

# Oyster Bed letter PDF.pdf

Uploaded by: Antosh, Dale

Position: FAV

My name is Dale Antosh and I am the President of the Golden Beach/Patuxent Knolls Civic Association. We have had numerous meetings and discussions about oyster leases in our waterways surrounding our wonderful waterfront community. I am writing this representing over 1200 homes in our community and where we all agree that oysters are an important resource for our state, we also agree that the owners of property along our bay and rivers have a right to be informed of anything that affects the surrounding areas of where they live. When people purchase homes in our "Waterfront Community " they are expecting all the amenities that go with that designation whether you are on the water or just in the community. This includes the boating, fishing crabbing and even the wonderful views and sunsets over the water. All residents need to be part of the process when leases are even proposed in populated areas. What people are concerned about is when the underwater leases fail and then before you know it the river is littered with hundreds of poles supporting oyster cages. That would not only be undesirable to look at but would adversely affect property values as that would eliminate many of the amenities that would be provided by a waterfront community. We are in total support of this bill and any others that address the regulation of oyster leases. We all want transparency and want our voices to be heard whenever this topic is being discussed. I only represent a small portion of our county but I'm very sure that most citizens agree that this should be a subject that the residents should have a say in and not just decided by people who do not live in these affected areas

**SenatorBailey\_FAV\_SB203.pdf**

Uploaded by: Bailey, Jack

Position: FAV

JACK BAILEY  
*Legislative District 29*  
Calvert and St. Mary's Counties

Judicial Proceedings Committee



THE SENATE OF MARYLAND  
ANNAPOLIS, MARYLAND 21401

*Annapolis Office*  
James Senate Office Building  
11 Bladen Street, Room 402  
Annapolis, Maryland 21401  
410-841-3673 · 301-858-3673  
800-492-7122 Ext. 3673  
Jack.Bailey@senate.state.md.us

*District Office*  
Dorsey Professional Park  
23680 Three Notch Road, Unit 101  
Hollywood, Maryland 20636  
240-309-4238

February 10, 2021

**Senate Bill 203 – Aquaculture Lease Applications - Notices, Protests, Meetings, and Conflict Resolution**

Dear Chairman Pinsky and Members of the Committee:

I am writing to introduce Senate Bill 203 – Aquaculture Lease Applications - Notices, Protests, Meetings, and Conflict Resolution. I have introduced Senate Bill 203 in response to concerns that have arisen, particularly in St. Mary's County, regarding the placement of aquaculture leases.

This bill is intended to address the conflicts between waterfront property owners and applicants for oyster leases that have become far too common in our area. Oysters are very important to the Chesapeake Bay and critical to our region as a whole. Often when the General Assembly gets involved in promulgating new laws, there are unintended consequences that arise in the process. This legislation was crafted in hopes of deescalating the controversy that was created ten years ago when the current oyster leasing laws were established.

I would like to thank Chairman Pinsky for working with me on amendments to this bill during the 2020 Legislative Session. After realizing that we had introduced very similar legislation on this issue, Chairman Pinsky and I were able to propose amendments that have incorporated in this bill to present one piece of legislation to address this issue which is so important to my District.

I respectfully request a favorable report on Senate Bill 203. Thank you for your consideration.

Sincerely,

A handwritten signature in black ink, appearing to read "J. Bailey".

Senator Jack Bailey  
District 29  
Calvert and St. Mary's Counties

**land lease 487.pdf**

Uploaded by: Holmes, Sandra

Position: FAV

September 18, 2019

Maryland Department of Natural Resources  
Fishing and Boating Services  
580 Taylor Avenue  
Annapolis Maryland 21401

ATTN: Rebecca Thur

RE: Proposed Commercial Shellfish Aquaculture Submerged Land Lease #487  
Joshua Buckler and Holly Buckler

Dear Ms. Thur:

I am requesting a public informational hearing on the proposed commercial shellfish aquaculture submerged land lease #487 for Joshua Buckler and Holly Buckler on the Patuxent River in front of Golden Beach properties of St. Mary's County Maryland.

I am protesting the above proposed lease due to navigational concerns. The depth of water is crucial. Your measurement of the Mean Low Tide water table, taken on June 12, 2019 at five feet; which was at an unusually high water table. The average water table is usually 2 to 3 feet below the top boards on our pier. That week the water table was touching the top boards of the pier. This leaves me to believe the depths of water does not reflect the normal level. When entering and exiting our dock the boat stirs up mud due to the shallow water.

