

SENATE BILL 417

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CF 3lr1632

By: **Senators Elfreth, Gile, and Jackson**

Introduced and read first time: February 2, 2023

Assigned to: Education, Energy, and the Environment

A BILL ENTITLED

1 AN ACT concerning

2 **Environment – State Wetlands – Shoreline Restoration**

3 FOR the purpose of altering certain requirements for making certain improvements to
4 protect a person's property against erosion; requiring the Department of the
5 Environment, in coordination with the Department of Natural Resources, to
6 designate certain priority shoreline restoration zones where certain conditions exist;
7 establishing a separate coastal resilience and living shorelines restoration account
8 within the Tidal Wetlands Compensation Fund for certain purposes; and generally
9 relating to shoreline restoration.

10 BY repealing and reenacting, with amendments,
11 Article – Environment
12 Section 16–201 and 16–205(e)
13 Annotated Code of Maryland
14 (2014 Replacement Volume and 2022 Supplement)

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

17 **Article – Environment**

18 16–201.

19 (a) **(1)** A person who is the owner of land bounding on navigable water is
20 entitled to any natural accretion to the person's land, to reclaim fast land lost by erosion or
21 avulsion during the person's ownership of the land to the extent of provable existing
22 boundaries.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 **(2)** The person may make improvements into the water in front of the land
 2 to preserve that person's access to the navigable water or, subject to subsection (c) **OF THIS**
 3 **SECTION**, protect the shore of that person against erosion.

4 **(3)** After an improvement has been constructed **IN ACCORDANCE WITH**
 5 **PARAGRAPH (2) OF THIS SUBSECTION**, the improvement is the property of the owner of
 6 the land to which the improvement is attached.

7 **(4) (I)** A right covered in this subtitle does not preclude the owner from
 8 developing any other use approved by the Board.

9 **(II)** The right to reclaim lost fast land relates only to fast land lost
 10 after January 1, 1972, and the burden of proof that the loss occurred after this date is on
 11 the owner of the land.

12 (b) The rights of any person, as defined in this subtitle, which existed prior to July
 13 1, 1973 in relation to natural accretion of land are deemed to have continued to be in
 14 existence subsequent to July 1, 1973 to July 1, 1978.

15 (c) (1) Improvements to protect a person's property against erosion shall
 16 **[consist]:**

17 **(I) BE DESIGNED IN A MANNER THAT INCREASES:**

18 1. **THE RESILIENCE OF THE LAND; AND**

19 2. **THE HABITAT CONNECTIVITY BETWEEN THE LAND**
 20 **AND WATER; AND**

21 **(II) 1. CONSIST** of nonstructural shoreline stabilization
 22 measures that **[preserve] IMPROVE THE QUALITY OF** the natural environment, such as
 23 marsh creation**[, except:**

24 (i) In areas designated by Department mapping as appropriate for
 25 structural shoreline stabilization measures; and

26 (ii) In areas where the person can demonstrate to the Department's
 27 satisfaction that such measures are not feasible, including areas of excessive erosion, areas
 28 subject to heavy tides, and areas too narrow for effective use of nonstructural shoreline
 29 stabilization measures**]; AND**

30 2. **INCORPORATE THE USE OF LIVING FEATURES,**
 31 **INCLUDING MARSH GRASSES, SUBMERGED AQUATIC VEGETATION, AND NATIVE**
 32 **OYSTERS.**

1 (2) (i) Subject to subparagraph (ii) of this paragraph, in consultation
2 with the Department of Natural Resources, the Department shall adopt regulations to
3 implement the provisions of this subsection.

4 (ii) [Regulations] **THE REGULATIONS** adopted by the Department
5 under subparagraph (i) of this paragraph shall include a waiver process that exempts a
6 person from the requirements of paragraph (1) of this subsection on a demonstration to the
7 Department's satisfaction that [nonstructural]:

8 **1. THE PROPERTY IS LOCATED IN AN AREA DESIGNATED**
9 **BY DEPARTMENT MAPPING AS INAPPROPRIATE FOR NONSTRUCTURAL SHORELINE**
10 **STABILIZATION METHODS; OR**

11 **2. NONSTRUCTURAL** shoreline stabilization measures are
12 not feasible [for] **TO PROTECT STRUCTURES ON** the person's property **FROM IMMINENT**
13 **RISK OF DAMAGE.**

14 **(D) IN COORDINATION WITH THE DEPARTMENT OF NATURAL RESOURCES,**
15 **THE DEPARTMENT SHALL DESIGNATE PRIORITY SHORELINE RESTORATION ZONES**
16 **WHERE CONDITIONS EXIST THAT DEGRADE THE RESILIENCE OF THE LAND AND THE**
17 **HABITAT CONNECTIVITY BETWEEN THE LAND AND WATER.**

18 16–205.

19 (e) (1) **(I)** There is created a special fund, known as the Tidal Wetlands
20 Compensation Fund.

21 **[(2)] (II)** The following money shall be deposited in the Tidal Wetlands
22 Compensation Fund:

23 **[(i)] 1.** Any monetary payment by a licensee in lieu of creating,
24 restoring, or enhancing tidal wetlands that is required by the Department or the Board as
25 a condition of a permit or license;

26 **[(ii)] 2.** Any penalty imposed by a court in accordance with this
27 title; and

28 **[(iii)] 3.** Any penalty imposed by the Department under this title.

29 **(2) (I) THERE IS A SEPARATE COASTAL RESILIENCE AND LIVING**
30 **SHORELINE RESTORATION ACCOUNT WITHIN THE TIDAL WETLANDS**
31 **COMPENSATION FUND.**

32 **(II) THE SEPARATE ACCOUNT CONSISTS OF:**

1 1. **MONEY APPROPRIATED IN THE STATE BUDGET TO**
2 **THE ACCOUNT; AND**

3 2. **ANY OTHER MONEY FROM ANY OTHER SOURCE**
4 **ACCEPTED FOR THE BENEFIT OF THE ACCOUNT.**

5 (III) **THE SEPARATE ACCOUNT SHALL BE USED ONLY TO**
6 **PROVIDE GRANTS FOR THE REPLACEMENT OF STRUCTURAL SHORELINE**
7 **STABILIZATION MEASURES WITH NONSTRUCTURAL SHORELINE STABILIZATION**
8 **MEASURES, WITH PRIORITY GIVEN TO SHORELINE STABILIZATION REPLACEMENT**
9 **PROJECTS LOCATED IN PRIORITY SHORELINE RESTORATION ZONES, AS IDENTIFIED**
10 **IN ACCORDANCE WITH § 16–201(D) OF THIS SUBTITLE.**

11 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
12 October 1, 2023.