100 foot wide area perpendicular eastward from the west crest of the natural dune  
33 line on Assateague Island and in Ocean City, and if the Secretaries of the Environment and  
34 Natural Resources and the Secretary of Planning find that there is no economically and  
35 environmentally feasible alternative, and that there is insufficient capacity at the existing  
36 Ocean City wastewater treatment facility and discharge pipe.

37 (3) (i) Subject to subparagraph (iii) of this paragraph, this prohibition  
38 does not apply to the construction and installation of a qualified submerged renewable  
39 energy line, as defined in § 7–208 of the Public Utilities Article, if the project does not result  
40 in any significant permanent environmental damage to the Beach Erosion Control District,  
41 as determined by the Department.

1 (ii) An application for a certificate of public convenience and  
 2 necessity to construct a qualified submerged renewable energy line, as defined in § 7-208  
 3 of the Public Utilities Article, is subject to review by the Department and the Department  
 4 of the Environment, as provided in § 3-306 of this article.

5 (iii) The Public Service Commission may not approve an application  
 6 for a qualified submerged renewable energy line to be constructed or installed within the  
 7 Assateague National Seashore Park or the Assateague State Park.

8 (4) (I) ~~SUBJECT TO SUBPARAGRAPH (H) SUBPARAGRAPHS (II),~~  
 9 ~~(III), AND THROUGH (IV) OF THIS PARAGRAPH, THIS PROHIBITION DOES NOT APPLY~~  
 10 ~~TO THE REPAIR, RENOVATION, RECONSTRUCTION, OR EXPANSION OF AN EXISTING~~  
 11 ~~STRUCTURE OWNED BY THE STATE OR THE MAYOR AND CITY COUNCIL OF OCEAN~~  
 12 ~~CITY IF THE PROJECT DOES NOT RESULT IN ANY SIGNIFICANT PERMANENT~~  
 13 ~~ENVIRONMENTAL DAMAGE TO THE BEACH EROSION CONTROL DISTRICT, AS~~  
 14 ~~DETERMINED BY THE DEPARTMENT.~~

15 (II) A RECONSTRUCTION OR EXPANSION PROJECT CARRIED  
 16 OUT UNDER THIS PARAGRAPH ~~SHALL COMPLY WITH SITING AND DESIGN CRITERIA~~  
 17 ~~ESTABLISHED UNDER § 3-1009 OF THIS ARTICLE.~~

18 ~~(III) PRIOR TO THE COMMENCEMENT OF A RECONSTRUCTION OR~~  
 19 ~~EXPANSION PROJECT CARRIED OUT UNDER THIS PARAGRAPH, THE MAYOR AND~~  
 20 ~~CITY COUNCIL OF OCEAN CITY SHALL APPROVE THE PROJECT.~~

21 ~~(IV) 1. AN EXPANSION PROJECT CARRIED OUT UNDER THIS~~  
 22 ~~PARAGRAPH MAY NOT:~~

23 ~~A. RESULT IN ANY INCREASE IN HEIGHT ABOVE THE~~  
 24 ~~EXISTING STRUCTURE; OR~~

25 ~~B. EXTEND BEYOND ANY EXISTING DULY RECORDED~~  
 26 ~~PROPERTY OR FRANCHISE BOUNDARY.~~

27 ~~2. IF NO BOUNDARY UNDER SUBSUBPARAGRAPH 1B OF~~  
 28 ~~THIS SUBPARAGRAPH EXISTS AT THE PROJECT SITE, AN EXPANSION PROJECT~~  
 29 ~~CARRIED OUT UNDER THIS PARAGRAPH:~~

30 ~~A. SHALL BE SOLELY FOR PURPOSES OF BRINGING THE~~  
 31 ~~EXISTING STRUCTURE INTO COMPLIANCE WITH THE FEDERAL AMERICANS WITH~~  
 32 ~~DISABILITIES ACT OR THE TOWN OF OCEAN CITY FIRE PREVENTION STANDARDS;~~  
 33 ~~AND~~

~~**B. MAY NOT INCREASE THE ABOVE-GRADE FOOTPRINT OF THE EXISTING STRUCTURE IN A NORTH OR SOUTH SHALL:**~~

**1. COMPLY WITH SITING AND DESIGN CRITERIA ESTABLISHED UNDER § 3-1009 OF THIS ARTICLE; AND**

**2. BE APPROVED BY THE MAYOR AND CITY COUNCIL OF OCEAN CITY.**

**(III) EXCEPT AS PROVIDED IN SUBPARAGRAPH (IV) OF THIS PARAGRAPH, A RECONSTRUCTION OR EXPANSION PROJECT CARRIED OUT UNDER THIS PARAGRAPH MAY NOT:**

**1. RESULT IN ANY INCREASE IN HEIGHT ABOVE THE EXISTING STRUCTURE; OR**

**2. EXTEND BEYOND ANY EXISTING DULY RECORDED PROPERTY OR FRANCHISE BOUNDARY.**

**(IV) IF NO RECORDED PROPERTY OR FRANCHISE BOUNDARY EXISTS FOR A RECONSTRUCTION OR EXPANSION PROJECT CARRIED OUT UNDER THIS PARAGRAPH, THE PROJECT:**

**1. MAY ONLY BRING THE EXISTING STRUCTURE INTO COMPLIANCE WITH:**

**A. THE FEDERAL AMERICANS WITH DISABILITIES ACT; OR**

**B. TOWN OF OCEAN CITY FIRE PREVENTION STANDARDS; AND**

**2. MAY NOT INCREASE THE ABOVE-GRADE FOOTPRINT OF THE EXISTING STRUCTURE IN A NORTHERLY OR SOUTHERLY DIRECTION.**

(b) The Secretary of the Environment, the Secretary of Natural Resources, and the Secretary of Planning, with the approval of the Board of Public Works, shall jointly adopt regulations in accordance with Title 10, Subtitle 1 of the State Government Article for the purpose of implementing the provisions of this section.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2022.