The location of the oyster bed is another major concern, as it is very close to the end of my pier. This would effect the amount of space to maneuver my boat, or other boat owners visiting me, while entering or exiting my pier. It is my understanding that if a boat does any damage to the proposed oyster bed they are responsible for the damage. This seems very unfair to a tax paying waterfront home owner.

I hope you will consider my concerns before the final approval of this lease.

Sincerely,

Michael M. Holmes  
Sandra G. Holmes  
40394 Waterview Drive  
Mechanicville MD 20659

**Yahoo Mail - Aquaculture Lease Senate Bill 711.pdf**

Uploaded by: Holmes, Sandra

Position: FAV

## Aquaculture Lease Senate Bill 711

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From: Sandra Chambers (schambers49@verizon.net)

To: jack.bailey@senate.state.md.us

Date: Monday, February 24, 2020, 10:56 AM EST

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I'm in support of the SB 711, as I'm a property owner that is impact my land lease #487.

As a property owner I would like to know why a lease would be approved that is directly in front of a waterfront community with 1200 homes, when there are plenty of areas like unimproved land or state owned land that would be a much better place to have a oyster bed. My concern is when the oysters die, and we know they will, the leases are a stepping stone to move to the cage method with stakes and floats. I can't imagine what this would look like, but know my property value would decrease. I am having a difficult time getting my boat launched, as I'm dragging the bottom now. If three inches of oyster shells are dumped 50 feet off my pier I will do damage to my boat engine. I feel that a oyster lease in front of Golden Beach community would greatly affect recreational water sports, crabbing and fishing. I was also informed that this could affect the values of the waterfront homes. I have paid much more for the waterfront property and continue to pay higher taxes for the view and the water access. Giving the watermen a aquaculture lease in front of a waterfront community is greatly unfair to waterfront home owners.

Thank you for your support.

Michael M. Holmes  
Sandra G. Holmes  
40394 Waterview Drive  
Mechanicsville MD 20659

ps

Where can I find a copy of Senate Bill 711, Aquaculture Lease Applications?



**SB 203.pdf**

Uploaded by: May, Lisa

Position: FAV



## **Senate Bill 203 – Aquaculture Lease Applications - Notices, Protests, Meetings, and Conflict Resolution**

### **Position: Support**

Maryland REALTORS® support SB 203, which expands property owner notification of proposed aquaculture leases and promotes conflict resolution between lease applicants and area residents. Taken together, these changes will give homeowners a voice in the granting of aquaculture leases off their shoreline.

REALTORS® recognize the benefits that oyster aquaculture provides but believe that it should be subject to additional standards when close to property owners. Maneuvering a watercraft through or around some aquaculture operations is difficult and can limit ingress and egress from docks and the waterfront of a property owner.

An Aquaculture Enterprise Zone directly in front of a property owner can impact the attractiveness of the property to a subsequent buyer as well. Current guidelines permit these operations within 51 feet of a dock or shoreline. A property subject to navigation restrictions, noise, and other commercial activities less than 100 feet from their property line is likely to be viewed more negatively than a property not subject to these activities.

SB 203 addresses some of these concerns by requiring the Department of Natural Resources (DNR) to notify owners property within 500 feet of the proposed aquaculture activity. Current guidelines only require notice for property owners directly in front of the operation. The bill also directs DNR to work with the both the aquaculture permit seeker and the landowner to mitigate any concerns. Finally, the bill requires DNR to hold a public informational meeting if the person raises significant health, safety, or welfare concerns.

SB 203 will help permit seekers and owners design an aquaculture lease operation that results in the least amount of interference with property owner's rights to use and enjoy their property.

Maryland REALTORS® encourage a favorable report.

**For more information contact [bill.castelli@mdrealtor.org](mailto:bill.castelli@mdrealtor.org),  
[susan.mitchell@mdrealtor.org](mailto:susan.mitchell@mdrealtor.org), or [lisa.may@mdrealtor.org](mailto:lisa.may@mdrealtor.org)**

**SB203\_COA\_OPPOSE.pdf**

Uploaded by: Alliance, Chesapeake Oyster

Position: UNF



Chesapeake  
**OYSTER ALLIANCE**  
*10 Billion for the Bay*

ANNAPOLIS AQUACULTURE - ARUNDEL RIVERS FEDERATION - BIG ISLAND AQUACULTURE - BLUE OYSTER ENVIRONMENTAL - CHESAPEAKE BAY FOUNDATION - COASTAL CONSERVATION ASSOCIATION MARYLAND - FRIENDS OF ST. CLEMENTS BAY - FRIENDS OF THE WICOMICO RIVER - GROW OYSTER REEFS - HOLLYWOOD OYSTER CO. - LAMBERT SHELLFISH - LYNNHAVEN RIVER NOW - ORCHARD POINT OYSTERS - OYSTER COMPANY OF VIRGINIA - OYSTER NINJA/S.S. SHUCKING - SHORE THING SHELLFISH - SHORERIVERS - TIDEWATER OYSTER GARDENERS ASSOCIATION - VIRGINIA WESLEYAN UNIVERSITY - WARD OYSTER

