

Chapter 321

(House Bill 613)

AN ACT concerning

~~Calvert and St. Mary's Counties –~~ **Department of the Environment – Waivers for Living Shorelines and Nonstructural Shoreline Stabilization Measures – Regulations and Scoring System**

FOR the purpose of ~~establishing requirements for the use of~~ authorizing a person to use living shorelines and nonstructural stabilization measures in Calvert County and St. Mary's County; exempting property located in Calvert County and St. Mary's County from certain general requirements regarding the use of nonstructural shoreline stabilization measures as a certain erosion control measure; requiring that certain regulations adopted by the Department of the Environment require the Department to take certain action during the evaluation of a certain waiver request under certain circumstances; requiring the Department to develop a certain scoring system *in consultation with a certain licensed marine contractor*; and generally relating to shoreline erosion and stabilization.

BY repealing and reenacting, with amendments,
 Article – Environment
 Section 16–201
 Annotated Code of Maryland
 (2014 Replacement Volume and 2025 Supplement)

BY repealing
 Article – Natural Resources
 Section 8–1808.11
 Annotated Code of Maryland
 (2023 Replacement Volume and 2025 Supplement)

BY adding to
 Article – Natural Resources
 Section 8–1808.11
 Annotated Code of Maryland
 (2023 Replacement Volume and 2025 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) IN THIS SECTION, THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(2) (I) “LIVING SHORELINE” MEANS A PROJECT TO MITIGATE THE EFFECTS OF EROSION CAUSED BY SHORELINE FLOODING OR INUNDATION, CURRENTS, AND WAVE ENERGY THROUGH PROJECT DESIGN THAT:

1. STABILIZES A SHORELINE BY USING NATURAL MATERIALS TO CREATE BUFFERS TO ABSORB THE IMPACT OF COASTAL STORMS, FLOODING, AND WAVE ENERGY AND TO PREVENT OR MINIMIZE SHORELINE EROSION;

2. INCORPORATES AS MANY NATURAL ELEMENTS AS POSSIBLE TO ENSURE A SUBSTANTIAL BIOLOGICAL COMPONENT, SUCH AS NATIVE, OR TIDAL, OR LACUSTRINE FRINGE WETLANDS, OYSTER REEFS, SUBMERGED AQUATIC VEGETATION, OR NATIVE PLANTS;

3. UTILIZES TECHNIQUES THAT INCORPORATE ECOLOGICAL AND COASTAL ENGINEERING PRINCIPLES IN SHORELINE STABILIZATION; AND

4. TO THE EXTENT POSSIBLE, MAINTAINS OR RESTORES EXISTING NATURAL SLOPES AND CONNECTIONS BETWEEN UPLANDS AND ADJACENT WETLANDS OR SURFACE WATERS.

(II) “LIVING SHORELINE” INCLUDES THE USE OF:

1. NATURAL ELEMENTS SUCH AS SAND, WETLAND PLANTS, WOODY DEBRIS, OYSTERS OR OTHER SHELLFISH, SUBMERGED AQUATIC VEGETATION, NATIVE GRASSES, SHRUBS, TREES, OR OTHER BIODEGRADABLE MATERIALS AS APPROVED BY THE DEPARTMENT; AND

2. ~~LOW PROFILE~~ WHERE APPROPRIATE, STRUCTURAL ELEMENTS CHANNELWARD OF THE MEAN HIGH WATER LINE, SUCH AS STONE, CONCRETE, OYSTER DOMES, OR OTHER APPROVED ENGINEERED STRUCTURES.

(III) “LIVING SHORELINE” MAY INCLUDE NONSTRUCTURAL STABILIZATION MEASURES.

(3) (I) “~~NONSTRUCTURAL~~ NONSTRUCTURAL SHORELINE STABILIZATION MEASURE” MEANS AN EROSION CONTROL MEASURE THAT IS:

(+) 1. DOMINATED BY TIDAL WETLAND VEGETATION; AND

~~(H)~~ **2. DESIGNED TO PRESERVE THE NATURAL SHORELINE, MINIMIZE EROSION, AND ESTABLISH AQUATIC HABITAT.**

~~(2)~~ **(II) “NONSTRUCTURAL SHORELINE STABILIZATION MEASURE” INCLUDES MARSH OR OTHER TIDAL WETLAND CONSTRUCTION.**

(B) (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 (e) (D)~~ **SUBSECTIONS (D) AND (E) OF THIS SECTION**, protect the shore of that person against erosion.

