

10 AN ACT CONCERNING

20 **Chesapeake Bay Critical Area - Addition of Coastal Bays**

30 FOR the purpose of adding the coastal bays of the State to the areas designated as
40 being within the Chesapeake Bay Critical Area.

50 BY repealing and reenacting, with amendments,
60 Article - Natural Resources
70 Section 8-1807
80 Annotated Code of Maryland
90 (1990 Replacement Volume and 2000 Supplement)

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

120 **Article - Natural Resources**

130 **8-1807.**

140 (a) The initial planning area for determination of the Chesapeake Bay Critical
150 Area consists of:

160 (1) All waters of and lands under the Chesapeake Bay and its tributaries
170 to the head of tide as indicated on the State wetlands maps, and all State and private
180 wetlands designated under Title 9 of this article; [and]

190 (2) All land and water areas within 1,000 feet beyond the landward
200 boundaries of State or private wetlands and the heads of tides designated under Title
210 9 of this article; AND

220 (3) ALL COASTAL BAYS OF THE STATE.

230 (b) (1) (i) In determining the Chesapeake Bay Critical Area within its
240 boundaries, a local jurisdiction may exclude those portions of the planning area
250 designated in subsection (a) of this section which the local jurisdiction finds to be:

260 1. Part of a developed, urban area in which, in view of
270 available public facilities and applicable laws and restrictions, the imposition of a
280 program would not substantially improve protection of tidal water quality or
290 conservation of fish, wildlife, or plant habitats; or

300 2. Located at least 1,000 feet from open water and separated
310 from open water by an area of wetlands which it is found will serve to protect tidal
320 water quality and fish, wildlife, or plant habitats from adverse impacts of
330 development in the excluded area.

340 (ii) A portion of urban area to be excluded shall be at least 50%
350 developed and may not be less than 2,640,000 square feet in contiguous area or the
360 entire initial planning area located within the boundaries of a municipality,
370 whichever is less.

380 (2) A local jurisdiction shall include in any program submitted to the
390 Commission under § 8-1809 of this subtitle a designation of those portions of the
400 Chesapeake Bay Critical Area proposed for exclusion under paragraph (1) of this
410 subsection, together with all factual information and expert opinion supporting its
420 findings under this subsection.

430 (3) The Commission shall approve a local jurisdiction's designation of
440 portions to be excluded unless the Commission finds, based on stated reasons, that

- 450 the decision of the local jurisdiction was:
- 460 (i) Not supported by competent and material evidence; or
- 470 (ii) Arbitrary or capricious.
- 480 (4) If the Commission develops the program to be applied in a local
490 jurisdiction, the Commission shall exclude areas as appropriate to meet the intent of
500 paragraph (1) of this subsection.
- 510 (c) The Chesapeake Bay Critical Area shall consist of:
- 520 (1) Those areas designated in subsection (a) of this section, except any
530 areas excluded in accordance with subsection (b) of this section; and
- 540 (2) Additional areas proposed for inclusion by local jurisdictions and
550 approved by the Commission.

560 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take
570 effect October 1, 2002.

580 MANDATES: Governor Parris N. Glendening
590 Lieutenant Governor Kathleen Kennedy Townsend
600 Delegate Dan K. Morhaim
610 Delegate Michael H. Weir
620 William Baker, President of the Chesapeake Bay Foundation

Sponsor:

The Governor
1477 West Key Parkway, Apt B2
Frederick, MD 21702