

HOUSE BILL 1284

M2

7lr3332

By: **Delegates Stein, Frush, Healey, Holmes, and Lafferty**

Introduced and read first time: February 10, 2017

Assigned to: Environment and Transportation

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 16, 2017

CHAPTER _____

1 AN ACT concerning

2 **Natural Resources – Aquaculture Leases – ~~National Register of Historic Places~~**
3 **National Historic Landmarks**

4 FOR the purpose of ~~prohibiting~~ authorizing the Department of Natural Resources to
5 authorize an Aquaculture Enterprise Zone and certain aquaculture leases ~~from being~~
6 located within a certain distance of the shoreline of certain property ~~listed on the~~
7 ~~National Register of Historic Places; requiring, instead of authorizing, the~~
8 ~~Department of Natural Resources to take certain actions to protect the public health,~~
9 ~~safety, and welfare~~ designated as a National Historic Landmark only under certain
10 circumstances; and generally relating to aquaculture leases.

11 BY repealing and reenacting, without amendments,

12 Article – Natural Resources

13 Section 4–11A–05(a), 4–11A–06(a), 4–11A–07(a), 4–11A–08(a), and 4–11A–11(a)

14 Annotated Code of Maryland

15 (2012 Replacement Volume and 2016 Supplement)

16 BY repealing and reenacting, with amendments,

17 Article – Natural Resources

18 Section 4–11A–05(b)(2), 4–11A–06(b)(2) and (3), 4–11A–07(c)(1) and (2),

19 4–11A–08(c)(1) and (2), 4–11A–09(d), and 4–11A–11(d)

20 Annotated Code of Maryland

21 (2012 Replacement Volume and 2016 Supplement)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



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

Article – Natural Resources

4–11A–05.

(a) This section applies to leasing in an Aquaculture Enterprise Zone in the Chesapeake Bay.

(b) (2) **(I)** An Aquaculture Enterprise Zone may not be located:

~~(i)~~ **1.** Within a minimum of 50 feet of shoreline or any pier without the written permission of the riparian owner at the time of designation of the Aquaculture Enterprise Zone;

~~(ii)~~ **2.** Within 150 feet of the public shellfish fishery or a registered pound net site;

~~(iii)~~ **3.** Within 150 feet of an oyster reserve or any Yates Bar located in an oyster sanctuary;

~~(iv)~~ **4.** Within 150 feet of a federal navigational channel;

~~(v) **WITHIN 300 FEET OF THE MEAN HIGH WATERMARK OF THE SHORELINE OF PROPERTY LISTED ON THE NATIONAL REGISTER OF HISTORIC PLACES;**~~

~~[(v)] ~~(vi)~~ **5.**~~ In any creek, cove, bay, or inlet less than 300 feet wide at its mouth at mean low tide; or

~~[(vi)] ~~(vii)~~ **6.**~~ In an SAV Protection Zone.

(II) THE DEPARTMENT MAY AUTHORIZE AN AQUACULTURE ENTERPRISE ZONE WITHIN 300 FEET OF THE MEAN HIGH WATERMARK OF THE SHORELINE OF PROPERTY DESIGNATED BY THE UNITED STATES SECRETARY OF THE INTERIOR AS A NATIONAL HISTORIC LANDMARK ONLY IF:

1. THE PROPERTY OWNER HAS BEEN NOTIFIED OF THE PROPOSED AQUACULTURE ENTERPRISE ZONE; AND

2. THE PROPERTY OWNER DOES NOT OBJECT TO THE PROPOSED AQUACULTURE ENTERPRISE ZONE.

4–11A–06.

(a) This section applies to a submerged land lease in the Chesapeake Bay that is not in an Aquaculture Enterprise Zone.