**Senate Bill 203**

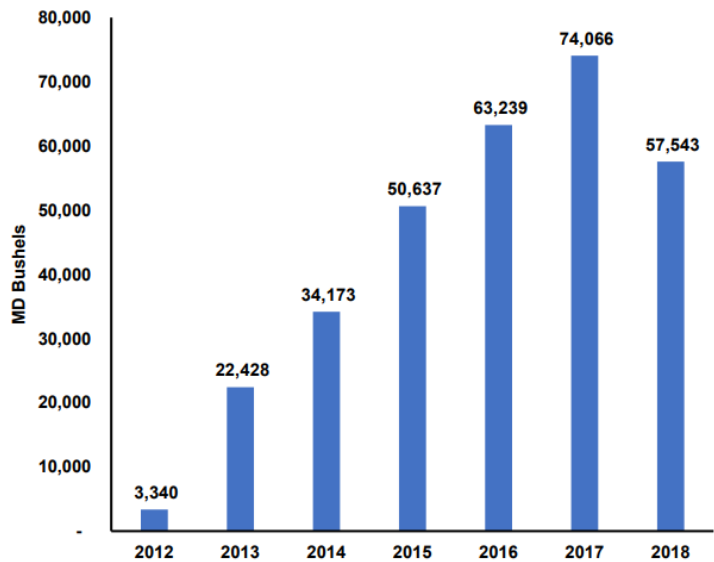
Aquaculture Leases and Shellfish Nursery Operations - Wetlands

DATE: February 10, 2021

POSITION: **OPPOSE**

The Chesapeake Oyster Alliance is a broad coalition of non-profits, community organizations, oyster growers, and business owners with the shared goal of adding 10 billion oysters in the Bay by the year 2025. With a focus on oyster restoration, science-based fishery management, and increased aquaculture, the Chesapeake Oyster Alliance aims to accelerate oyster recovery efforts and in so doing the recovery of the Chesapeake Bay.

Figure 3. Total bushels of Maryland aquaculture oysters harvested from 2012 to 2018.



**The Chesapeake Oyster Alliance opposes Senate Bill 203 and recommends an unfavorable report from the Senate Education, Health, and Environmental Affairs Committee.**

In 2010, the Maryland General Assembly revised the law to encourage private investment in oyster recovery through the growth of the oyster aquaculture industry. As a result of these actions, oyster aquaculture in the state grew significantly from 2010 to 2017, resulting in millions more oysters in the water improving water quality and removing excess nutrients. Additionally, in 2017 alone, the oyster aquaculture industry contributed \$9.7 million to the economy and supported hundreds of Maryland jobs.<sup>i</sup>

Unfortunately, one result of the quick growth of the aquaculture industry has been concern from waterfront property owners about local aquaculture operations. In some cases, property owners simply lack an understanding of how an oyster farm works and what can be expected. In such cases, the concerns of homeowners can usually be successfully resolved through conversations with Department of Natural Resources staff or the applicant, a step which is currently part of DNR's lease review process. In other cases, however, the objection is simply to any use of state-owned bottom or water in the vicinity of the property. No amount of mediation will resolve such conflicts.

As written, this bill requires DNR to “mitigate the concerns raised in the petition” before issuing a lease. This language suggests that unless and until DNR is able to get both parties to agree, DNR may not issue a lease. This presents significant concern for oyster growers. By requiring the petitioner’s concerns to be fully mitigated, a property owner who objects to a lease application can hold up DNR’s decision, either positive or negative, indefinitely, leaving the applicant permanently in limbo.

This legislation is likely to have a chilling effect on private investment in oyster recovery through the oyster aquaculture industry. If passed, small business owners cannot be assured that their investment in locating, scouting, and applying for an oyster lease has a chance of being fruitful even if it meets all regulatory criteria.

We believe that DNR’s current approach which includes a minimum 50 foot setback from waterfront property, notification of adjacent landowners, an online lease application tracking portal, staff facilitation of discussions between applicants and homeowners, and the opportunity for the petitioner to appeal DNR’s decision with a judge at the Office of Administrative hearings provides sufficient opportunity to address homeowner concerns while providing some semblance of regulatory certainty to would-be investors in Maryland’s aquaculture industry.

