

# HOUSE BILL 1196

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By: **Delegate Mautz**

Introduced and read first time: February 8, 2019

Assigned to: Environment and Transportation

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## A BILL ENTITLED

1 AN ACT concerning

2 **Chesapeake and Atlantic Coastal Bays Critical Area – Buffer Establishment and**  
3 **Buffer Management Plan – Exemption**

4 FOR the purpose of requiring the Critical Area Commission for the Chesapeake and  
5 Atlantic Coastal Bays to adopt regulations to exempt from certain buffer  
6 establishment and buffer management plan requirements a lot or parcel for which  
7 an applicant applies for a certain subdivision approval if the lot or parcel has a  
8 dwelling unit that was in existence on or before a certain date; and generally relating  
9 to the Chesapeake and Atlantic Coastal Bays Critical Area.

10 BY repealing and reenacting, without amendments,  
11 Article – Natural Resources  
12 Section 8–1806(a)  
13 Annotated Code of Maryland  
14 (2012 Replacement Volume and 2018 Supplement)

15 BY repealing and reenacting, with amendments,  
16 Article – Natural Resources  
17 Section 8–1806(b)  
18 Annotated Code of Maryland  
19 (2012 Replacement Volume and 2018 Supplement)

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

22 **Article – Natural Resources**

23 8–1806.

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

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



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

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

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

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

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

13 (1) Establish comprehensive standards and procedures for:

14 (i) Buffer establishment, maintenance, measurement, mitigation,  
15 and enforcement;

16 (ii) Buffer exemption areas;

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

18 (iv) Community piers;

19 (v) Commercial marinas;

20 (vi) Water dependent facilities;

21 (vii) Public water access;

22 (viii) The protection and conservation of the buffer as a State water  
23 quality and habitat resource essential to the restoration of the Chesapeake and Atlantic  
24 Coastal Bays;

25 (ix) Mapping the critical area, with respect to revision of the  
26 1,000-foot boundary and voluntary additions of property to the critical area;

27 (x) Development in the critical area, with respect to:

28 1. Clearing, grading, and construction activity;

29 2. Clustering to promote conservation of natural site

1 features;

2 3. Flexibility for redevelopment;

3 4. Stormwater management;

4 5. Application of the 10% pollutant reduction rule;

5 6. Forest and developed woodlands protections;

6 7. Clearing of natural vegetation;

7 8. Lot coverage standards;

8 9. Commission review of local provisions for lot  
9 consolidation; and

10 10. The exclusion of State tidal wetlands from calculations of  
11 density, forest and developed woodlands protections, limitations on clearing natural  
12 vegetation, and lot coverage standards;

13 (xi) Consistent enforcement of State and local critical area law, with  
14 respect to the establishment of minimum penalties and mitigation requirements;

15 (xii) Growth allocation applications, with respect to:

16 1. The deduction of growth allocation acreage;

17 2. Commission review and determinations;

18 3. Accommodation of variations among local jurisdictions  
19 concerning land uses in the resource conservation area that do not require growth  
20 allocation;

21 4. The location of septic systems;

22 5. Golf courses; and

23 6. The Commission's evaluation of a local jurisdiction's use of  
24 cluster development under § 8-1808.1 of this subtitle;

25 (xiii) In consultation with appropriate State and federal agencies, the  
26 conservation and protection of:

27 1. Habitat protection areas;

28 2. Threatened and endangered species;

- 1 3. Species in need of conservation;
- 2 4. Forest interior dwelling birds;
- 3 5. Anadromous fish propagation waters; and
- 4 6. Plant and wildlife habitat;

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

- 7 1. Notification of project applications;
- 8 2. The 6–year comprehensive review of a local critical area  
9 program;
- 10 3. For a State or local government development activity:

11 A. Public notice, including notice to be published in a  
12 newspaper of general circulation in the area where the proposed development activity  
13 would occur; and

14 B. An opportunity for public comment in the local jurisdiction  
15 in which the proposed development activity would be located;

- 16 4. Reporting requirements;
- 17 5. The submission and processing of a proposed program  
18 amendment or refinement; and
- 19 6. Provisions applicable to areas requested for exclusion from  
20 the critical area;

21 (xv) In consultation with the Department of the Environment,  
22 surface mining in the critical area; and

23 (xvi) The application for and processing of a variance, with respect to:

- 24 1. Amending a variance application;
- 25 2. Advance notice to the Commission;
- 26 3. The contents of a complete variance application;
- 27 4. Ensuring that Commission recommendations are made  
28 part of the variance record;

1                                   5.     The use of variance standards; and

2                                   6.     Notice of a variance decision; [and]

3                                   (2)    Provide flexibility wherever possible in order to accommodate  
4 variations among local programs; AND

5                                   **(3)    EXEMPT FROM ANY REQUIREMENT TO ESTABLISH A BUFFER ON,  
6 OR PROVIDE A BUFFER MANAGEMENT PLAN FOR, A LOT OR PARCEL FOR WHICH AN  
7 APPLICANT APPLIES TO A LOCAL JURISDICTION FOR AN APPROVAL OF A  
8 SUBDIVISION IF THE LOT OR PARCEL HAS A DWELLING UNIT THAT WAS IN EXISTENCE  
9 ON OR BEFORE JULY 1, 2010.**

10                                   SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
11 October 1, 2019.