

HOUSE BILL 615

M3

4lr0128

By: **Chair, Environmental Matters Committee (By Request – Departmental – Natural Resources)**

Introduced and read first time: January 30, 2014

Assigned to: Environmental Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Climate Risk Reduction Act**

3 FOR the purpose of establishing a Coast Smart Council in the Department of Natural
4 Resources; providing for the membership, chair, and staffing of the Council;
5 establishing the membership term for certain members of the Council;
6 prohibiting certain members of the Council from receiving certain
7 compensation, but authorizing the reimbursement of certain expenses;
8 providing for the duties of the Council; authorizing the chair of the Council to
9 establish subcommittees under certain circumstances; requiring certain
10 structures to be constructed in accordance with certain siting and design
11 criteria established by the Council; requiring the Council, in consultation with
12 the Department, to develop certain criteria in accordance with certain
13 requirements on or before a certain date; declaring the intent of the General
14 Assembly; requiring the Departments of Budget and Management, General
15 Services, and Natural Resources to review and incorporate certain criteria
16 established by the Council into certain instructions and policies; providing for
17 the application of certain provisions of this Act; defining certain terms; and
18 generally relating to the application of certain siting and design criteria related
19 to sea level rise and coastal flood impacts to the construction or reconstruction
20 of certain capital projects and the Coast Smart Council.

21 BY adding to

22 Article – Natural Resources

23 Section 3–1001 through 3–1004 to be under the new subtitle “Subtitle 10. Coast
24 Smart Council”

25 Annotated Code of Maryland

26 (2012 Replacement Volume and 2013 Supplement)

27 BY adding to

28 Article – State Finance and Procurement

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 Section 3–602.3
2 Annotated Code of Maryland
3 (2009 Replacement Volume and 2013 Supplement)

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

6 **Article – Natural Resources**

7 **SUBTITLE 10. COAST SMART COUNCIL.**

8 **3–1001.**

9 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS
10 INDICATED.

11 (B) (1) “COAST SMART” MEANS A CONSTRUCTION PRACTICE IN
12 WHICH PRELIMINARY PLANNING, SITING, DESIGN, CONSTRUCTION, OPERATION,
13 MAINTENANCE, AND REPAIR OF A STRUCTURE AVOIDS OR MINIMIZES FUTURE
14 IMPACTS ASSOCIATED WITH COASTAL FLOODING AND SEA LEVEL RISE.

15 (2) “COAST SMART” INCLUDES DESIGN CRITERIA AND SITING
16 CRITERIA THAT ARE APPLICABLE THROUGHOUT THE ENTIRE LIFE CYCLE OF A
17 PROJECT.

18 (C) “COUNCIL” MEANS THE COAST SMART COUNCIL.

19 (D) “DESIGN CRITERIA” MEANS STANDARD SPECIFICATIONS RELATED
20 TO THE SHAPE, SIZE, OR FORM OF A CONSTRUCTION PRACTICE.

21 (E) “SITING CRITERIA” MEANS SPECIFICATIONS RELATED TO THE
22 LOCATION OR USE OF A STRUCTURE.

23 **3–1002.**

24 (A) THERE IS A COAST SMART COUNCIL IN THE DEPARTMENT.

25 (B) THE DEPARTMENT SHALL PROVIDE STAFF SUPPORT FOR THE
26 COUNCIL.

27 **3–1003.**

28 (A) THE COAST SMART COUNCIL SHALL INCLUDE:

1 (1) THE SECRETARY OF NATURAL RESOURCES, OR THE
2 SECRETARY'S DESIGNEE;

3 (2) THE SECRETARY OF BUDGET AND MANAGEMENT, OR THE
4 SECRETARY'S DESIGNEE;

5 (3) THE SECRETARY OF THE ENVIRONMENT, OR THE
6 SECRETARY'S DESIGNEE;

7 (4) THE SECRETARY OF GENERAL SERVICES, OR THE
8 SECRETARY'S DESIGNEE;

9 (5) THE SECRETARY OF PLANNING, OR THE SECRETARY'S
10 DESIGNEE;

11 (6) THE SECRETARY OF TRANSPORTATION, OR THE
12 SECRETARY'S DESIGNEE;

