

**PRINCE GEORGE'S COUNTY COUNCIL
AGENDA ITEM SUMMARY**

Meeting Date: 11/23/99**Reference No.:** CB-59-1999**Proposer:** Estep**Draft No.:** 2**Sponsors:** Estep

Item Title: An Act amending Subtitle 24 to permit certain intra-family transfers of property affecting the Chesapeake Bay Critical Area without filing a subdivision plat, and to amend the provisions for transfer to government agencies

Drafter: Steven M. Gilbert
Principal Counsel to the
District Council**Resource** Cindy Blackstone
Personnel: Legislative Aide

LEGISLATIVE HISTORY:**Date Presented:** 9/28/99**Executive Action:** 12/13/99 S**Committee Referral:** 9/28/99 PZED**Effective Date:** 2/3/2000**Committee Action:** 10/6/99 FAV (A)**Date Introduced:** 10/12/99**Public Hearing:** 11/23/99 1:30 P.M.**Council Action:** 11/23/99 ENACTED**Council Votes:** JE:A, DB:A, IG:A, TH:A, WM:A, RVR:A, AS:A, PS:A, MW:A**Pass/Fail:** P**Remarks:**

PLANNING, ZONING AND ECON. DEV. COMMITTEE REPORT**DATE:** 10/6/99

Committee Vote: Favorable as amended , 3-0

(In favor: Council Members Russell, Gourdine and Hendershot)

This legislation amends Subtitle 24, Subdivision Regulations, to allow an intra-family transfer (conveyance to a son or daughter or lineal descendant or antecedent of the grantor) of land that lies outside of the Chesapeake Bay Critical Area Overlay Zone without the requirement for a subdivision plat. Additionally, a conveyance of land located in the Critical Area Overlay Zone to a governmental agency is also exempt from the subdivision plat requirement if the conveyance

restricts use of the land to public uses in perpetuity. Currently, the Subdivision Regulations only provide for the conveyance of land in the Chesapeake Bay Critical Area Overlay Zone without a subdivision plat if the land was subdivided in accordance with certain provisions prior to October 30, 1989.

A Proposed Draft-2 of CB-59-1999 was presented to the Committee. Draft-2 deletes the following language on line 12, page 3: “includes less than 10 acres and” and “, at least 1,000 feet” and also deletes the language in line 13, page 3 in its entirety. The amendment to Draft-1 was suggested by a Chesapeake Bay Critical Area Commission representative in order to make the proposed exemption in the Subdivision Regulations less narrow and restrictive. By removing the acreage and location criteria, the legislation gives relief and allows intra-family transfers in the Critical Area in any circumstance.

The Office of Law has reviewed the bill and determined that it is in proper legislative form. The Office of Audits and Investigations has determined that there should be no negative fiscal impact on the County as a result of enacting CB-59-1999. The County Executive supports the legislation with amendments to meet minimum State requirements (as raised by the County Health Department).

The concern related to this legislation involves situations where land is being subdivided in areas of the County that are not served by public water and sewer systems. The Annotated Code of Maryland, Environment Article, and the Code of Maryland Regulations 26.04.03 require submission of plans and plats for the subdivision of any property to ensure the property is served by an adequate water supply and sewerage system. In areas of the County served by public water and sewer systems, the exemptions to the requirement for a subdivision plat (Section 24-107 of Subtitle 24) and as amended by CB-59-1999 are not an issue. However, in areas of the County that rely on private wells and septic systems, State requirements concerning identification of an adequate area for sewage disposal must be met for each property prior to recordation in the County land records. The Health Department has commented that the current provisions of Section 24-107, as well as the amendments proposed in CB-59-1999, are in conflict with State requirements.

Steve Gilbert, Principal Counsel to the District Council, proposed an amendment to the legislation that would address the Health Department’s concerns. The amendment would require approval by the Health Department prior to the determination that certain conveyances, as provided in Section 24-107 of the Subdivision Regulations, are exempt from the requirement of filing a subdivision plat. The Committee discussed the purpose and necessity of this amendment since State law already requires that an adequate area for sewage disposal must be met for each property prior to recordation of the subdivision plat.

Don Nork and Paul Meyer, representatives of the Health Department, addressed the Committee regarding this issue. Mr. Nork explained that there are often instances where an intra-family transfer may occur as permitted by Section 24-107, and at such time as the building permit is being reviewed by the Health Department it is determined that the property is unable to pass percolation tests, the Department must recommend that the permit not be issued. It was suggested that this amendment would provide notice in advance of the permit stage that certain State requirements must be met even though a subdivision plat is not required.

Robert Clagett spoke in support of the legislation indicating to the Committee that current regulations restrict the conveyance of land to his son for construction of a dwelling on his family's 200-acre farm. Mr. Clagett explained that the land he is proposing to convey to his son is located outside of the Critical Area Overlay Zone and, as proposed, CB-59-1999 will allow the transfer of property to his son without the requirement for a subdivision plat.

Staff indicated to the Committee that an amendment to Section 2. beginning on line 17, page 3, is necessary to modify the effective date of the bill. Since the provisions of CB-59-1999 affect land in the Chesapeake Bay Critical Area, the legislation must be approved by the Chesapeake Bay Critical Area Commission and is not effective until that approval has occurred.

On a motion by Council Member Hendershot, seconded by Council Member Gourdine, the Committee voted a favorable report on Proposed Draft-2 including the amendment to the effective date clause (Section 2. of the bill). It is noted that Council Member Russell indicated that he supported the motion (excluding the amendment addressing State requirements) at the time of the Committee vote, however, his vote may change later after obtaining additional information regarding the Health Department's concerns.

BACKGROUND INFORMATION/FISCAL IMPACT

(Includes reason for proposal, as well as any unique statutory requirements)

The Subdivision Regulations do not permit transfers without filing a subdivision plat within the Chesapeake Bay Critical Area. The bill permits intra-family transfers and transfers to government agencies without subdivision plats, in certain circumstances.

CODE INDEX TOPICS: