

HOUSE BILL 1069

M3, N1, Q6

11r2431

By: **Delegate Stewart**

Introduced and read first time: February 5, 2021

Assigned to: Environment and Transportation

A BILL ENTITLED

1 AN ACT concerning

2 **Water Supply – Private Well Safety Program**

3 FOR the purpose of establishing the Private Well Safety Program in the Department of the
4 Environment; establishing the Private Well Safety Fund as a special, nonlapsing
5 fund; specifying the purpose of the Program and the Fund; requiring the Secretary
6 of the Environment to administer the Fund; requiring the State Treasurer to hold
7 the Fund and the Comptroller to account for the Fund; specifying the contents of the
8 Fund; specifying the purpose for which the Fund may be used; establishing certain
9 qualifications for certain counties to receive a certain grant under the Fund;
10 requiring certain counties that are grant recipients to report certain information to
11 the Department of the Environment; requiring the Department of the Environment,
12 in consultation with the Maryland Department of Health, to establish a certain well
13 surveillance program and to provide certain notices; requiring the Department of the
14 Environment to utilize a certain portal to receive records of certificates of potability
15 and results of certain water quality testing; requiring a county and a certain
16 State-certified laboratory to upload certain information to a certain portal in a
17 certain manner; requiring an owner of residential rental property that is served by
18 a private water supply well to provide water quality testing in a certain manner and
19 to disclose to a tenant certain results; requiring a vendor of residential real property
20 that is served by a private water supply well to deliver to each purchaser, on or before
21 a certain time, the results of a certain water quality test; establishing a certain
22 special transfer tax payable for certain instruments of writing; requiring certain
23 instruments of writing to be accompanied by a certain statement; requiring the State
24 Department of Assessments and Taxation to deduct and credit a certain special
25 transfer tax to the Fund; requiring the Department of the Environment to report to
26 the General Assembly on or before a certain date; requiring the Department of the
27 Environment and counties to engage in certain outreach for certain purposes in a
28 certain manner; authorizing the Department of the Environment to adopt certain
29 regulations; defining certain terms; and generally relating to water supply and
30 private well safety.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 BY adding to
2 Article – Environment
3 Section 9–4A–01 through 9–4A–16 to be under the new subtitle “Subtitle 4A. Private
4 Well Safety Program”
5 Annotated Code of Maryland
6 (2014 Replacement Volume and 2020 Supplement)

7 BY adding to
8 Article – Real Property
9 Section 10–711
10 Annotated Code of Maryland
11 (2015 Replacement Volume and 2020 Supplement)

12 BY repealing and reenacting, with amendments,
13 Article – Tax – Property
14 Section 13–201, 13–202, 13–203(a), and 13–209(a)
15 Annotated Code of Maryland
16 (2019 Replacement Volume and 2020 Supplement)

17 BY adding to
18 Article – Tax – Property
19 Section 13–204.1
20 Annotated Code of Maryland
21 (2019 Replacement Volume and 2020 Supplement)

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

24 **Article – Environment**

25 **SUBTITLE 4A. PRIVATE WELL SAFETY PROGRAM.**

26 **PART I. DEFINITIONS.**

27 **9–4A–01.**

28 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS
29 INDICATED.

30 (B) “COVERED HOUSEHOLD” MEANS ONE OR MORE INDIVIDUALS THAT
31 RESIDE AT A PROPERTY THAT IS SERVED BY A PRIVATE WATER SUPPLY WELL.

32 (C) “FUND” MEANS THE PRIVATE WELL SAFETY FUND.

33 (D) “HARMFUL LEVEL OF RADON” MEANS A LEVEL OF RADON AT OR ABOVE
34 4 PICOCURIES PER LITER.

1 (E) "HOTSPOT" MEANS:

2 (1) A PRIVATE WATER SUPPLY WELL THAT CONTAINS A SUBSTANCE
3 THAT EXCEEDS, BY MORE THAN TWICE, THE MAXIMUM CONTAMINANT LEVEL FOR
4 THAT SUBSTANCE IN TWO OR MORE CONSECUTIVE TESTS; OR

5 (2) A ZIP CODE WHERE AT LEAST 50% OF THE WATER QUALITY
6 TESTING COMPLETED WITHIN THE PAST 2 YEARS DETECTED A SUBSTANCE THAT
7 EXCEEDS THE MAXIMUM CONTAMINANT LEVEL FOR THAT SUBSTANCE.

8 (F) "MAXIMUM CONTAMINANT LEVEL" MEANS A STANDARD THAT IS:

9 (1) SET BY THE U.S. ENVIRONMENTAL PROTECTION AGENCY FOR
10 DRINKING WATER QUALITY; AND

11 (2) THE LEGAL THRESHOLD LIMIT ON THE AMOUNT OF A SUBSTANCE
12 THAT IS ALLOWED IN A PUBLIC WATER SYSTEM UNDER THE FEDERAL SAFE
13 DRINKING WATER ACT.

14 (G) "PROGRAM" MEANS THE PRIVATE WELL SAFETY PROGRAM.

15 (H) (1) "WATER QUALITY TESTING" MEANS WATER QUALITY TESTING OF
16 A PRIVATE WATER SUPPLY WELL.

17 (2) "WATER QUALITY TESTING" INCLUDES TESTING FOR:

18 (I) TOTAL COLIFORM BACTERIA;

19 (II) NITRATES;

20 (III) TOTAL DISSOLVED SOLIDS;

21 (IV) PH LEVELS;

22 (V) HARMFUL LEVELS OF RADON; OR

23 (VI) HARMFUL LEVELS OF ANY OTHER CONTAMINANT, AS
24 DETERMINED BY THE DEPARTMENT.

25 9-4A-02. RESERVED.

26 9-4A-03. RESERVED.

1 **(I) WATER QUALITY TESTING KITS AND ANALYSIS; AND**

2 **(II) WELL REMEDIATION, INCLUDING:**

3 **1. THE COSTS ASSOCIATED WITH REPLACING,**
4 **RECONSTRUCTING, OR TREATING A WELL WHEN WATER QUALITY TESTING DETECTS:**

5 **A. A SUBSTANCE EXCEEDS THE MAXIMUM**
6 **CONTAMINANT LEVEL FOR THAT SUBSTANCE;**

7 **B. A HARMFUL LEVEL OF RADON; OR**

8 **C. A HARMFUL LEVEL OF ANY OTHER CONTAMINANT, AS**
9 **DETERMINED BY THE DEPARTMENT; AND**

10 **2. THE COSTS ASSOCIATED WITH AN ACTION TAKEN TO**
11 **PREVENT A SEPTIC SYSTEM FROM FURTHER CONTAMINATING DRINKING WATER**
12 **SOURCES; AND**

13 **(3) PROVIDING GRANTS TO A COVERED HOUSEHOLD TO PROVIDE THE**
14 **ASSISTANCE AUTHORIZED UNDER ITEM (2) OF THIS SUBSECTION IF THE**
15 **HOUSEHOLD IS LOCATED IN A COUNTY THAT HAS NOT RECEIVED GRANT MONEY**
16 **FROM THE FUND.**

17 **(G) THE DEPARTMENT SHALL ESTABLISH A GRANT APPLICATION PROCESS**
18 **FOR PROVIDING A GRANT IN ACCORDANCE WITH THIS PART THAT PRIORITIZES:**

19 **(1) AREAS WITH THE HIGHEST PERCENTAGE OF COVERED**
20 **HOUSEHOLDS AND THE HIGHEST PERCENTAGE OF LOW-INCOME RESIDENTS; AND**

21 **(2) HOUSEHOLDS WITH A PREGNANT INDIVIDUAL OR INFANT UNDER**
22 **THE AGE OF 6 MONTHS.**

23 **(H) THE DEPARTMENT SHALL:**

24 **(1) PROVIDE NOTICE OF THE PROGRAM AND FUND TO EACH COUNTY;**
25 **AND**

26 **(2) PUBLISH INFORMATION ON THE PROGRAM AND FUND ON ITS**
27 **WEBSITE, INCLUDING INFORMATION ON THE AVAILABILITY OF FUNDING.**

28 **(I) A COVERED HOUSEHOLD MAY NOT RECEIVE GRANT MONEY UNDER THIS**
29 **SECTION MORE THAN ONCE A YEAR.**

1 **9-4A-06.**

2 **A COUNTY IS QUALIFIED TO RECEIVE A GRANT IN ACCORDANCE WITH THIS**
3 **PART IF THE COUNTY AGREES TO ENGAGE IN OUTREACH ACTIVITIES:**

4 **(1) TO EDUCATE COUNTY RESIDENTS ON THE EXISTENCE AND**
5 **PURPOSE OF THE PROGRAM AND FUND AND ON THE IMPORTANCE OF ANNUALLY**
6 **TESTING WELL WATER FOR CONTAMINANTS; AND**

7 **(2) THAT, AT A MINIMUM, INCLUDE:**

8 **(I) PUBLISHING INFORMATION ON THE COUNTY'S WEBSITE;**

9 **(II) PROVIDING INFORMATION TO RESIDENTS OVER THE**
10 **TELEPHONE WHEN A RESIDENT CALLS THE COUNTY ABOUT WELL TESTING OR**
11 **REMEDICATION OR THE PROGRAM; AND**

12 **(III) PROVIDING NOTICE ON THE PROCESS FOR OBTAINING A**
13 **CERTIFICATE OF POTABILITY FOR A PRIVATE WATER SUPPLY WELL.**

14 **9-4A-07.**

15 **A COUNTY THAT RECEIVED A GRANT IN ACCORDANCE WITH THIS PART SHALL**
16 **SUBMIT AN ANNUAL REPORT TO THE DEPARTMENT, IN A MANNER REQUIRED BY THE**
17 **DEPARTMENT, THAT PROVIDES THE FOLLOWING INFORMATION:**

18 **(1) THE LOCATIONS OF COVERED HOUSEHOLDS THAT RECEIVED**
19 **GRANT MONEY UNDER THE FUND; AND**

20 **(2) THE DOLLAR AMOUNT OF GRANT MONEY AWARDED TO EACH**
21 **HOUSEHOLD.**

22 **9-4A-08. RESERVED.**

23 **9-4A-09. RESERVED.**

24 **PART III. MISCELLANEOUS.**

25 **9-4A-10.**

26 **(A) THE DEPARTMENT SHALL UTILIZE AN EXISTING PORTAL, SUCH AS THE**
27 **DEPARTMENT OF INFORMATION TECHNOLOGY'S OPEN DATA PORTAL:**

1 (1) (I) TO RECEIVE RECORDS OF CERTIFICATES OF POTABILITY;
2 AND

3 (II) TO RECEIVE RESULTS OF WATER QUALITY TESTING FROM
4 STATE-CERTIFIED LABORATORIES; AND

5 (2) TO PROVIDE PUBLIC ACCESS TO THE INFORMATION RECEIVED
6 UNDER ITEM (1) OF THIS SUBSECTION IN A MANNER THAT IS EASY TO USE AND
7 CATEGORIZED BY COUNTY.

8 (B) A COUNTY SHALL UPLOAD RECORDS OF CERTIFICATES OF POTABILITY
9 AND, ON A MONTHLY BASIS, UPLOAD ANY NEW RECORDS, UNLESS THE COUNTY HAS
10 ESTABLISHED A PROCESS FOR RESIDENTS TO UPLOAD THE RECORDS.

11 (C) A STATE-CERTIFIED LABORATORY THAT CONDUCTS WATER QUALITY
12 TESTING OF A PRIVATE WATER SUPPLY WELL SHALL, ON A REGULAR BASIS, UPLOAD
13 THE RESULTS OF THE TESTING TO THE PORTAL UTILIZED BY THE DEPARTMENT
14 UNDER SUBSECTION (A) OF THIS SECTION.

15 9-4A-11.

16 (A) (1) THE DEPARTMENT, IN CONSULTATION WITH THE MARYLAND
17 DEPARTMENT OF HEALTH, SHALL ESTABLISH A WELL SURVEILLANCE PROGRAM
18 UNDER WHICH THE APPROPRIATE UNIT OF COUNTY GOVERNMENT CONDUCTS FIELD
19 SAMPLING AND SURVEYS OF PRIVATE WATER SUPPLY WELLS IN AND AROUND AREAS
20 OF KNOWN OR SUSPECTED CONTAMINATION.

21 (2) THE WELL SURVEILLANCE PROGRAM SHALL PRIORITIZE AREAS
22 WITH A HIGH CONCENTRATION OF PRIVATE WATER SUPPLY WELLS.

23 (B) (1) IF WELL SURVEILLANCE CONDUCTED UNDER THIS SECTION
24 INDICATES THAT A PRIVATE WATER SUPPLY WELL OR ZIP CODE IS A HOTSPOT, THE
25 DEPARTMENT SHALL PROVIDE NOTICE TO THE MARYLAND DEPARTMENT OF
26 HEALTH.

27 (2) THE MARYLAND DEPARTMENT OF HEALTH SHALL PROVIDE
28 NOTICE OF A HOTSPOT TO THE OWNER OF AN IMPACTED WELL.

29 9-4A-12.

30 ON OR BEFORE DECEMBER 1, 2022, AND EACH DECEMBER 1 THEREAFTER,
31 THE DEPARTMENT SHALL REPORT TO THE GENERAL ASSEMBLY, IN ACCORDANCE

1 WITH § 2-1257 OF THE STATE GOVERNMENT ARTICLE, ON THE DATA AND
2 INFORMATION GATHERED UNDER THE PROGRAM, INCLUDING:

3 (1) THE TOTAL NUMBER OF WATER QUALITY TESTS CONDUCTED
4 UNDER THE PROGRAM THAT DETECTED A SUBSTANCE THAT EXCEEDS THE
5 MAXIMUM CONTAMINANT LEVEL FOR THAT SUBSTANCE, CATEGORIZED BY COUNTY
6 AND ZIP CODE;

7 (2) THE NUMBER OF WATER QUALITY TESTS CONDUCTED WITHIN THE
8 PREVIOUS 12-MONTH PERIOD THAT DETECTED A SUBSTANCE THAT EXCEEDS THE
9 MAXIMUM CONTAMINANT LEVEL FOR THAT SUBSTANCE, CATEGORIZED BY COUNTY
10 AND ZIP CODE; AND

11 (3) THE LOCATION OF HOTSPOTS OR OTHER AREAS OF KNOWN
12 CONTAMINATION AND OTHER RELEVANT INFORMATION RELATED TO THE WELL
13 SURVEILLANCE PROGRAM ESTABLISHED UNDER § 9-4A-11 OF THIS SUBTITLE.

14 9-4A-13.

15 THE DEPARTMENT MAY ADOPT REGULATIONS TO CARRY OUT THIS SUBTITLE.

16 9-4A-14. RESERVED.

17 9-4A-15. RESERVED.

18 PART IV. TESTING AND DISCLOSURE REQUIREMENTS FOR RENTAL PROPERTY.

19 9-4A-16.

20 AN OWNER OF RESIDENTIAL RENTAL PROPERTY THAT IS SERVED BY A
21 PRIVATE WATER SUPPLY WELL SHALL:

22 (1) PROVIDE FOR WATER QUALITY TESTING EVERY 3 YEARS; AND

23 (2) DISCLOSE TO A TENANT THE RESULTS OF THE WATER QUALITY
24 TESTING.

25 Article – Real Property

26 10-711.

27 A VENDOR OF RESIDENTIAL REAL PROPERTY THAT IS SERVED BY A PRIVATE
28 WATER SUPPLY WELL SHALL, ON OR BEFORE ENTERING A CONTRACT FOR THE SALE

1 OF THE PROPERTY, DELIVER TO EACH PURCHASER THE RESULTS OF A WATER
2 QUALITY TEST FOR THE WELL THAT:

3 (1) WAS CONDUCTED BY A STATE-CERTIFIED LABORATORY WITHIN
4 THE PREVIOUS 12-MONTH PERIOD; AND

5 (2) REPORTS, AT A MINIMUM:

6 (I) TOTAL COLIFORM BACTERIA;

7 (II) NITRATES;

8 (III) TOTAL DISSOLVED SOLIDS;

9 (IV) PH LEVELS; AND

10 (V) IF AT OR ABOVE 4 PICOCURIES PER LITER, RADON.

11 Article – Tax – Property

12 13-201.

13 In this subtitle, “transfer tax”:

14 (1) means the tax imposed under this subtitle; AND

15 (2) INCLUDES THE SPECIAL TRANSFER TAX IMPOSED UNDER §
16 13-202(B) OF THIS SUBTITLE.

17 13-202.

18 (A) Except as otherwise provided in this subtitle, a transfer tax is imposed on an
19 instrument of writing:

20 (1) recorded with the clerk of the circuit court for a county; or

21 (2) filed with the Department and described in § 12-103(d) of this article.

22 (B) IN ADDITION TO THE TAX IMPOSED UNDER SUBSECTION (A) OF THIS
23 SECTION, A SPECIAL TRANSFER TAX IS IMPOSED ON AN INSTRUMENT OF WRITING:

24 (1) TO CONVEY TITLE TO, OR A LEASEHOLD INTEREST IN,
25 RESIDENTIAL REAL PROPERTY SERVED BY A PRIVATE WATER SUPPLY WELL; AND

1 **(2) RECORDED WITH THE CLERK OF THE CIRCUIT COURT FOR A**
2 **COUNTY.**

3 13-203.

