

HOUSE BILL 613

C8, Q7

3lr0124

By: **Chair, Environmental Matters Committee and Chair, Ways and Means Committee (By Request – Departmental – Planning)**

Introduced and read first time: February 1, 2013

Assigned to: Environmental Matters and Ways and Means

A BILL ENTITLED

1 AN ACT concerning

2 **Sustainable Communities – Designation and Financing**

3 FOR the purpose of authorizing municipal corporations and certain counties to finance
4 the cost of certain infrastructure improvements in a sustainable community in
5 the same manner as a transit-oriented development under certain
6 circumstances; authorizing a political subdivision to use certain alternative
7 local tax revenues for tax increment financing in connection with a sustainable
8 community under certain circumstances; providing that bonds can be used for
9 certain purposes in sustainable communities under certain circumstances;
10 authorizing a political subdivision to determine a certain base of a certain
11 brownfields site under certain circumstances; authorizing a political subdivision
12 to pledge tax increment revenue to secure the payment of obligations to the
13 Maryland Economic Development Corporation for infrastructure improvements
14 located in a sustainable community; providing for the construction of this Act;
15 providing that certain political subdivisions will get priority for State funding
16 under certain circumstances; defining and altering certain terms; and generally
17 relating to sustainable communities.

18 BY repealing and reenacting, with amendments,
19 Article 23A – Corporations – Municipal
20 Section 44A(b)
21 Annotated Code of Maryland
22 (2011 Replacement Volume and 2012 Supplement)

23 BY repealing and reenacting, without amendments,
24 Article 24 – Political Subdivisions – Miscellaneous Provisions
25 Section 9–1301(c)(1)
26 Annotated Code of Maryland
27 (2011 Replacement Volume and 2012 Supplement)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 BY repealing and reenacting, with amendments,
2 Article 24 – Political Subdivisions – Miscellaneous Provisions
3 Section 9–1301(c)(2)
4 Annotated Code of Maryland
5 (2011 Replacement Volume and 2012 Supplement)

6 BY repealing and reenacting, with amendments,
7 Article – Economic Development
8 Section 12–201, 12–203, and 12–207 through 12–211
9 Annotated Code of Maryland
10 (2008 Volume and 2012 Supplement)

11 BY repealing and reenacting, without amendments,
12 Article – Housing and Community Development
13 Section 6–201(l) and 6–205(a)
14 Annotated Code of Maryland
15 (2006 Volume and 2012 Supplement)

Preamble

17 WHEREAS, The revitalization of existing Maryland communities is a priority
18 for achieving the State's statutory smart growth goals; and

WHEREAS, In 2010 the General Assembly passed the Sustainable Communities Act to refine its focus on and develop a coordinated approach to creating, enhancing, supporting, and revitalizing sustainable communities; and

22 WHEREAS, The State and local governments have created, through the
23 Sustainable Communities Act, a shared geography of sustainable communities that
24 have the necessary plans in place to revitalize these communities; and

25 WHEREAS, The State has targeted its redevelopment resources to these
26 sustainable communities but more financing tools are necessary; and

27 WHEREAS, Creative and effective approaches to increasing private sector
28 investment are critical to making revitalization progress in sustainable communities;
29 and

WHEREAS, The use of bonds by local governments for infrastructure and tax increment financing is an effective and underutilized tool for increasing private sector investment in sustainable communities; now, therefore,

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

1 44A.

2 (b) (1) Subject to the provisions of this section, and for the purpose stated
3 in paragraph (2) of this subsection, each municipal corporation in the State may:

- 4 (i) Create a special taxing district;
5 (ii) Levy ad valorem or special taxes; and
6 (iii) Issue bonds and other obligations.

7 (2) (i) The purpose of the authority granted under paragraph (1) of
8 this subsection is to provide financing, refinancing, or reimbursement for the cost of
9 the design, construction, establishment, extension, alteration, or acquisition of
10 adequate storm drainage systems, sewers, water systems, roads, bridges, culverts,
11 tunnels, streets, sidewalks, lighting, parking, parks and recreation facilities, libraries,
12 schools, and other infrastructure improvements as necessary, whether situated within
13 the special taxing district or the municipal corporation or outside of the municipal
14 corporation if notification is given to the governmental unit having jurisdiction over
15 the infrastructure improvement and if the infrastructure improvement is reasonably
16 related to other infrastructure improvements within the special taxing district, for the
17 development and utilization of the land, each with respect to any defined geographic
18 region within the municipal corporation.

