

HOUSE BILL 247

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(PRE-FILED)

6lr0182

CF 6lr0181

By: Chair, Environment and Transportation Committee (By Request – Departmental – Critical Area Commission)

Requested: September 30, 2025

Introduced and read first time: January 14, 2026

Assigned to: Environment and Transportation

A BILL ENTITLED

1 AN ACT concerning

2 **Chesapeake and Atlantic Coastal Bays Critical Area Protection Program –**
3 **Variances – Alterations**

4 FOR the purpose of altering certain standards and requirements for variances from land
5 use requirements under the Chesapeake and Atlantic Coastal Bays Critical Area
6 Protection Program; and generally relating to variances under the Chesapeake and
7 Atlantic Coastal Bays Critical Area Protection Program.

8 BY repealing and reenacting, without amendments,

9 Article – Natural Resources

10 Section 8–1808(d)(1)

11 Annotated Code of Maryland

12 (2023 Replacement Volume and 2025 Supplement)

13 BY repealing and reenacting, with amendments,

14 Article – Natural Resources

15 Section 8–1808(d)(3) and (5)

16 Annotated Code of Maryland

17 (2023 Replacement Volume and 2025 Supplement)

18 BY adding to

19 Article – Natural Resources

20 Section 8–1808(d)(10)

21 Annotated Code of Maryland

22 (2023 Replacement Volume and 2025 Supplement)

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

24 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

2 8–1808.

3 (d) (1) In this subsection, “unwarranted hardship” means that, without a
4 variance, an applicant would be denied reasonable and significant use of the entire parcel
5 or lot for which the variance is requested.

6 (3) (i) A local jurisdiction shall process an application for a variance
7 regarding a parcel or lot that is subject to a current violation of this subtitle, a regulation
8 adopted under the authority of this subtitle, or any provision of an order, permit, plan, or
9 local program in accordance with subsection (c)(1)(iii)15 of this section.

10 (ii) In considering an application for a variance, a local jurisdiction
11 shall presume that the specific development activity in the critical area that is subject to
12 the application and for which a variance is required does not conform with the general
13 purpose and intent of this subtitle, regulations adopted under this subtitle, and the
14 requirements of the local jurisdiction’s program.

15 (iii) If the variance request is based on conditions or circumstances
16 that are the result of actions by the applicant, a local jurisdiction shall consider that fact.

17 **(IV) WHEN REQUESTING A VARIANCE FOR A NEW ACCESSORY
18 STRUCTURE OR USE, A REBUTTABLE PRESUMPTION EXISTS THAT AN EXISTING
19 ACCESSORY STRUCTURE OR USE ON THE PARCEL OR LOT DEMONSTRATES
20 REASONABLE AND SIGNIFICANT USE.**

21 **(V) A LOCAL JURISDICTION MAY NOT ACCEPT AN APPLICATION
22 FOR A VARIANCE TO:**

23 **1. AUTHORIZE A USE THAT IS NOT ALLOWED BY THE
24 CRITICAL AREA LAND CLASSIFICATION OF THE LOT OR PARCEL;**

25 **2. ADJUST THE AMOUNT OR TYPE OF MITIGATION
26 REQUIRED BY CRITICAL AREA REGULATIONS OR A LOCAL CRITICAL AREA PROGRAM;
27 OR**

28 **3. PROVIDE RELIEF THAT COULD BE OBTAINED
29 THROUGH AN AVAILABLE ADMINISTRATIVE PROCESS THAT IS APPROVED AS PART
30 OF A LOCAL JURISDICTION’S CRITICAL AREA PROGRAM.**

31 (5) (I) A variance to a local jurisdiction’s critical area program may not
32 be granted unless:

1 [(i)] 1. Due to special features of a site, or special conditions or
2 circumstances peculiar to the applicant's land or structure, a literal enforcement of the
3 critical area program would result in unwarranted hardship to the applicant;

4 [(ii)] 2. The local jurisdiction finds that the applicant has satisfied
5 each one of the variance provisions; [and]

6 [(iii)] 3. [Without] **SUBJECT TO SUBPARAGRAPH (II) OF THIS**
7 **PARAGRAPH, WITHOUT** the variance, the applicant would be deprived of a use of land or
8 a structure permitted to others in accordance with the provisions of the critical area
9 program;

10 4. **THE APPLICANT DEMONSTRATES A SUBSTANTIAL**
11 **NEED FOR THE VARIANCE THAT IS NOT BASED ON CONVENIENCE, PERSONAL**
12 **PREFERENCE, OR FINANCIAL ADVANTAGE; AND**

13 5. **THE APPLICANT DEMONSTRATES THAT THE**
14 **DEVELOPMENT CANNOT BE LOCATED OUTSIDE A HABITAT PROTECTION AREA.**

15 (II) **THE APPLICANT MAY MAKE A COMPARISON UNDER**
16 **SUBPARAGRAPH (I)3 OF THIS PARAGRAPH ONLY TO OTHER PROPERTIES OR**
17 **STRUCTURES THAT:**

18 1. **ARE LOCATED IN THE CRITICAL AREA;**

19 2. **WERE DEVELOPED AFTER THE ADOPTION OF THE**
20 **LOCAL JURISDICTION'S CRITICAL AREA PROGRAM;**

21 3. **WERE CONFORMING AND LEGALLY AUTHORIZED AT**
22 **THE TIME OF DEVELOPMENT;**

23 4. **ARE SIMILARLY SITUATED; AND**

24 5. **IF LOCATED IN A MODIFIED BUFFER AREA, WERE**
25 **DEVELOPED IN ACCORDANCE WITH REQUIREMENTS FOR MODIFIED BUFFER AREAS**
26 **UNDER THE LOCAL JURISDICTION'S CRITICAL AREA PROGRAM.**

27 (10) **A LOCAL BOARD OF APPEALS SHALL:**

28 (I) **HEAR ON THE RECORD AN APPEAL OF AN ADMINISTRATIVE**
29 **OFFICER'S DECISION ON A CRITICAL AREA VARIANCE APPLICATION; AND**

30 (II) **GRANT DEFERENCE TO THE ADMINISTRATIVE OFFICER'S**
31 **FINDINGS OF FACT.**

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1 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
2 October 1, 2026.