

Chapter 378

(Senate Bill 1128)

AN ACT concerning

Board of Public Works – Licenses to Dredge and Fill on State Wetlands – Working Marinas

FOR the purpose of authorizing the Board of Public Works to issue a certain license to dredge and fill on State wetlands for a certain development project at certain marinas if the development project meets certain criteria or the license will authorize dredging to improve certain navigational access; prohibiting the Board from issuing a certain license for a certain development project unless the applicant for the license has obtained certain other authorizations if required by local, State, or federal law; providing for the application of this Act; making this Act an emergency measure; and generally relating to the authority of the Board of Public Works to issue a license to dredge and fill in State wetlands.

BY adding to

Article – Environment

Section 16–106

Annotated Code of Maryland

(2007 Replacement Volume and 2009 Supplement)

Preamble

WHEREAS, Chapters 173 and 174 of the Acts of 2009 established a process administered by the Department of Natural Resources for granting aquaculture and submerged land leases; and

WHEREAS, It is the policy of the State to expand aquaculture opportunities to restore the Chesapeake Bay, bring back the State's native oyster, create new jobs, and improve economic activity in the State; and

WHEREAS, Aquaculture operations may require improved access to navigable waters and development of working marinas; and

WHEREAS, To develop a marina on State wetlands a person must obtain a license to dredge or fill on State wetlands from the Board of Public Works; and

WHEREAS, The Department of the Environment has established marina siting guidelines designed to minimize impacts to the State natural resources, including water quality, from development projects at marinas; now, therefore,

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

Article – Environment

16-106.

(A) (1) THIS SECTION APPLIES TO A DEVELOPMENT PROJECT ~~AT~~ TO EXPAND A MARINA THAT HISTORICALLY OPERATED AS A WORKING MARINA FOR THE SOLE PURPOSE OF SUPPORTING AQUACULTURE OR SEAFOOD OPERATIONS.

(2) THIS SECTION DOES NOT APPLY TO A DEVELOPMENT PROJECT ~~AT~~ TO EXPAND A MARINA IF THE ~~PRINCIPAL PURPOSE OF THE DEVELOPMENT PROJECT~~ EXISTING OR EXPANDED MARINA IS USED TO ALLOW A PERSON TO MOOR, DOCK, OR STORE RECREATIONAL OR PLEASURE VESSELS ~~AT THE MARINA.~~

(B) (1) EXCEPT AS PROVIDED IN SUBSECTION (C) OF THIS SECTION, THE BOARD MAY ISSUE A LICENSE UNDER THIS TITLE FOR A DEVELOPMENT PROJECT ~~AT~~ TO EXPAND A MARINA ~~WITH A~~ THAT IS LOCATED IN AN AREA WHERE THE WATER DEPTH ~~OF~~ IS LESS THAN 4 1/2 FEET, ~~NO FLUSHING LIMIT, AND NO HISTORIC WATER QUALITY ISSUES IF:~~

(1) ~~THE~~ AT MEAN LOW WATER AND ON A WATERWAY WITHOUT STRONG FLUSHING IF THE DEVELOPMENT PROJECT:

(I) ENHANCES AQUACULTURE ACTIVITIES OR SEAFOOD OPERATIONS;

(II) IS LOCATED IN A MARINA OR SEAFOOD OPERATION AT A MARINA OPERATED BY A NONPROFIT ORGANIZATION TO PROMOTE AQUACULTURE ACTIVITIES OR OYSTER RESTORATION IN THE STATE;

(III) DOES NOT ~~SIGNIFICANTLY~~ ADVERSELY IMPACT SUBMERGED AQUATIC VEGETATION; AND

(IV) WILL FURTHER THE POLICIES OF THE STATE RELATED TO AQUACULTURE; ~~OR.~~

(2) THE LICENSE ~~WILL~~ AUTHORIZED UNDER PARAGRAPH (1) OF THIS SUBSECTION MAY AUTHORIZE DREDGING TO IMPROVE NAVIGATIONAL ACCESS TO THE MARINA OR MARINA FACILITY OPERATIONS.

(C) THE BOARD MAY NOT ISSUE A LICENSE UNDER THIS TITLE UNLESS THE APPLICANT FOR THE LICENSE HAS OBTAINED THE FOLLOWING AUTHORIZATIONS IF REQUIRED BY LOCAL, STATE, OR FEDERAL LAW:

(1) LOCAL PLANNING OR ZONING AUTHORIZATION;

(2) AN AQUACULTURE LEASE;

(3) A WATER COLUMN LEASE ISSUED BY THE BOARD OR A SUBMERGED LAND LEASE ISSUED BY THE DEPARTMENT OF NATURAL RESOURCES; AND

(4) A PERMIT ISSUED BY THE U.S. ARMY CORPS OF ENGINEERS UNDER § 404 OF THE FEDERAL CLEAN WATER ACT OR UNDER § 10 OF THE FEDERAL RIVERS AND HARBORS ACT.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act is an emergency measure, is necessary for the immediate preservation of the public health or safety, has been passed by a ye and nay vote supported by three-fifths of all the members elected to each of the two Houses of the General Assembly, and shall take effect from the date it is enacted.

Approved by the Governor, May 4, 2010.