0lr2635CF HB 210

By: Senator Bailey

Introduced and read first time: January 23, 2020

Assigned to: Education, Health, and Environmental Affairs

A BILL ENTITLED

1 AN ACT concerning

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Aquaculture - Leases in Water Column - Riparian Right of First Refusal

3 FOR the purpose of establishing that a riparian property owner or lessee shall have the 4 right of first refusal to apply for and, if approved, obtain a water column lease, or an 5 aquaculture lease for use in the water column in an Aquaculture Enterprise Zone, 6 applicable to a certain area that fronts the riparian property, subject to certain 7 standards and requirements; requiring a person other than the riparian owner or 8 lessee who applies for a water column lease or an aquaculture lease for use in the 9 water column in an area that is subject to a certain right of first refusal to provide notice of the lease application to the riparian owner or lessee in certain manners 10 11 under certain circumstances; authorizing a person other than the riparian owner or 12 lessee to apply for and, if approved, obtain a water column lease or an aquaculture 13 lease for use in the water column if the riparian owner or lessee does not exercise the 14 right of first refusal within a certain time after receiving notice; and generally 15 relating to a right of first refusal for riparian owners and lessees over aquaculture 16 leases in the water column.

- 17 BY repealing and reenacting, with amendments,
- 18 Article Natural Resources
- 19 Section 4–11A–05 and 4–11A–08
- 20 Annotated Code of Maryland
- 21 (2018 Replacement Volume and 2019 Supplement)
- 22 BY repealing and reenacting, without amendments,
- 23 Article Natural Resources
- 24 Section 4–11A–10(a)
- 25 Annotated Code of Maryland
- 26 (2018 Replacement Volume and 2019 Supplement)

27 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,

28 That the Laws of Maryland read as follows:

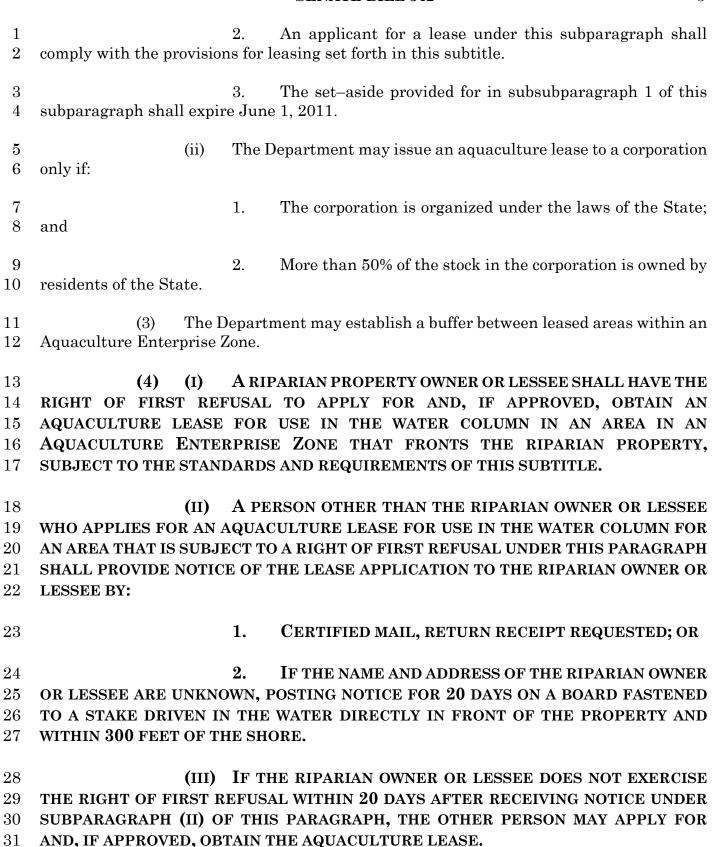
EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

