

HOUSE BILL 278

N1, M1

11r0379

By: **Delegates McConkey, Glenn, and Holmes**

Introduced and read first time: January 31, 2011

Assigned to: Environmental Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Chesapeake and Atlantic Coastal Bays Critical Area – Prospective Land**
3 **Purchases – Inspections**

4 FOR the purpose of requiring a local jurisdiction to inspect or contract for the
5 inspection of a lot or parcel that is in the Chesapeake and Atlantic Coastal Bays
6 critical area at the request of a prospective purchaser to determine if a critical
7 area violation exists on the lot or parcel; establishing that a certain subsequent
8 purchaser of a lot or parcel in the critical area is not liable for certain criminal
9 or civil penalties for certain violations under certain circumstances; clarifying
10 that the statute of limitations for critical area violations does not subject certain
11 subsequent purchasers to liability for certain penalties for certain critical area
12 violations; authorizing a local jurisdiction to impose a certain inspection fee;
13 requiring a local jurisdiction that performs or contracts for an inspection under
14 this Act to provide the prospective purchaser with a certain report; authorizing
15 the recordation in the appropriate land records of an inspection report and
16 certain remedial action taken to address critical area violations; requiring the
17 Chesapeake and Atlantic Coastal Bays Critical Area Commission to adopt
18 regulations to establish standards and procedures for inspections performed and
19 remedies required under this Act; and generally relating to local inspections for
20 a prospective purchaser of a lot or parcel in the Chesapeake and Atlantic
21 Coastal Bays critical area.

22 BY repealing and reenacting, with amendments,
23 Article – Natural Resources
24 Section 8–1806 and 8–1815(a)(2)
25 Annotated Code of Maryland
26 (2007 Replacement Volume and 2010 Supplement)

27 BY repealing and reenacting, with amendments,
28 Article – Real Property
29 Section 3–102

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 Annotated Code of Maryland
2 (2010 Replacement Volume and 2010 Supplement)

3 BY adding to
4 Article – Real Property
5 Section 10–206
6 Annotated Code of Maryland
7 (2010 Replacement Volume and 2010 Supplement)

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

10 **Article – Natural Resources**

11 8–1806.

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

14 (1) In accordance with Title 2, Subtitle 5 (Joint Committee on
15 Administrative, Executive and Legislative Review) and Title 10, Subtitle 1
16 (Administrative Procedure Act) of the State Government Article, to adopt and amend
17 regulations as authorized under this subtitle for the administration and enforcement
18 of the State and local programs;

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

21 (3) To contract for consultant or other services; and

22 (4) To establish an advisory committee, composed of members of the
23 Commission and local citizens and local stakeholder groups, to make recommendations
24 to the Commission with respect to Atlantic Coastal Bays Critical Area programs.

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

27 (1) Establish comprehensive standards and procedures for:

28 (i) Buffer establishment, maintenance, measurement,
29 mitigation, and enforcement;

30 (ii) Buffer exemption areas;

31 (iii) Impacts of shore erosion control activities on the buffer;

32 (iv) Community piers;

- 1 (v) Commercial marinas;
- 2 (vi) Water dependent facilities;
- 3 (vii) Public water access;
- 4 (viii) The protection and conservation of the buffer as a State
5 water quality and habitat resource essential to the restoration of the Chesapeake and
6 Atlantic Coastal Bays;
- 7 (ix) Mapping the critical area, with respect to revision of the
8 1,000-foot boundary and voluntary additions of property to the critical area;
- 9 (x) Development in the critical area, with respect to:
- 10 1. Clearing, grading, and construction activity;
- 11 2. Clustering to promote conservation of natural site
12 features;
- 13 3. Flexibility for redevelopment;
- 14 4. Stormwater management;
- 15 5. Application of the 10% pollutant reduction rule;
- 16 6. Forest and developed woodlands protections;
- 17 7. Clearing of natural vegetation;
- 18 8. Lot coverage standards;
- 19 9. Commission review of local provisions for lot
20 consolidation; and
- 21 10. The exclusion of State tidal wetlands from
22 calculations of density, forest and developed woodlands protections, limitations on
23 clearing natural vegetation, and lot coverage standards;
- 24 (xi) Consistent enforcement of State and local critical area law,
25 with respect to the establishment of minimum penalties and mitigation requirements;
- 26 (xii) Growth allocation applications, with respect to:
- 27 1. The deduction of growth allocation acreage;
- 28 2. Commission review and determinations;

1 (vi) An affordable housing land trust agreement executed under
2 Title 14, Subtitle 5 of this article with any transfer of property for which an affordable
3 housing land trust has a reversionary interest; OR

4 (VII) AN INSPECTION REPORT ON CRITICAL AREA
5 VIOLATIONS AND ANY ACTION TAKEN TO REMEDY CRITICAL AREA VIOLATIONS,
6 AS REQUIRED UNDER § 10-206 OF THIS ARTICLE.

7 (3) The recording of any instrument constitutes constructive notice
8 from the date of recording.

9 (b) This section may not be construed to authorize the recording of a
10 subdivision plat without any prior review and approval otherwise required by law.

11 **10-206.**

12 (A) A LOCAL JURISDICTION SHALL INSPECT OR CONTRACT FOR THE
13 INSPECTION OF A LOT OR PARCEL THAT IS IN THE JURISDICTION'S CRITICAL
14 AREA AT THE REQUEST OF A PROSPECTIVE PURCHASER OF THE LOT OR PARCEL
15 TO DETERMINE IF A VIOLATION OF TITLE 8, SUBTITLE 18 OF THE NATURAL
16 RESOURCES ARTICLE EXISTS ON THE LOT OR PARCEL.

17 (B) IF A LOT OR PARCEL IS INSPECTED UNDER SUBSECTION (A) OF THIS
18 SECTION AND NO VIOLATION IS DISCOVERED OR ANY VIOLATION DISCOVERED IS
19 REMEDIED, A SUBSEQUENT PURCHASER WHO REQUESTED THE INSPECTION IS
20 NOT LIABLE FOR CRIMINAL OR CIVIL PENALTIES UNDER TITLE 8, SUBTITLE 18
21 OF THE NATURAL RESOURCES ARTICLE FOR A SUBSEQUENTLY DISCOVERED
22 VIOLATION THAT OCCURRED BEFORE THE TIME OF THE INSPECTION.

23 (C) (1) A LOCAL JURISDICTION THAT PERFORMS OR CONTRACTS FOR
24 AN INSPECTION UNDER THIS SECTION SHALL PROVIDE THE PROSPECTIVE
25 PURCHASER WITH A FINAL REPORT DESCRIBING:

26 (I) THE PROPERTY INSPECTED;

27 (II) ANY VIOLATIONS DISCOVERED;

28 (III) ANY CITATIONS ISSUED BY THE LOCAL JURISDICTION
29 AND REMEDIES RECOMMENDED BY THE LOCAL JURISDICTION OR CONTRACTOR;
30 AND

31 (IV) ANY REMEDIES FINALLY IMPLEMENTED.

1 **(2) A LOCAL JURISDICTION MAY IMPOSE AN INSPECTION FEE ON**
2 **A PROSPECTIVE PURCHASER IN AN AMOUNT TO COVER THE COST OF THE**
3 **INSPECTION OR CONTRACT FOR INSPECTION.**

4 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
5 October 1, 2011.