

SENATE BILL 178

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(PRE-FILED)

6lr0179
CF HB 258

By: **Chair, Education, Energy, and the Environment Committee (By Request – Departmental – Critical Area Commission)**

Requested: September 30, 2025

Introduced and read first time: January 14, 2026

Assigned to: Education, Energy, and the Environment

A BILL ENTITLED

1 AN ACT concerning

2 **Chesapeake and Atlantic Coastal Bays Critical Area Protection Program –**
3 **Standards and Procedures**

4 FOR the purpose of altering and updating the standards and procedures governing the
5 Chesapeake and Atlantic Coastal Bays Critical Area Protection Program related to
6 the approval of regulations, local program comprehensive reviews, locational
7 standards for growth allocation, correcting mapping mistakes, and tree replanting;
8 and generally relating to standards and procedures under the Chesapeake and
9 Atlantic Coastal Bays Critical Area Protection Program.

10 BY repealing and reenacting, with amendments,

11 Article – Natural Resources

12 Section 8–1806(a) and (b)(1)(xiv)2., 8–1808.1(c)(2), 8–1809(j) and (r), and 8–1815.1(b)
13 and (e)

14 Annotated Code of Maryland

15 (2023 Replacement Volume and 2025 Supplement)

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

18 **Article – Natural Resources**

19 8–1806.

20 (a) The Commission has all powers necessary for carrying out the purposes of this
21 subtitle, including the following:

22 (1) In accordance with Title 2, Subtitle 5 (Joint Committee on
23 Administrative, Executive and Legislative Review) and Title 10, Subtitle 1 (Administrative

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



Procedure Act) of the State Government Article, to adopt and amend regulations **BY AFFIRMATIVE VOTE OF THE COMMISSION AND** as authorized under this subtitle for the administration and enforcement of the State and local programs;

(2) To conduct hearings in connection with policies, proposed programs, and proposed regulations or amendments to regulations; and

(3) To contract for consultant or other services.

(b) Regulations adopted or amended under subsection (a)(1) of this section shall:

(1) Establish comprehensive standards and procedures for:

(xiv) Directives for local program development and implementation, with respect to:

2. The [6-year] **10-YEAR** comprehensive review of a local critical area program;

8-1808.1.

(c) (2) When locating new intensely developed or limited development areas, local jurisdictions shall use the following standards:

(i) Locate a new intensely developed area in a limited development area or [adjacent] **CONTIGUOUS AND ADJOINING** to an existing intensely developed area;

(ii) Locate a new limited development area [adjacent] **CONTIGUOUS AND ADJOINING** to an existing limited development area or an intensely developed area;

(iii) Locate a new limited development area or an intensely developed area in a manner that minimizes impacts to a habitat protection area as defined in COMAR 27.01.09, and in an area and manner that optimizes benefits to water quality;

(iv) Locate a new intensely developed area or a limited development area in a resource conservation area at least 300 feet beyond the landward edge of tidal wetlands or tidal waters, unless the local jurisdiction proposes, and the Commission approves, alternative measures for enhancement of water quality and habitat that provide greater benefits to the resources;

(v) Locate new intensely developed areas and limited development areas in a manner that minimizes their impacts to the defined land uses of the resource conservation area;

(vi) Locate new intensely developed areas and limited development areas outside of areas vulnerable to climate change unless the local jurisdiction proposes and the Commission approves:

1. Areas identified by the local jurisdiction as vulnerable to climate change as required under § 8–1808(c)(1)(iii)16 of this subtitle; and

2. Measures that:

A. Assess climate resiliency and vulnerability; and

B. Incorporate siting, design, construction, and other natural features to significantly enhance climate resiliency and reduce vulnerability;

(vii) Except as provided in item (ix) of this paragraph, no more than one-half of the expansion allocated in the criteria of the Commission may be located in resource conservation areas;

(viii) New intensely developed or limited development areas involving the use of growth allocation shall conform to all criteria of the Commission and shall be designated on the comprehensive zoning map submitted by the local jurisdiction as part of its application to the Commission for program approval or at a later date in compliance with § 8–1809(g) of this subtitle; and

(ix) In Calvert, Caroline, Cecil, Charles, Dorchester, Kent, Queen Anne's, St. Mary's, Somerset, Talbot, Wicomico, and Worcester counties, if the county is unable to utilize a portion of the growth allocated to the county in items (i) and (ii) of this paragraph within or [adjacent] **CONTIGUOUS AND ADJOINING** to existing intensely developed or limited development areas as demonstrated in the local plan approved by the Commission, then that portion of the allocated expansion which cannot be so located may be located in the resource conservation area in addition to the expansion allocated in item (vii) of this paragraph. A developer shall be required to cluster any development in an area of expansion authorized under this paragraph.

8–1809.

(j) (1) As often as necessary but not more than 4 times per calendar year, each local jurisdiction may propose program amendments and program refinements to its adopted program.

