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**STATE OF MARYLAND
CRITICAL AREA COMMISSION
CHESAPEAKE AND ATLANTIC COASTAL BAYS**

January 27, 2026

BILL NUMBER: SENATE BILL 178 – First Reader

**SHORT TITLE: Chesapeake and Atlantic Coastal Bays Critical Area Protection Program
– Standards and Procedures**

COMMISSION’S POSITION: FAVORABLE

EXPLANATION OF COMMISSION’S POSITION

The Commission supports SB 178 and requests a favorable report from the Committee. We requested SB 178 to correct minor conflicts within the Critical Area law that have arisen due to recent updates to our law and other statutes. The bill also clarifies several ambiguous provisions, based on established practice, to improve the predictability and efficiency of the development review process.

BACKGROUND INFORMATION

The Critical Area Law was enacted in 1984 to establish a Resource Protection Program for the Chesapeake Bay and its tributaries by fostering more sensitive development activity for certain shoreline areas to minimize damage to water quality and natural habitats. The General Assembly established the Critical Area program to be implemented on a cooperative basis between state and local governments, with local governments implementing their programs in a “consistent, uniform, and equitable manner” subject to state criteria and oversight.¹

Accommodating sustainable, resilient, and equitable housing and land development is a primary goal of the Critical Area law. Most new housing and development in the Critical Area occurs in pre-designated locations that have been mapped to accommodate this growth. When more land is needed, Critical Area law directs that jurisdictions use growth allocation (the Critical Area equivalent to an “upzoning”) to accommodate additional housing and land development. The law requires growth allocations to be located adjacent to these pre-designated areas, but also provides a method for approving growth allocations that are not adjacent. Many jurisdictions have adopted non-adjacency standards in their Critical Area programs.

BILL EXPLANATION

SB 178 would:

- Clarify that an affirmative vote of the Critical Area Commission is required to promulgate regulations.
- Eliminate an outdated reference to a 6-year review of local Critical Area programs, as the requirement was changed to 10 years under legislation that was passed in 2024.
- Replaces the term “adjacent” to eliminate ambiguity associated with the locational standard for growth allocations. The new terms, which are based on current practice, will clarify which pathway a development project is required to pursue.
- Affirm that enforcement fines are paid to the local jurisdiction, not the Department of Natural Resources.
- Reflect the correct establishment date of the Atlantic Coastal Bays Critical Area program to ensure accurate processing of mapping mistake requests.
- Offer local jurisdictions the ability to request an extension for processing program refinements, in addition to the existing allowance for project amendments.
- Match the existing 130-day maximum timeframe for the processing of amendments if the Chair’s processing determination is overridden by the Commission.
- Align the Critical Area law with the more permissive provision in the Forest Conservation Act establishing who can prepare a planting plan for the cutting or clearing of trees.

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¹ NR §8-1801(b)(2)