13 (7) THE DIRECTOR OF THE MARYLAND EMERGENCY
14 MANAGEMENT AGENCY, OR THE DIRECTOR'S DESIGNEE;

15 (8) THE CHANCELLOR OF THE UNIVERSITY SYSTEM OF
16 MARYLAND, OR THE CHANCELLOR'S DESIGNEE; AND

17 (9) FIVE MEMBERS APPOINTED BY THE GOVERNOR TO
18 REPRESENT LOCAL GOVERNMENT, ENVIRONMENTAL, AND BUSINESS
19 INTERESTS.

20 (B) THE SECRETARY OF NATURAL RESOURCES OR THE SECRETARY'S
21 DESIGNEE SHALL CHAIR THE COUNCIL.

22 (C) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, THE TERM
23 OF A MEMBER APPOINTED BY THE GOVERNOR IS 2 YEARS.

24 (2) THE GOVERNOR SHALL STAGGER THE TERMS OF THE INITIAL
25 APPOINTED MEMBERS.

26 (3) AT THE END OF A TERM, A MEMBER CONTINUES TO SERVE
27 UNTIL A SUCCESSOR IS APPOINTED AND QUALIFIES.

28 (4) A MEMBER WHO IS APPOINTED AFTER A TERM HAS BEGUN
29 SERVES ONLY FOR THE REMAINDER OF THAT TERM AND UNTIL A SUCCESSOR IS
30 APPOINTED AND QUALIFIES.

1 **(5) THE GOVERNOR MAY REMOVE AN APPOINTED MEMBER FOR**
2 **INCOMPETENCE, MISCONDUCT, OR FAILURE TO PERFORM THE DUTIES OF THE**
3 **POSITION.**

4 **(D) A MEMBER APPOINTED BY THE GOVERNOR MAY NOT RECEIVE**
5 **COMPENSATION BUT IS ENTITLED TO REIMBURSEMENT FOR EXPENSES UNDER**
6 **THE STANDARD STATE TRAVEL REGULATIONS, AS PROVIDED IN THE STATE**
7 **BUDGET.**

8 **3-1004.**

9 **(A) THE COUNCIL SHALL:**

10 **(1) STUDY AND PROVIDE ANALYSIS REGARDING STANDARDS AND**
11 **FACTORS RELEVANT TO THE ESTABLISHMENT OF COAST SMART SITING**
12 **CRITERIA AND DESIGN CRITERIA;**

13 **(2) DEVELOP SITING AND DESIGN CRITERIA TO ESTABLISH AND**
14 **IMPLEMENT COAST SMART PRACTICES AND REQUIREMENTS;**

15 **(3) DEVELOP ELIGIBILITY CRITERIA, STANDARDS, AND**
16 **PROCEDURES FOR APPLYING FOR AND OBTAINING A WAIVER FROM**
17 **COMPLIANCE WITH THE COAST SMART REQUIREMENTS; AND**

18 **(4) ESTABLISH PROCEDURES FOR EVALUATING COAST SMART**
19 **WAIVER APPLICATIONS THAT INCLUDE THE CONSIDERATION OF PROPOSED**
20 **CAPITAL PROJECTS WITH REGARD TO:**

21 **(I) THE ANTICIPATED NEED TO PREPARE FOR, RESPOND**
22 **TO, AND RECOVER FROM EXTREME WEATHER EVENTS, SEA LEVEL RISE**
23 **INUNDATION, COASTAL FLOODING, STORM SURGES, AND SHORELINE EROSION;**
24 **AND**

25 **(II) THE NEED TO PREVENT DANGER TO LIFE AND**
26 **PROPERTY AND TO AVOID ENVIRONMENTAL, SOCIO-ECONOMIC, AND ECONOMIC**
27 **HARM.**

28 **(B) THE CHAIR OF THE COUNCIL MAY ESTABLISH SUBCOMMITTEES**
29 **CONSISTING OF MEMBERS OF THE COUNCIL, EXPERTS IN FIELDS RELATED TO**
30 **CLIMATE CHANGE AND SEA LEVEL RISE, AND INTERESTED PARTIES TO ADDRESS**
31 **OR STUDY SPECIFIC ISSUES.**