(3) After an improvement has been constructed, the improvement is the property of the owner of the land to which the improvement is attached.

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

(5) 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)] (C) 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)] (D) (1) THIS SUBSECTION DOES NOT APPLY TO PROPERTY LOCATED IN:

~~(i) CALVERT COUNTY; OR~~

~~(ii) ST. MARY’S COUNTY~~ **APPLIES ONLY TO A SHORELINE STABILIZATION PROJECT FOR WHICH ANY PORTION OF THE PROJECT IS IN AN AREA THAT IS NOT DESIGNATED AS APPROPRIATE FOR STRUCTURAL SHORELINE STABILIZATION MEASURES BY DEPARTMENT MAPPING.**

[(1)] (2) Improvements to protect a person’s property against erosion shall consist of **A LIVING SHORELINE OR** nonstructural shoreline stabilization measures that preserve the natural environment, such as marsh creation, except:

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

~~(ii) In~~ **IN** areas 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.

~~(2)~~ **(3)** (i) Subject to subparagraph (ii) 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:

1. ~~include~~ INCLUDE a waiver process that exempts a person from the requirements of paragraph ~~[(1)]~~ **(2)** of this subsection on a demonstration to the Department's satisfaction that **A LIVING SHORELINE OR** nonstructural shoreline stabilization measures are not feasible for the person's property; **AND**

2. REQUIRE THE DEPARTMENT, AS PART OF ITS EVALUATION OF WAIVER REQUESTS, TO:

A. ON REQUEST OF THE PROPERTY OWNER AND UNLESS ANOTHER AMOUNT OF TIME IS AGREED TO WITH THE PROPERTY OWNER, VISIT THE SITE OF THE PROPOSED PROJECT WITHIN 45 DAYS AFTER THE DATE OF THE WAIVER REQUEST; AND

B. PROVIDE THE LOCAL SOIL CONSERVATION DISTRICT WITH WRITTEN NOTICE OF THE WAIVER REQUEST AND PROVIDE THE DISTRICT THE OPPORTUNITY TO MAKE RECOMMENDATIONS WITHIN 15 DAYS AFTER RECEIPT OF THE WRITTEN NOTICE ON THE ACCEPTANCE OF OR MODIFICATIONS TO THE WAIVER REQUEST.

(E) (1) THE DEPARTMENT, IN CONSULTATION WITH A LICENSED MARINE CONTRACTOR, SHALL DEVELOP A SCORING SYSTEM TO EVALUATE WAIVER REQUESTS UNDER THIS SECTION.

(2) THE SCORING SYSTEM DEVELOPED UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL INCLUDE:

(1) THE FACTORS THE DEPARTMENT WILL CONSIDER IN EVALUATING A REQUEST;

(II) THE RELATIVE WEIGHT OF EACH FACTOR; AND

(III) THE MINIMUM SCORE THAT A PROJECT MUST RECEIVE TO DEMONSTRATE TO THE DEPARTMENT'S SATISFACTION THAT A LIVING SHORELINE OR NONSTRUCTURAL SHORELINE STABILIZATION MEASURE IS NOT FEASIBLE FOR THE PERSON'S PROPERTY.

(3) THE DEPARTMENT SHALL PUBLISH THE SCORING SYSTEM DEVELOPED UNDER THIS SUBSECTION ON THE DEPARTMENT'S WEBSITE.

(4) NOTHING IN THIS SUBSECTION MAY BE CONSTRUED TO LIMIT THE DISCRETION OF THE DEPARTMENT TO GRANT A WAIVER TO A PROJECT THAT DOES NOT RECEIVE A MINIMUM SCORE.