(b) (2) (I) A submerged land lease may not be located:

~~(i)~~ 1. Within a minimum of 50 feet of shoreline or any pier without the written permission of the riparian owner at the time of initial application for the lease;

~~(ii)~~ 2. Within 150 feet of the public shellfish fishery or a registered pound net site;

~~(iii)~~ 3. Within 150 feet of an oyster reserve or any Yates Bar located in an oyster sanctuary;

~~(iv)~~ 4. Except as provided in paragraph (4) of this subsection, within 150 feet of a federal navigational channel;

~~(v) WITHIN 300 FEET OF THE MEAN HIGH WATERMARK OF THE SHORELINE OF PROPERTY LISTED ON THE NATIONAL REGISTER OF HISTORIC PLACES;~~

[(v)] ~~(vi)~~ 5. Subject to paragraph (3) of this subsection, in any creek, cove, bay, or inlet less than 300 feet wide at its mouth at mean low tide; or

[(vi)] ~~(vii)~~ 6. In an SAV Protection Zone.

(II) THE DEPARTMENT MAY AUTHORIZE A SUBMERGED LAND LEASE WITHIN 300 FEET OF THE MEAN HIGH WATERMARK OF THE SHORELINE OF PROPERTY DESIGNATED BY THE UNITED STATES SECRETARY OF THE INTERIOR AS A NATIONAL HISTORIC LANDMARK ONLY IF:

1. THE PROPERTY OWNER HAS BEEN NOTIFIED OF THE PROPOSED SUBMERGED LAND LEASE; AND

2. THE PROPERTY OWNER DOES NOT OBJECT TO THE PROPOSED SUBMERGED LAND LEASE.

(3) Paragraph [(2)(v)] (2)(I)5 of this subsection does not apply to a riparian owner or a lawful occupant of the riparian property.

4-11A-07.

(a) This section applies to a submerged land lease in the waters of the Atlantic Coastal Bays.

(c) (1) **(I)** A submerged land lease may not be located:

~~(i)~~ **1.** Within a minimum of 50 feet of shoreline or any pier without the written permission of the riparian owner at the time of initial application for the lease;

~~(ii)~~ **2.** Within 150 feet of the public shellfish fishery or a registered pound net site;

~~(iii)~~ **3.** Within 150 feet of any oyster reserve or a Yates Bar located in an oyster sanctuary;

~~(iv)~~ **4.** Within 150 feet of a federal navigational channel;

~~(v)~~ ~~**WITHIN 300 FEET OF THE MEAN HIGH WATERMARK OF THE SHORELINE OF PROPERTY LISTED ON THE NATIONAL REGISTER OF HISTORIC PLACES;**~~

[(v)] ~~(vi)~~ **5.** Subject to paragraph (2) of this subsection, in any creek, cove, bay, or inlet less than 300 feet wide at its mouth at mean low tide;

[(vi)] ~~(vii)~~ **6.** In an SAV Protection Zone; or

[(vii)] ~~(viii)~~ **7.** In a setback or buffer from the Assateague Island National Seashore established by the Department.

(II) THE DEPARTMENT MAY AUTHORIZE A SUBMERGED LAND LEASE WITHIN 300 FEET OF THE MEAN HIGH WATERMARK OF THE SHORELINE OF PROPERTY DESIGNATED BY THE UNITED STATES SECRETARY OF THE INTERIOR AS A NATIONAL HISTORIC LANDMARK ONLY IF:

1. THE PROPERTY OWNER HAS BEEN NOTIFIED OF THE PROPOSED SUBMERGED LAND LEASE; AND

2. THE PROPERTY OWNER DOES NOT OBJECT TO THE PROPOSED SUBMERGED LAND LEASE.

(2) Paragraph [(1)(v)] (1)(I)5 of this subsection does not apply to a riparian owner or a lawful occupant of the riparian property.

(a) This section applies to a water column lease in the waters of the State.

