



CHESAPEAKE BAY FOUNDATION

Environmental Protection and Restoration
Environmental Education

House Bill 160

Environment – Wetlands and Waterways – Riparian Rights

Date: January 27, 2021
To: House Environment and
Transportation Committee

Position: Support with Amendments
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The Chesapeake Bay Foundation (CBF) **SUPPORTS HB 160 WITH AMENDMENTS**. Improving access to information about community riparian rights can help maintain public access and stewardship of sensitive shoreline areas.

Erosion and sea level rise presents agencies with special challenges when reviewing waterfront development proposals.

The Chesapeake Bay has gifted Maryland residents with more than 7,700 miles of shoreline. Maryland's state and local environment, natural resource and planning agencies share a critical responsibility to manage development along these sensitive natural edges. Waterfront development activities including piers and shoreline stabilization may only be authorized when the applicant possesses the riparian right to access and modify the water's edge. Due to natural and human-induced pressures such as sea level rise, land subsidence, sediment transport (littoral drift), and erosion, these edges continually shift – often crossing property lines or the boundaries of an easement for community access. Confusion and disputes can arise when the observed shoreline no longer aligns with these established legal tools.

As drafted, HB 160 may overstate riparian rights and cause added conflicts among rights-holders:

- Paragraph (a) of this bill shifts the burden of proof of riparian rights to the state, in conflict with the long-established provision of existing Section 16-201(a) that assign the burden of proof to the owner of the land.
- While paragraph (a) establishes the clear intent of the bill to protect public community access and stewardship to the waterfront, Paragraph (b) includes 'other entities' that could substantially expand the applicability of this bill.
- Paragraph (b) may also remove the ability of a reviewing agency to deny, or even place protective conditions on an approval of, development along the waterline.
- Paragraph (c) could resurrect extinguished development rights from substandard lots that were platted under outdated, inadequate regulations.

Residential communities, wildlife, and the environment depend on regulatory protections as currently composed to maintain a balance between human activity and access to the water. As such, **CBF urges the Committee's FAVORABLE report WITH AMENDMENTS on HB 160.**

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Amendments

In section 16-201.1, strike paragraphs (A) and (B) in their entirety.

Modify the current paragraph (C) as follows: “(C) THE DEPARTMENT SHALL ESTABLISH AND MAINTAIN A PUBLICLY ACCESSIBLE REPOSITORY ON THE DEPARTMENT’S WEBSITE ~~TO KEEP RECORD OF~~ FOR COMMUNITY ASSOCIATIONS ~~AND OTHER ENTITIES THAT POSSESS~~ TO REGISTER A CLAIM OF RIPARIAN RIGHTS.”

Bill text changes described above:

On Page 1, strike lines 18-23.

On Page 2, strike lines 1-5.

On Page 2, line 6, strike “(C).”

On Page 2, line 7, following “WEBSITE,” strike “TO KEEP RECORD OF” and insert, “FOR”

On Page 2, line 9, strike “AND OTHER ENTITIES THAT POSSESS” and insert “TO REGISTER A CLAIM OF RIPARIAN RIGHTS.”