~~(E) (1) (I) IN THIS SUBSECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.~~

~~(II) "HIGH ENERGY ENVIRONMENT" MEANS AN AREA CHARACTERIZED BY AT LEAST TWO OF THE FOLLOWING CRITERIA:~~

~~1. A FETCH OF GREATER THAN 2 MILES;~~

~~2. A STEEP NEARSHORE SLOPE EXCEEDING 5%, WHERE WATER DEEPENS QUICKLY ALLOWING LARGE WAVES TO REACH THE SHORELINE WITHOUT MUCH DISSIPATION; AND~~

~~3. GREATER THAN 2 FEET OF EROSION PER YEAR.~~

~~(III) 1. "LIVING SHORELINE" MEANS A PROJECT TO MITIGATE THE EFFECTS OF EROSION CAUSED BY SHORELINE FLOODING OR INUNDATION, CURRENTS, AND WAVE ENERGY THROUGH PROJECT DESIGN THAT:~~

~~A. STABILIZES A SHORELINE BY USING NATURAL MATERIALS TO CREATE BUFFERS TO ABSORB THE IMPACT OF COASTAL STORMS, FLOODING, AND WAVE ENERGY AND TO PREVENT OR MINIMIZE SHORELINE EROSION;~~

~~B. INCORPORATES AS MANY NATURAL ELEMENTS AS POSSIBLE, SUCH AS NATIVE WETLANDS, OYSTER REEFS, SUBMERGED AQUATIC VEGETATION, NATIVE GRASSES, SHRUBS, OR TREES;~~

~~C. UTILIZES TECHNIQUES THAT INCORPORATE ECOLOGICAL AND COASTAL ENGINEERING PRINCIPLES IN SHORELINE STABILIZATION; AND~~

~~D. TO THE EXTENT POSSIBLE, MAINTAINS OR RESTORES EXISTING NATURAL SLOPES AND CONNECTIONS BETWEEN UPLANDS AND ADJACENT WETLANDS OR SURFACE WATERS.~~

~~2. "LIVING SHORELINE" INCLUDES THE USE OF:~~

~~A. NATURAL ELEMENTS SUCH AS SAND, WETLAND PLANTS, LOGS, OYSTERS OR OTHER SHELLFISH, SUBMERGED AQUATIC VEGETATION, NATIVE GRASSES, SHRUBS, TREES, OR COIR FIBER LOGS; AND~~

~~B. STRUCTURAL MATERIALS, SUCH AS STONE, CONCRETE, OYSTER DOMES, OR OTHER APPROVED ENGINEERED STRUCTURES.~~

~~(IV) "MEDIUM ENERGY ENVIRONMENT" MEANS AN AREA CHARACTERIZED BY AT LEAST TWO OF THE FOLLOWING CRITERIA:~~

~~1. A FETCH OF 0.5 MILES TO 2 MILES;~~

~~2. A MODERATE NEARSHORE SLOPE OF 2% TO 5% WITH ENOUGH DEPTH FOR SMALL TO MODERATE WAVES TO PERSIST; AND~~

~~3. FROM 0.5 FEET TO 2 FEET OF EROSION PER YEAR.~~

~~(2) THIS SUBSECTION APPLIES ONLY TO PROPERTY LOCATED IN:~~

~~(I) CALVERT COUNTY; OR~~

~~(II) ST. MARY'S COUNTY.~~

~~(3) SUBJECT TO PARAGRAPH (7) OF THIS SUBSECTION, IMPROVEMENTS TO PROTECT A PERSON'S PROPERTY AGAINST EROSION SHALL CONSIST OF A LIVING SHORELINE OR NONSTRUCTURAL SHORELINE STABILIZATION MEASURES, EXCEPT IN AREAS WHERE THE PERSON CAN DEMONSTRATE TO THE LOCAL SOIL CONSERVATION DISTRICT'S SATISFACTION THAT THE PROJECTS AND MEASURES ARE NOT FEASIBLE, INCLUDING AREAS OF EXCESSIVE EROSION, AREAS SUBJECT TO HEAVY TIDES, AND AREAS TOO NARROW FOR EFFECTIVE USE OF A LIVING SHORELINE OR NONSTRUCTURAL SHORELINE STABILIZATION MEASURES.~~

~~(4) A SOIL CONSERVATION DISTRICT MAY WAIVE OR REDUCE MITIGATION REQUIREMENTS FOR LIVING SHORELINES OR NONSTRUCTURAL SHORELINE STABILIZATION MEASURES IN MEDIUM AND HIGH ENERGY ENVIRONMENTS IF, TO THE SOIL CONSERVATION DISTRICT'S SATISFACTION, THE LAND WATER INTERFACE IS MAINTAINED.~~