(2) A change to a critical area designation may be granted by a local approving authority on proof of mistake if the proposed critical area classification:

(i) Conforms to the State critical area mapping criteria;

(ii) 1. Is based on land uses or natural features in existence [as]:

1 A. AS of December 1, 1985, **FOR THE CHESAPEAKE BAY**
2 **CRITICAL AREA**; or

3 B. **AS OF JUNE 1, 2002, FOR THE ATLANTIC COASTAL**
4 **BAYS CRITICAL AREA; OR**

5 2. For areas included in the critical area due to remapping,
6 is based on land uses or natural features in existence at the time of the remapping;

7 (iii) Follows the local jurisdiction's documented mapping
8 methodology for critical area classifications at the time of original program adoption; and

9 (iv) Is consistent with the purposes, policies, and goals of this subtitle
10 and all criteria of the Commission.

11 (r) (1) Proposed program refinements shall be determined as provided in this
12 subsection.

13 (2) (i) Within 30 days of the Commission's acceptance of a proposal to
14 change an adopted program, the chair, on behalf of the Commission, may determine that
15 the proposed change is a program refinement.

16 (ii) The chair shall notify the Commission of that determination at
17 the next meeting or a subsequent meeting if the local jurisdiction requests, and the chair
18 approves, an extension.

19 (iii) If a proposed change that was specifically submitted as a
20 program refinement is not acted on by the chair within the 30-day period **UNDER**
21 **SUBPARAGRAPH (I) OF THIS PARAGRAPH OR APPROVED FOR AN EXTENSION UNDER**
22 **SUBPARAGRAPH (II) OF THIS PARAGRAPH**, the Commission shall notify the appropriate
23 local jurisdiction that the proposed change has been deemed to be a program amendment.

24 (3) (i) The Commission may vote to override the chair's determination
25 only at the first Commission meeting where a quorum is present following the chair's
26 notification to the Commission.

27 (ii) If the chair's determination is overridden, the proposed change
28 is deemed a program amendment, which shall be decided by the Commission in accordance
29 with the procedures for program amendments provided in this section, except that the
30 Commission shall act on the program amendment within **[90] 130** days after a vote to
31 override the chair.

32 (iii) If the chair's determination is not overridden, within 10 working
33 days after the opportunity to override the chair's decision under subparagraph (i) of this
34 paragraph, the chair shall:

1 1. Determine if the program refinement is consistent with
2 the purposes, policies, goals, and provisions of this subtitle, and all criteria of the
3 Commission; and

4 2. A. Approve the proposed program refinement and
5 notify the local jurisdiction;

6 B. Deny the program refinement;

7 C. Approve the proposed program refinement subject to one
8 or more conditions; or

9 D. Return the proposed program refinement back to the local
10 jurisdiction with a list of the changes to be made.

11 (iv) If the chair approves a proposed program refinement subject to
12 one or more conditions under subparagraph (iii)2C of this paragraph, the local jurisdiction
13 shall notify the Commission within 60 days of its intent to adopt the conditions.

14 (4) A local jurisdiction shall incorporate an approved program refinement
15 and any required conditions into its adopted program within 120 days of receiving notice
16 from the chair that the program refinement has been approved.

17 8–1815.1.

18 (b) Subject to subsection (f) of this section, if a person cuts or clears or plans to
19 cut or clear trees within the Chesapeake Bay Critical Area or Atlantic Coastal Bays Critical
20 Area in violation of an approved local critical area program or of regulations adopted by the
21 Commission, the chair may bring an action, or the local jurisdiction may bring an action or
22 request that the chair of the Commission refer the matter to the Attorney General to bring
23 an action:

24 (1) To require the person to replant trees where the cutting or clearing
25 occurred in accordance with a plan prepared by the State Forester, a [registered
26 professional] **LICENSED** forester, [or] a [registered] **LICENSED** landscape architect, **OR**
27 **ANY OTHER QUALIFIED PROFESSIONAL APPROVED BY THE DEPARTMENT;**

28 (2) To restrain the planned violation; or

29 (3) For damages:

30 (i) To be assessed by a circuit court in an amount equal to the
31 estimated cost of replanting trees; and

32 (ii) To be paid to the [Department] **LOCAL JURISDICTION** by the
33 person found to have violated the provisions of this subsection.

(e) On the request of a local jurisdiction or the chair of the Commission, the State Forester, a [registered professional] **LICENSED** forester, [or] a [registered] **LICENSED** landscape architect, **OR ANY OTHER QUALIFIED PROFESSIONAL APPROVED BY THE DEPARTMENT** may prepare, oversee, and approve the final implementation of a plan to:

(1) Replant trees in any part of the Chesapeake Bay Critical Area where trees in the Chesapeake Bay Critical Area are cut or cleared in violation of subsection (b) of this section; and

(2) Replant trees in any part of the Atlantic Coastal Bays Critical Area where trees in the Atlantic Coastal Bays Critical Area are cut or cleared in violation of subsection (b) of this section.

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