For these reasons, the Chesapeake Oyster Alliance respectfully recommends an unfavorable report on Senate Bill 203 from the Education, Health and Environmental Affairs Committee. Please contact Scott Budden (scott@orchardpointoysters.com; (443) 480-0302) with any questions.

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<sup>i</sup> van Senten, J., Engle, C., Parker, M., and D. Webster. 2020. Analysis of the Economic Benefits of the Maryland Shellfish Aquaculture Industry. Available at: <https://www.cbf.org/document-library/non-cbf-documents/analysis-of-the-economic-benefits-of-the-maryland-shellfish-aquaculture-industry-full-report.pdf>

# **Opposition of SB203 - Aquaculture Lease Applicatio**

Uploaded by: Ferguson, Colby

Position: UNF



# Maryland Farm Bureau, Inc.

3358 Davidsonville Road • Davidsonville, MD 21035 • (410) 922-3426

February 10, 2021

To: Senate Education, Health, and Environmental Affairs Committee

From: Maryland Farm Bureau, Inc.

Re: **Opposition of SB203 - Aquaculture Lease Applications - Notices, Protests, Meetings, and Conflict Resolution**

On behalf of our member families, I submit this written testimony opposing SB203. This bill extends the riparian landowners that have standing on a Aquaculture lease application from land directly in front of the proposed lease to land that is within 500 feet from the edge of a proposed lease.

It also requires DNR to work with the landowners that have an issue with the proposed lease and the lease applicant to mitigate the concerns raised in the petition and consider conflict resolution between the shoreline property owners and lease applicants before issuing they can issue the lease permit.

Lastly, the bill further defines when DNR is required to hold a public hearing on a lease application. It adds: if the department determines that the person is raising a significant public health, safety, or welfare concern.

**MDFB Policy:** We strongly support responsible and workable actions designed to permit and protect the privilege and rights of farmers, commercial fisherman, and aquaculturalists, to produce without undue or unreasonable restrictions, regulations, or legislation. We support actions to ensure that farmers are protected from liability and nuisance suits when carrying out normal production practices.

**MARYLAND FARM BUREAU RESPECTFULLY OPPOSES SB 203**

A handwritten signature in black ink, appearing to read "Colby Ferguson". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Colby Ferguson  
Director of Government Relations

*For more information contact Colby Ferguson at (240) 578-0396*

# **SB203 Written Testimony.pdf**

Uploaded by: Russell, Brian

Position: UNF



Brian Russell, President  
Southern Maryland Shellfish Growers Association  
45725 Stoney Run Drive  
Great Mills, MD 20634

February 7, 2021

To: Members of the Senate Environment and Transportation Committee

Re: SB203 Aquaculture Lease Applications - Notices, Protests, Meetings, and Conflict Resolution

SMSGGA Position: Oppose SB203

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Dear Chairman Pinsky, Vice Chair Nathan-Pulliam, and members of the committee

My name is Brian Russell, one of the four owners and operators of Shore Thing Shellfish, a small oyster farm in Tall Timbers, and also the President of the Southern Maryland Growers Association (SMSGGA). The SMSGGA represents about 25 small business oyster farms located in Anne Arundel, Calvert, Charles, and St. Mary's Counties. We oppose SB 203 Aquaculture Lease Applications- Notices, Protest, Meetings, and Conflict Resolution.

SB 203 states that "The Department Shall: Work with the petitioner and applicant to mitigate concerns raised in the petition." This suggests that a petitioner could indefinitely hold up a lease application with their concerns. This does not seem to be a fair approach to the process. The Department of Natural Resources and the Army Corp of Engineers already work very hard to take into consideration all user groups while at the same time working to move this fledgling industry forward. They currently mediate and make sure proposed leases are not impeding on navigation or other commercial fisheries. The DNR is currently working to help open the lines of communication between all user groups which will alleviate much of the major opposition from all other user groups.

There is no argument that the Chesapeake Bay is an invaluable resource to all who work on, and live around, it. Oyster aquaculture is helping to restore this resource. Oyster farms do more good for the bay than the home owner living on the water. Our oysters are constantly removing the excess nutrients that run off of many of these waterfront properties. They also provide excellent habitat and nursery for many species of fish and crabs. Some of the best fishing can be found around oyster leases. If a lease goes in front of a property, the landowner should consider themselves lucky to have their own bay cleaning service right off their dock.

Thank you for your attention to this important matter and we ask that you give SB 203 an unfavorable report.

Sincerely,

A handwritten signature in cursive script that reads "Brian Russell". The signature is fluid and connected, with a large initial "B" and "R".

