

HOUSE BILL 406

M3
HB 1077/18 – ENV

9lr1514

By: **Delegate Beitzel**

Introduced and read first time: January 30, 2019

Assigned to: Environment and Transportation

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 5, 2019

CHAPTER _____

1 AN ACT concerning

2 **Wetlands and Waterways Program – State-Owned ~~Lands~~ Lakes – Structural**
3 **Shoreline Stabilization**

4 FOR the purpose of specifying that a certain application fee for a structural shoreline
5 stabilization project ~~that impacts a wetland or waterway of~~ located on or adjacent to
6 a State-owned lake may not exceed a certain amount; requiring the Department of
7 the Environment, in conjunction with the Department of Natural Resources, to
8 identify certain structural shoreline stabilization practices that may be implemented
9 on ~~a wetland or waterway of~~ or adjacent to a State-owned lake; and generally
10 relating to the Wetlands and Waterways Program and State-owned lakes.

11 BY repealing and reenacting, without amendments,
12 Article – Environment
13 Section 5–203.1(a)(1), (6), and (8)
14 Annotated Code of Maryland
15 (2013 Replacement Volume and 2018 Supplement)

16 BY repealing and reenacting, with amendments,
17 Article – Environment
18 Section 5–203.1(b) and (e)
19 Annotated Code of Maryland
20 (2013 Replacement Volume and 2018 Supplement)

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

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.



Article – Environment

5–203.1.

(a) (1) In this section the following words have the meanings indicated.

(6) “Major project” means a project that:

(i) Proposes to permanently impact 5,000 square feet or more of wetlands or waterways, including the 100–year floodplain;

(ii) Is located in an area identified as potentially impacting a nontidal wetland of special State concern by a geographical information system database that:

1. Has been developed and maintained by the Department of Natural Resources; and

2. Is used by the Department to screen incoming applications; or

(iii) Requires the issuance of a public notice by the Department.

(8) “Minor project” means a project that:

(i) Proposes to permanently impact less than 5,000 square feet of wetlands or waterways, including the 100–year floodplain; and

(ii) Does not meet the definition of a major project.

(b) (1) Except as provided under paragraphs (2) [and], (3), AND (6) of this subsection, all applications for wetlands and waterways authorizations issued by the Department under §§ 5–503 and 5–906 of this title and §§ 16–202, 16–302, and 16–307 of this article or wetlands licenses issued by the Board of Public Works under § 16–202 of this article shall be accompanied by an application fee as follows:

(i) For an application for a minor project or general permit.....\$750;

(ii) For an application for a minor modification \$250;

(iii) For an application for a major project with a proposed permanent impact of:

1. Less than 1/4 acre \$1,500;

- 1 2. At least 1/4 acre, but less than 1/2 acre \$3,000;
- 2 3. At least 1/2 acre, but less than 3/4 acre \$4,500;
- 3 4. At least 3/4 acre, but less than 1 acre \$6,000; and
- 4 5. 1 acre or more.....the impact area in acres multiplied by
- 5 \$7,500; and
- 6 (iv) For an application for a major modification \$1,500.

7 (2) The following are exempt from the application fees established under
8 paragraph (1) of this subsection:

9 (i) Regulated activities conducted by the State, a municipal
10 corporation, county, bicounty or multicounty agency under Division II of the Land Use
11 Article or Division II of the Public Utilities Article, or a unit of the State, a municipal
12 corporation, or a county;

13 (ii) Performance of agricultural best management practices
14 contained in a soil conservation and water quality plan approved by the appropriate soil
15 conservation district;

16 (iii) Performance of forestry best management practices contained in
17 an erosion and sediment control plan:

- 18 1. Prepared by a registered forester; and
- 19 2. Approved by the appropriate soil conservation district;

20 (iv) Stream restoration, vegetative shoreline stabilization, wetland
21 creation, or other project in which the primary effect is to enhance the State's wetland or
22 water resources; and

23 (v) Aquacultural activities for which the Department of Natural
24 Resources has issued a permit under Title 4, Subtitle 11A of the Natural Resources Article.

25 (3) Except as provided in paragraph (4) of this subsection, the following
26 shall be minor projects and subject to the appropriate application fee under paragraph (1)(i)
27 and (ii) of this subsection:

28 (i) A residential activity issued a permit under §§ 5-503 and 5-906
29 of this title and §§ 16-202, 16-302, and 16-307 of this article; and

30 (ii) A mining activity undertaken on affected land as identified in a
31 permit issued under Title 15 of this article.

(4) Subject to paragraph (5) of this subsection, an application for the following minor projects shall be accompanied by the following application fees:

(i) Installation of:

1. One boat lift or hoist, not exceeding four boat lifts or hoists per pier;

2. One personal watercraft lift or hoist, not exceeding six personal watercraft lifts or hoists per pier; or

3. A combination of boat lifts or hoists and personal watercraft lifts or hoists, not exceeding six lifts or hoists per pier, of which not more than four lifts or hoists are boat lifts or hoists \$300;

(ii) Installation of a maximum of six mooring pilings \$300;

(iii) In-kind repair and replacement of structures \$300;

(iv) Installation of a fixed or floating platform on an existing pier where the total platform area does not exceed 200 square feet \$300;

(v) Construction of a nonhabitable structure that permanently impacts less than 1,000 square feet, such as a driveway, deck, pool, shed, or fence.....\$300;

(vi) Replacement of an existing bulkhead where the replacement bulkhead does not exceed more than 18 inches channelward of the existing structure.....\$500; and

(vii) In-kind repair and replacement of existing infrastructure.....\$500.

(5) The Department may not require an application fee for:

(i) The installation of a boat lift, hoist, or personal watercraft lift on existing pilings; or

(ii) If the existing structure is functional and there is no increase in the original length, width, height, or channelward encroachment authorized under § 16-202, § 16-302, or § 16-307 of this article, the routine maintenance, repair, or replacement of:

1. A highway structure;

2. A pier;

3. A boathouse;
4. A structure on a pier;
5. A bulkhead;
6. A revetment;
7. A tidal impoundment dike;
8. A water control structure;
9. An aboveground transmission facility;
10. An agricultural drainage ditch; or
11. A highway drainage ditch.

(6) THE APPLICATION FEE FOR A STRUCTURAL SHORELINE STABILIZATION PROJECT ~~THAT IMPACTS A WETLAND OR WATERWAY OF~~ LOCATED ON OR ADJACENT TO A STATE-OWNED LAKE MAY NOT EXCEED \$250.

[(6)] (7) The fees imposed under this subsection may not be modified without legislative enactment.

[(7)] (8) (i) Subject to paragraph **[(6)] (7)** of this subsection, the Department may adjust the fees established under paragraphs (1) **[and]**, (4), **AND (6)** of this subsection to reflect changes in the consumer price index for all “urban consumers” for the expenditure category “all items not seasonally adjusted”, and for all regions.

(ii) The Annual Consumer Price Index for the period ending each December, as published by the Bureau of Labor Statistics of the U.S. Department of Labor, shall be used to adjust the fees established under paragraphs (1) **[and]**, (4), **AND (6)** of this subsection.

(e) The Department shall:

(1) Prioritize the use of the Wetlands and Waterways Program Fund to improve the level of service to the regulated community; **[and]**

(2) Identify and implement measures that will reduce delays and duplication in the administration of the wetlands and waterways permit process, including the processing of applications for wetlands and waterways permits in accordance with § 1-607 of this article; **AND**

1 **(3) IN CONJUNCTION WITH THE DEPARTMENT OF NATURAL**
 2 **RESOURCES, IDENTIFY UP TO THREE TYPES OF STRUCTURAL SHORELINE**
 3 **STABILIZATION PRACTICES THAT MAY BE IMPLEMENTED ON ~~A WETLAND OR~~**
 4 **~~WATERWAY OF OR ADJACENT TO A STATE-OWNED LAKE.~~**

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

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.