

HEARING DATE: JANUARY 28, 2021
BILL #/TITLE: ***SB 21 – WETLANDS AND WATERWAYS – RIPARIAN RIGHTS – PROHIBITION ON TERMINATION OR IMPAIRMENT***
COMMITTEE: EDUCATION, HEALTH, AND ENVIRONMENTAL AFFAIRS
POSITION: ***SUPPORT WITH AMENDMENTS***

Dear Chairman Pinsky and Committee Members:

The proposed language in SB 21 seeks to address a narrow issue in the broader world of Maryland's law governing riparian rights, and, in doing so, could have unintended legal consequences and implications on riparian owners throughout the State. Accordingly, I respectfully support SB 21 with the following amendments and request additional consideration and due diligence prior to a favorable report from this Committee.

PROPOSED AMENDMENTS:

§16-201[.1](a)(1) “AN [person]INDIVIDUAL, COMMUNITY ASSOCIATION, OR OTHER ENTITY who is the owner of land bounding on navigable water is PRESUMED TO POSSESS RIPARIAN RIGHTS, UNLESS, TO THE EXTENT PROVABLE, SUCH RIGHTS HAVE BEEN EXPRESSLY RESERVED OR OTHERWISE SEVERED FROM THE LAND, is entitled to any natural accretion to [the person's]THEIR land, AND to reclaim fast land lost by erosion or avulsion during [the person's]THEIR ownership of the land to the extent of provable existing boundaries. The [person] INDIVIDUAL, COMMUNITY ASSOCIATION, OR OTHER ENTITY may make improvements into the water [in front of the]BOUNDING THEIR land to preserve [that person's]THEIR access to the navigable water [or], subject to subsection (c), protect [the]THEIR shore [of that person]against erosion, OR OTHERWISE WHARF OUT INTO THE WATER, SUBJECT TO THE EXCEPTIONS AND LIMITATIONS OF SUBPARAGRAPH (a)(2). After an improvement has been constructed, the improvement is the property of the owner of the land to which the improvement is attached. A right covered in this subtitle does not preclude the owner from developing any other use approved by the Board. The right to reclaim lost fast land relates only to fast land lost after January 1, 1972, and the burden of proof that the loss occurred after this date is on the owner of the land.”

(2) THE DEPARTMENT OR THE BOARD SHALL NOT APPROVE OR ISSUE A LICENSE OR PERMIT FOR ANY IMPROVEMENT INTO NAVIGABLE WATER THAT WOULD IMPAIR OR TERMINATE THE RIPARIAN RIGHTS OF ANY INDIVIDUAL, COMMUNITY ASSOCIATION, OR OTHER ENTITY.

EXPLANATION: CAPITALS UNDERLINED INDICATES MATTER ADDED TO EXISTING LAW; [Brackets] indicate language deleted from existing law.

For additional information, please contact:

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