4 (a) (1) **(I)** Except as provided in subsections (a-1) and (b) of this section,
5 the rate of the transfer tax **IMPOSED UNDER § 13-202(A) OF THIS SUBTITLE** is 0.5% of
6 the consideration payable for the instrument of writing.

7 **(II) THE RATE OF THE SPECIAL TRANSFER TAX IMPOSED UNDER**
8 **§ 13-202(B) OF THIS SUBTITLE IS 0.0231% OF THE CONSIDERATION PAYABLE FOR**
9 **THE INSTRUMENT OF WRITING.**

10 (2) The consideration:

11 (i) includes the amount of any mortgage or deed of trust assumed
12 by the grantee; and

13 (ii) subject to item (i) of this paragraph, includes only the amount
14 paid or delivered in return for the sale of the property and does not include the amount of
15 any debt forgiven or no longer secured by a mortgage or deed of trust on the property.

16 **13-204.1.**

17 **(A) AN INSTRUMENT OF WRITING THAT CONVEYS TITLE TO, OR A**
18 **LEASEHOLD INTEREST IN, RESIDENTIAL REAL PROPERTY SERVED BY A PRIVATE**
19 **WATER SUPPLY WELL SHALL BE ACCOMPANIED BY A STATEMENT UNDER OATH**
20 **ATTESTING TO THE FACT THAT THE PROPERTY IS RESIDENTIAL PROPERTY SERVED**
21 **BY A PRIVATE WATER SUPPLY WELL.**

22 **(B) THE STATEMENT REQUIRED UNDER THIS SECTION SHALL BE SIGNED BY**
23 **A PARTY TO THE INSTRUMENT OR BY AN AGENT OF A PARTY.**

24 13-209.

25 (a) (1) Before any other distribution under this section, in any fiscal year that
26 bonds secured by a pledge of the State transfer tax are outstanding, the revenue from the
27 transfer tax shall be used to pay, as and when due, the principal of and interest on the
28 bonds.

29 (2) The Department shall deduct the cost of administering the transfer tax
30 from the taxes collected under this title and credit those revenues to the fund established
31 under § 1-203.3 of the Corporations and Associations Article.

32 **(3) THE DEPARTMENT SHALL DEDUCT ALL SPECIAL TRANSFER TAX**

1 REVENUE FROM THE TAXES COLLECTED UNDER § 13-203(A)(1)(II) OF THIS
2 SUBTITLE AND CREDIT THOSE REVENUES TO THE PRIVATE WELL SAFETY FUND
3 ESTABLISHED UNDER § 9-4A-05 OF THE ENVIRONMENT ARTICLE.

4 [(3)] (4) Except as provided in paragraph [(4)] (5) of this subsection, after
5 deducting the revenues required under paragraphs (1) [and], (2), AND (3) of this
6 subsection, the revenue from transfer tax is payable to the Comptroller for deposit in a
7 special fund.

8 [(4)] (5) In any fiscal year in which transfer tax revenue is used to pay
9 debt service on outstanding bonds under paragraph (1) of this subsection, the distribution
10 of revenues in the special fund under this section and as specified in § 5-903(a)(2)(i)1A of
11 the Natural Resources Article, for State land acquisition, or to the Agricultural Land
12 Preservation Fund to the extent any debt service is attributable to that Fund, shall be
13 reduced by an amount equal to the debt service for the fiscal year.

14 SECTION 2. AND BE IT FURTHER ENACTED, That:

15 (a) The Department of the Environment shall engage in outreach activities to
16 provide information on the Private Well Safety Program established under Title 9, Subtitle
17 4A of the Environment Article, as enacted by Section 1 of this Act, including:

18 (1) incorporating information about the Program in communications with
19 other public health outreach programs administered by the Department, including any
20 information the Department has published on its website related to private water supply
21 wells; and

22 (2) publishing a Well Owner Handbook on the Department's website and
23 in print.

24 (b) In conducting an outreach activity under this section or Section 1 of this Act,
25 the Department and a county shall:

26 (1) provide information to research and medical communities, realtor
27 associations, community-based organizations, schools, local public health agencies, and
28 any other relevant sector; and

29 (2) ensure information is provided in a manner that accommodates
30 residents of a community who:

31 (i) lack access to the Internet, including by publishing notices in a
32 newspaper commonly circulated in the community;

33 (ii) are limited English proficient; or

34 (iii) have a disability.

1 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect July
2 1, 2021.