1 **Article – State Finance and Procurement**

2 **3-602.3.**

3 **(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE**
4 **MEANINGS INDICATED.**

5 **(2) “100-YEAR BASE FLOOD” MEANS A FLOOD HAVING A 1%**
6 **CHANCE OF BEING EQUALED OR EXCEEDED IN ANY GIVEN YEAR.**

7 **(3) “BASE FLOOD ELEVATION” MEANS:**

8 **(I) THE WATER SURFACE ELEVATION OF THE 100-YEAR**
9 **BASE FLOOD AS SPECIFIED ON FEDERAL EMERGENCY MANAGEMENT AGENCY**
10 **FLOOD INSURANCE RATE MAPS; OR**

11 **(II) IN AN AREA OF SHALLOW FLOODING:**

12 **1. THE HIGHEST ADJACENT NATURAL GRADE ADDED**
13 **TO THE DEPTH NUMBER SPECIFIED IN FEET ON THE FLOOD INSURANCE RATE**
14 **MAP; OR**

15 **2. IF THE DEPTH NUMBER IS NOT SPECIFIED ON THE**
16 **FLOOD INSURANCE RATE MAP, 4 FEET.**

17 **(4) (I) “COAST SMART” MEANS A CONSTRUCTION PRACTICE IN**
18 **WHICH PRELIMINARY PLANNING, SITING, DESIGN, CONSTRUCTION, OPERATION,**
19 **MAINTENANCE, AND REPAIR OF A STRUCTURE AVOIDS OR MINIMIZES FUTURE**
20 **IMPACTS ASSOCIATED WITH COASTAL FLOODING AND SEA LEVEL RISE.**

21 **(II) “COAST SMART” INCLUDES DESIGN CRITERIA AND**
22 **SITING CRITERIA THAT ARE APPLICABLE THROUGHOUT THE ENTIRE LIFE**
23 **CYCLE OF A PROJECT.**

24 **(5) “DESIGN CRITERIA” MEANS STANDARD SPECIFICATIONS**
25 **RELATED TO THE SHAPE, SIZE, OR FORM OF A CONSTRUCTION PRACTICE.**

26 **(6) (I) “REPLACEMENT COST” MEANS, AT THE TIME OF**
27 **RECONSTRUCTION, THE COST OF RECONSTRUCTING A STRUCTURE AND ITS**
28 **SURROUNDING PROPERTY TO FULL USE WITH MATERIALS OF THE SAME KIND**
29 **AND QUALITY AS THE ORIGINAL MATERIALS.**

30 **(II) “REPLACEMENT COST” DOES NOT INCLUDE:**

1 1. THE VALUE OF THE LAND ON WHICH A
2 STRUCTURE IS LOCATED; OR

3 2. FOR TAX PURPOSES, A DEDUCTION FOR
4 DEPRECIATION.

5 (7) “SITING CRITERIA” MEANS SPECIFICATIONS RELATED TO THE
6 LOCATION OR USE OF A STRUCTURE.

7 (8) “SPECIAL FLOOD HAZARD AREA” MEANS LAND IN A TIDALLY
8 INFLUENCED FLOODPLAIN THAT IS:

9 (I) SUBJECT TO AT LEAST A 1% CHANCE OF FLOODING IN
10 ANY GIVEN YEAR; AND

11 (II) DESIGNATED BY THE FEDERAL EMERGENCY
12 MANAGEMENT AGENCY IN FLOOD INSURANCE STUDIES AND ON FLOOD
13 INSURANCE RATE MAPS AS ZONE A, AE, AH, AO, A1-30, A99, VE, OR V1-30.

14 (9) “STRUCTURE” MEANS:

15 (I) A WALLED OR ROOFED BUILDING;

16 (II) A MANUFACTURED HOME; OR

17 (III) A GAS OR LIQUID STORAGE TANK THAT IS PRINCIPALLY
18 ABOVE GROUND.