~~(5) ONLY A SOIL CONSERVATION DISTRICT MAY IMPOSE RESTRICTIONS ON THE TIME OF YEAR WHEN A LIVING SHORELINE OR NONSTRUCTURAL SHORELINE STABILIZATION MEASURE MAY BE CONSTRUCTED IN CALVERT COUNTY OR ST. MARY'S COUNTY.~~

~~(6) (i) THE CALVERT SOIL CONSERVATION DISTRICT AND THE ST. MARY'S SOIL CONSERVATION DISTRICT SHALL ADOPT REGULATIONS TO IMPLEMENT THE PROVISIONS OF THIS SUBSECTION.~~

~~(ii) THE REGULATIONS SHALL:~~

~~1. INCLUDE A WAIVER PROCESS THAT EXEMPTS A PERSON FROM THE REQUIREMENTS OF PARAGRAPH (3) OF THIS SUBSECTION ON A DEMONSTRATION TO THE SOIL CONSERVATION DISTRICT'S SATISFACTION THAT THE USE OF A LIVING SHORELINE OR NONSTRUCTURAL SHORELINE STABILIZATION MEASURES IS NOT FEASIBLE FOR THE PERSON'S PROPERTY; AND~~

~~2. REQUIRE A LIVING SHORELINE OR NONSTRUCTURAL SHORELINE STABILIZATION MEASURE TO BE DESIGNED TO WITHSTAND AT LEAST A 10 YEAR STORM EVENT.~~

~~(7) (i) A PERSON MAY NOT BEGIN CONSTRUCTION OF A SHORELINE STABILIZATION PROJECT FOR WHICH THE CALVERT SOIL CONSERVATION DISTRICT HAS PROVIDED DESIGN SERVICES UNLESS THE ST. MARY'S SOIL CONSERVATION DISTRICT HAS REVIEWED THE PROJECT AND CERTIFIED THAT IT COMPLIES WITH THE REQUIREMENTS OF THIS SUBSECTION.~~

~~(ii) A PERSON MAY NOT BEGIN CONSTRUCTION OF A SHORELINE STABILIZATION PROJECT FOR WHICH THE ST. MARY'S SOIL CONSERVATION DISTRICT HAS PROVIDED DESIGN SERVICES UNLESS THE CALVERT SOIL CONSERVATION DISTRICT HAS REVIEWED THE PROJECT AND CERTIFIED THAT IT COMPLIES WITH THE REQUIREMENTS OF THIS SUBSECTION.~~

Article – Natural Resources

(a) Other than in areas designated by the Department of the Environment mapping as appropriate for structural shoreline stabilization measures, 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 where the person can demonstrate to the satisfaction of the Department of the Environment that these 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.

(b) (1) In consultation with the Department, the Department of the Environment shall adopt regulations to implement the provisions of this subsection.

(2) The regulations shall include a waiver process that exempts a person from the requirements of subsection (a) of this section on a demonstration to the satisfaction of the Department of the Environment that nonstructural shoreline stabilization measures are not feasible for the person's property.]

8-1808.11.

IMPROVEMENTS TO PROTECT A PERSON'S PROPERTY AGAINST EROSION SHALL BE IN ACCORDANCE WITH THE PROVISIONS OF § 16-201 OF THE ENVIRONMENT ARTICLE.

SECTION 2. AND BE IT FURTHER ENACTED, That:

(a) (1) The Department of the Environment shall work with stakeholders on further alterations to the waiver process under § 16-201 of the Environment Article.

(2) In working with stakeholders as required under paragraph (1) of this subsection, the Department shall:

(i) discuss how to:

1. address the specific challenges with constructing shoreline stabilization projects in medium- and high-energy environments; and

2. provide greater transparency and certainty to the waiver process; and

(ii) review existing time-of-year and mitigation requirements.

(b) On or before December 1, 2026, the Department shall report to the Senate Committee on Education, Energy, and the Environment and the House Environment and Transportation Committee, in accordance with § 2-1257 of the State Government Article, on the progress of the stakeholder engagement required under subsection (a) of this section.

SECTION ~~2~~ 3. AND BE IT FURTHER ENACTED, That this Act shall take effect ~~October~~ July 1, 2026.

Approved by the Governor, April 28, 2026.