(c) (1) **(I)** A water column lease may not be located:

~~(i)~~ **1.** Within a minimum of 50 feet of shoreline or any pier without the written permission of the riparian owner at the time of initial application for the lease;

~~(ii)~~ **2.** Within 150 feet of the public shellfish fishery or a registered pound net site;

~~(iii)~~ **3.** Within 150 feet of an oyster reserve or any Yates Bar located in an oyster sanctuary;

~~(iv)~~ **4.** Except as provided in paragraph (3) of this subsection, within 150 feet of a federal navigational channel;

~~(v)~~ ~~**WITHIN 300 FEET OF THE MEAN HIGH WATERMARK OF THE SHORELINE OF PROPERTY LISTED ON THE NATIONAL REGISTER OF HISTORIC PLACES;**~~

~~[(v)]~~ ~~(vi)~~ **5.** Subject to paragraph (2) of this subsection, in any creek, cove, bay, or inlet less than 300 feet wide at its mouth at mean low tide;

~~[(vi)]~~ ~~(vii)~~ **6.** In an SAV Protection Zone; or

~~[(vii)]~~ ~~(viii)~~ **7.** In a setback or buffer from the Assateague Island National Seashore established by the Department.

(II) THE DEPARTMENT MAY AUTHORIZE A WATER COLUMN LEASE WITHIN 300 FEET OF THE MEAN HIGH WATERMARK OF THE SHORELINE OF PROPERTY DESIGNATED BY THE UNITED STATES SECRETARY OF THE INTERIOR AS A NATIONAL HISTORIC LANDMARK ONLY IF:

1. THE PROPERTY OWNER HAS BEEN NOTIFIED OF THE PROPOSED SUBMERGED LAND LEASE; AND

2. THE PROPERTY OWNER DOES NOT OBJECT TO THE PROPOSED SUBMERGED LAND LEASE.

(2) The provisions of paragraph [(1)(v)] (1)(I)5 of this subsection do not apply to the riparian owner or a lawful occupant of the riparian property.

(d) (1) The term of a lease is 20 years.

(2) Except for a demonstration lease under § 4–11A–11 of this subtitle, a lease may be of any size provided that the leaseholder actively uses the area.

(3) The Department shall establish, in consultation with the Aquaculture Coordinating Council, an annual amount of rent and an aquaculture development surcharge for an aquaculture, water column, or submerged land lease.

(4) [The Department, as it considers necessary to protect the public health, safety, and welfare, may] **TO PROTECT THE PUBLIC HEALTH, SAFETY, AND WELFARE, THE DEPARTMENT ~~SHALL~~ MAY:**

(i) Deny a lease application for reasonable cause; or

(ii) Include any conditions in a lease.

4–11A–11.

(a) This section applies to demonstration leases.

(d) **(1)** The proposed lease area may not be located:

~~(1)~~ **(I)** Within a minimum of 50 feet of shoreline or any pier without the written permission of the riparian owner at the time of application for the lease;

~~(2)~~ **(II)** Within 150 feet of the public shellfish fishery or a registered pound net site;

~~(3)~~ **(III)** Within 150 feet of an oyster reserve or any Yates Bar located in an oyster sanctuary;

~~(4)~~ **(IV)** Within 150 feet of a federal navigational channel;

~~(5)~~ ~~**WITHIN 300 FEET OF THE MEAN HIGH WATERMARK OF THE SHORELINE OF PROPERTY LISTED ON THE NATIONAL REGISTER OF HISTORIC PLACES;**~~

~~[(5)]~~ ~~(6)~~ **(V)** In any creek, cove, bay, or inlet less than 300 feet wide at its mouth at mean low tide;

~~[(6)]~~ ~~(7)~~ **(VI)** In an SAV Protection Zone; or

~~[(7)]~~ ~~(8)~~ **(VII)** In a setback or buffer from the Assateague Island National Seashore established by the Department.

1 **(2) THE DEPARTMENT MAY AUTHORIZE THE PROPOSED LEASE**
2 **WITHIN 300 FEET OF THE MEAN HIGH WATERMARK OF THE SHORELINE OF**
3 **PROPERTY DESIGNATED BY THE UNITED STATES SECRETARY OF THE INTERIOR AS**
4 **A NATIONAL HISTORIC LANDMARK ONLY IF:**

5 **1. THE PROPERTY OWNER HAS BEEN NOTIFIED OF THE**
6 **PROPOSED LEASE; AND**

7 **2. THE PROPERTY OWNER DOES NOT OBJECT TO THE**
8 **PROPOSED LEASE.**

9 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
10 October 1, 2017.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.