19 (10) “SUBSTANTIAL DAMAGE” MEANS DAMAGE CAUSED BY ANY
20 SOURCE THAT IS SUSTAINED BY A STRUCTURE SUCH THAT THE COST OF
21 RECONSTRUCTION TO ITS BEFORE-DAMAGED CONDITION IS AT LEAST HALF OF
22 THE STRUCTURE’S REPLACEMENT COST BEFORE THE DAMAGE OCCURRED.

23 (B) (1) THIS SUBSECTION APPLIES TO STATE CAPITAL PROJECTS
24 PLANNED AND BUILT BY UNITS OF STATE GOVERNMENT THAT ARE PARTIALLY
25 OR FULLY FUNDED WITH STATE FUNDS.

26 (2) BEGINNING JULY 1, 2015, IF A STATE CAPITAL PROJECT
27 INCLUDES THE CONSTRUCTION OF A STRUCTURE OR THE RECONSTRUCTION OF
28 A STRUCTURE WITH SUBSTANTIAL DAMAGE, THE STRUCTURE SHALL BE
29 CONSTRUCTED OR RECONSTRUCTED IN COMPLIANCE WITH SITING AND DESIGN
30 CRITERIA ESTABLISHED UNDER SUBSECTION (C) OF THIS SECTION.

1 **(C) (1) IN CONSULTATION WITH THE DEPARTMENT OF NATURAL**
2 **RESOURCES, THE COAST SMART COUNCIL ESTABLISHED UNDER § 3-1002 OF**
3 **THE NATURAL RESOURCES ARTICLE SHALL ESTABLISH COAST SMART SITING**
4 **AND DESIGN CRITERIA TO ADDRESS SEA LEVEL RISE AND COASTAL FLOOD**
5 **IMPACTS ON CAPITAL PROJECTS.**

6 **(2) THE CRITERIA ADOPTED UNDER THIS SUBSECTION SHALL**
7 **INCLUDE:**

8 **(I) GUIDELINES, AND ANY OTHER DIRECTIVES APPLICABLE**
9 **TO THE PRELIMINARY PLANNING AND CONSTRUCTION OF A PROPOSED CAPITAL**
10 **PROJECT THAT IS LOCATED WITHIN A SPECIAL FLOOD HAZARD AREA;**

11 **(II) A REQUIREMENT THAT THE LOWEST FLOOR ELEVATION**
12 **OF EACH STRUCTURE IS BUILT AT AN ELEVATION OF AT LEAST 2 FEET ABOVE**
13 **THE BASE FLOOD ELEVATION; AND**

14 **(III) PROVISIONS ESTABLISHING A PROCESS TO ALLOW A**
15 **UNIT OF STATE GOVERNMENT TO OBTAIN A WAIVER FROM COMPLYING WITH**
16 **THE REQUIREMENTS OF SUBSECTION (B) OF THIS SECTION.**

17 SECTION 2. AND BE IT FURTHER ENACTED, That the Coast Smart Council
18 shall adopt initial criteria in accordance with the provisions of § 3-602.3(c) of the State
19 Finance and Procurement Article, as enacted by this Act, on or before June 30, 2015.

20 SECTION 3. AND BE IT FURTHER ENACTED, That it is the intent of the
21 General Assembly that, until the Coast Smart Council has adopted criteria in
22 accordance with the provisions of Section 2 of this Act, units of State government that
23 propose capital projects for a new State structure or the reconstruction or
24 rehabilitation of a substantially damaged State structure shall comply with the
25 guidelines and requirements of Executive Order 01.01.2012.29.

26 SECTION 4. AND BE IT FURTHER ENACTED, That the Departments of
27 Budget and Management, General Services, and Natural Resources shall review and
28 incorporate criteria developed by the Coast Smart Council under the provisions of this
29 Act in the appropriate instructions and policies.

30 SECTION 5. AND BE IT FURTHER ENACTED, That § 3-602.3(b) of the State
31 Finance and Procurement Article, as enacted under Section 1 of this Act, shall be
32 construed to apply only prospectively and may not be applied or interpreted to have
33 any effect on or application to any capital project approved by the General Assembly
34 before July 1, 2015.

1 SECTION 6. AND BE IT FURTHER ENACTED, That this Act shall take effect
2 July 1, 2014.