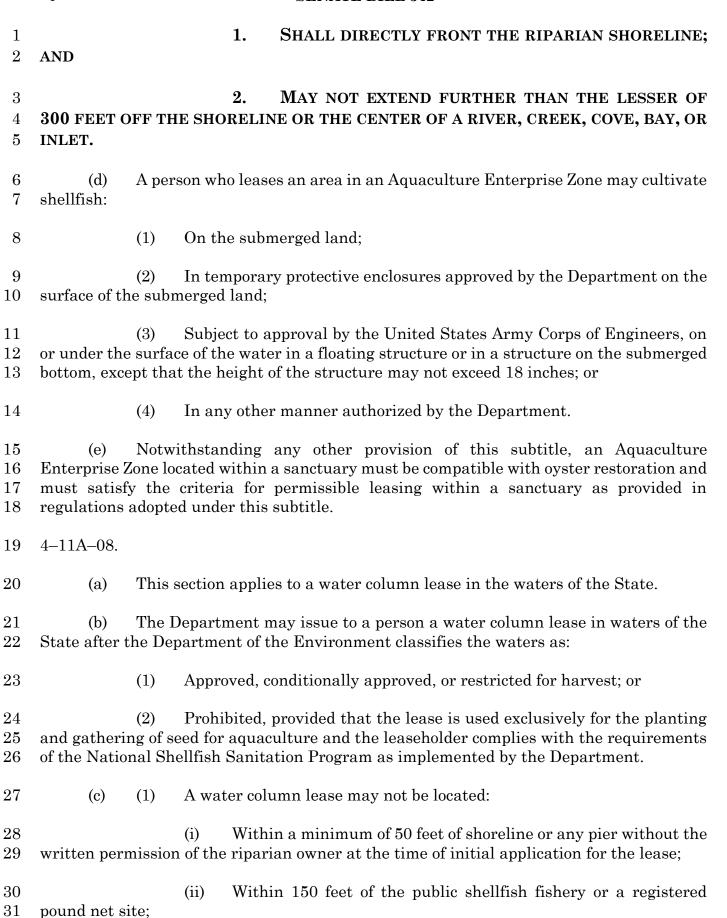


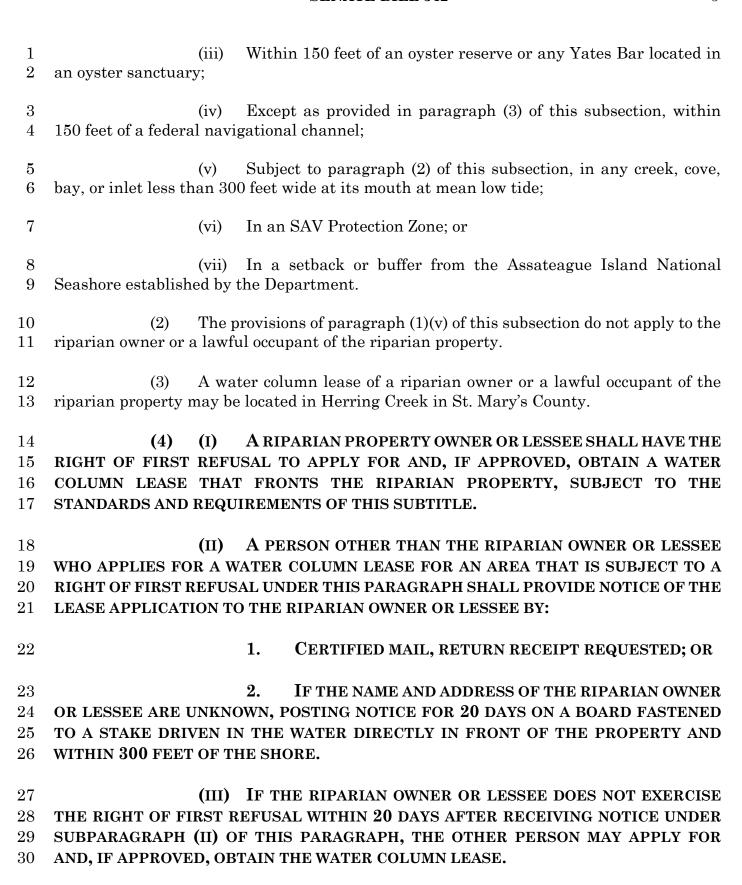
Article - Natural Resources 1 2 4-11A-05. 3 This section applies to leasing in an Aquaculture Enterprise Zone in the (a) 4 Chesapeake Bay. 5 (b) In consultation with the Department of the Environment and the 6 Wetlands Administrator of the Board of Public Works, the Department shall establish 7 Aquaculture Enterprise Zones in the Chesapeake Bay. 8 (2) An Aquaculture Enterprise Zone may not be located: 9 (i) 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 10 11 Enterprise Zone: 12 (ii) Within 150 feet of the public shellfish fishery or a registered 13 pound net site; 14 (iii) Within 150 feet of an oyster reserve or any Yates Bar located in 15 an oyster sanctuary; 16 Within 150 feet of a federal navigational channel; (iv) 17 In any creek, cove, bay, or inlet less than 300 feet wide at its (v) 18 mouth at mean low tide; or 19 (vi) In an SAV Protection Zone. 20 In determining the location of an Aquaculture Enterprise Zone, the 21Department shall consider potential conflicts presented by other uses of the proposed area, 22to include navigation, recreation, and commercial fishing. 23 **(4)** Before adopting regulations establishing an Aquaculture Enterprise 24Zone, the Department shall hold a public hearing in the county or counties immediately adjacent to the proposed location of the Aquaculture Enterprise Zone. 25 26 (c) (1) Subject to [paragraph (2)] PARAGRAPHS (2) THROUGH (4) of this 27 subsection, the Department may issue to any person an aquaculture lease in an 28 Aquaculture Enterprise Zone.

29 (2) (i) 1. The Department shall set aside 25% of each Aquaculture 30 Enterprise Zone for leasing to persons who hold tidal fish licenses under Subtitle 7 of this 31 title and who have actively used those licenses during the 3 years preceding June 1, 2009.



32 (IV) A WATER COLUMN LEASE OBTAINED BY A RIPARIAN RIGHT 33 OF FIRST REFUSAL UNDER THIS PARAGRAPH:





31 (IV) A WATER COLUMN LEASE OBTAINED BY A RIPARIAN RIGHT 32 OF FIRST REFUSAL UNDER THIS PARAGRAPH:

$\frac{1}{2}$	1. SHALL DIRECTLY FRONT THE RIPARIAN SHORELINE; AND
3 4 5	2. May not extend further than the lesser of 300 feet off the shoreline or the center of a river, creek, cove, bay, or inlet.
6 7	(d) A person with a water column lease in the waters of the State may cultivate shellfish:
8 9	(1) Subject to approval by the United States Army Corps of Engineers, on or under the surface of the water in a floating structure; or
10	(2) In any other manner authorized by the Department.
11	4–11A–10.
12	(a) A leaseholder shall:
13 14 15	(1) Subject to subsection (b) of this section, actively use the lease and comply with any standards for planting, harvesting, and use of the leased area established by the Department;
16 17	(2) Mark each lease area with an 8-inch by 12-inch marker displaying the initials of the leaseholder and posted on a minimum of four poles;
18 19	(3) Comply with any other marking requirements established by the Department for the protection of navigation;
20 21 22	(4) Comply with the regulations established by the Maryland Department of Health in consultation with the Department of the Environment to carry out the mandate of the National Shellfish Sanitation Program; and
23 24	(5) Pay the rent and the aquaculture development surcharge for the lease at the time established by the Department.
25 26	SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2020 .