Brian Russell

**SB0203\_DNR\_LOI EHEA 2-10-21.pdf**

Uploaded by: McKittrick, James

Position: INFO



Larry Hogan, Governor  
Boyd Rutherford, Lt. Governor  
Jeannie Haddaway-Riccio, Secretary

February 10, 2021

The Honorable Paul G. Pinsky  
Chair, Education, Health and Environmental Affairs Committee  
2 West Miller Senate Office Building  
Annapolis, MD 21401

The Honorable Cheryl C. Kagan  
Vice Chair, Education, Health and Environmental Affairs Committee  
2 West Miller Senate Office Building  
Annapolis, MD 21401

***Re: Letter of Information – Senate Bill 203 – Aquaculture Lease Applications – Notices, Protests, Meetings, and Conflict Resolution***

Dear Chair, Vice Chair, and Committee Members,

The Maryland Department of Natural Resources provides the following information on Senate Bill 203. This bill would require the agency to directly notify landowners who are not directly in front of proposed shellfish aquaculture projects, but are within 500 feet of the project and require the agency to consider conflict resolution between shoreline property owners and lease applicants before issuing a lease.

In the department's reading of SB 203, requiring notification of landowners who are not directly in front of the proposed shellfish aquaculture project, but are within 500 feet of the project may increase the number of notifications that are sent to members of the public who are not directly affected by the proposed leases. In fact, the requirement to notify property owners within 500 feet of a proposed submerged land or water column lease instead of property owners "directly in front" of a proposed project may result in sending notice to non-shoreline property owners who would in no way be impacted by the project as well as not sending notice to shoreline property owners who may be affected by a lease in front of their property located more than 500 feet from their shoreline.

SB 203's extremely broad requirement for the department to work with every petitioner who opposes a proposed aquaculture lease "to mitigate the concerns raised in the petition" may result in the department wasting time and resources on unreasonable or invalid concerns about a proposed aquaculture project. If, for example, a petitioner is concerned that a proposed lease located more than 1,000 feet from petitioner's property may somehow threaten their pet's safety, and the department is required to mitigate that concern, a lease applicant would be required to make unnecessary and unrealistic modifications to mitigate an arbitrary concern. The department currently implements practices and procedures to work through valid concerns raised by petitioners, including informal and formal mediation and settlement conferences organized through the Office of Administrative Hearings.

The new language added on page 3 of this bill effectively reduces the number of public information meetings held on proposed lease projects, which may lead to less public education,

outreach and awareness concerning proposed lease projects. This could, in turn, increase confusion and the perpetuation of misinformation regarding these projects. Under current law, the department is required to hold a public information meeting about a proposed lease project whenever one is requested. The new substitute language proposed in this bill requires public information meetings only if the department determines a person requesting a meeting is "raising a significant public health, safety, or welfare concern." So, the person requesting the meeting would have to put forward a basis for holding the meeting, and that basis would need to be a "significant public health, safety, or welfare concern." Aquaculture is a very positive program and permitted (and even encouraged) activity in this State, as it provides numerous environmental, economic, and cultural benefits to Marylanders. In the event the department did determine a proposed project presents such an issue, the lease would be denied, or at least substantially modified, in order to remove the threat, and consequently render any public meeting about it unnecessary.

With regards to requiring the agency to consider conflict resolution between shoreline property owners and lease applicants before issuing a lease, the department recognizes the importance of working to resolve conflicts identified by concerned citizens and protestants prior to issuing shellfish leases and has implemented these efforts in each case where a conflict has existed. The bill language as drafted would, for submerged land leases only, require the department to "consider conflict resolution" between shoreline property owners and lease applicants prior to issuing a lease. It is unclear when the department would be required to consider such resolutions, but the placement of the language in the submerged land lease location criteria suggests it would potentially need to be considered even before any property owners had an opportunity to submit comments on a proposed project.

The bill identifies a specific segment of people for which conflict resolution is required to be considered - "shoreline property owners." It is not clear whether this is intended to include only those owners that are near to the project and might be affected by the proposed lease, or riparian landowners in the State more generally. Overall, the placement of this wording in the location criteria statute for submerged leases, and the wording of the bill leave some ambiguity about what is required of the department. In addition, it is not clear who would pay for any conflict resolution if a formal mediation is required by the legislation and if this bill would cost the agency any additional funds in order to implement.

In sum, this bill will likely increase confusion and costs as well as significantly slow the aquaculture permitting process. Slowing the permitting process directly leads to fewer oysters grown in Maryland's waters.

Thank you for allowing the department to provide the above information on SB 203 for the committee's careful consideration.

Respectfully submitted,

James W. McKitrick  
Director, Legislative and Constituent Services