19 (ii) The authority granted under paragraph (1)(i) and (ii) of this
20 subsection also makes available a source of funding for payment of costs:

21 1. Infrastructure improvements located in or supporting
22 a transit-oriented development or a State hospital redevelopment; and

23 2. Operation and maintenance of infrastructure
24 improvements located in or supporting a transit-oriented development or a State
25 hospital redevelopment.

26 (III) FOR THE PURPOSES OF THIS SECTION AND ANY
27 AUTHORITY GRANTED BY THIS SECTION, A SUSTAINABLE COMMUNITY, AS
28 DEFINED IN § 6-201 OF THE HOUSING AND COMMUNITY DEVELOPMENT
29 ARTICLE, SHALL BE CONSIDERED THE SAME AS A TRANSIT-ORIENTED
30 DEVELOPMENT.

31 Article 24 – Political Subdivisions – Miscellaneous Provisions

32 9–1301.

33 (c) (1) Subject to the provisions of this section, and for the purpose stated
34 in paragraph (2) of this subsection, the county may:

- (i) Create a special taxing district;
 - (ii) Levy ad valorem or special taxes; and
 - (iii) Issue bonds and other obligations.

(ii) The authority granted under paragraph (1)(i) and (ii) of this subsection also makes available a source of funding for payment of costs of:

17 1. Infrastructure improvements located in or supporting
18 a transit-oriented development or a State hospital redevelopment; and

19 2. Operation and maintenance of infrastructure
20 improvements located in or supporting a transit-oriented development or a State
21 hospital redevelopment.

Article – Economic Development

28 12-201.

29 (a) In this subtitle the following words have the meanings indicated.

(b) "Adjusted assessable base" means the fair market value of real property that qualifies for a farm or agricultural use under § 8-209 of the Tax – Property Article, without regard to the agricultural use assessment for the property as of January 1 of the year preceding the effective date of the resolution creating the development district under § 12-203 of this subtitle.

1 (c) “Assessable base” means the total assessable base, as determined by the
2 Supervisor of Assessments **OR THE GOVERNING BODY IN ACCORDANCE WITH §**
3 **12–203 OF THIS SUBTITLE**, of all real property subject to taxation in a development
4 district.

5 (d) (1) “Assessment ratio” means a real property tax assessment ratio,
6 however designated or calculated, that is used under applicable general law to
7 determine the assessable base.

8 (2) “Assessment ratio” includes the assessment percentage specified
9 under § 8–103(c) of the Tax – Property Article.

10 (e) “Bond” means a revenue bond, note, or other similar instrument issued in
11 accordance with this subtitle by:

12 (1) a political subdivision; or

13 (2) the revenue authority of Prince George’s County.

14 (f) “Chief executive” means the president, chair, mayor, or other chief
15 executive officer of a political subdivision or the revenue authority of Prince George’s
16 County.

17 (g) “Development” includes new development, redevelopment, revitalization,
18 and renovation.

19 (h) “Development district” means a contiguous area designated by a
20 resolution.

21 (i) “Issuer” means a political subdivision or the revenue authority of Prince
22 George’s County that issues a bond under this subtitle.

23 (j) “MEDCO obligation” means a bond, note, or other similar instrument
24 that the Maryland Economic Development Corporation issues under authority other
25 than this subtitle to finance the cost of infrastructure improvements located in or
26 supporting a transit-oriented development, **A SUSTAINABLE COMMUNITY**, or a State
27 hospital redevelopment.

28 (k) “Original [assessable] base” means the assessable base:

29 (1) as of January 1 of the year preceding the effective date of the
30 resolution creating the development district under § 12–203 of this subtitle; **OR**

31 (2) **AFTER JANUARY 1 OF THE YEAR PRECEDING THE EFFECTIVE**
32 **DATE OF THE RESOLUTION CREATING THE DEVELOPMENT DISTRICT, IF THE**

1 **POLITICAL SUBDIVISION DETERMINED THE ORIGINAL BASE IN ACCORDANCE**
2 **WITH § 12–203 OF THIS SUBTITLE, THE BASE VALUE AS ESTABLISHED IN THE**
3 **RESOLUTION.**

4 (l) “Original full cash value” means the dollar amount that is determined by
5 dividing the original [assessable] base by the assessment ratio used to determine the
6 original [assessable] base.

7 (m) “Original taxable value” means for any tax year the dollar amount that is:

8 (1) the adjusted assessable base, if an adjusted assessable base
9 applies; or

10 (2) in all other cases, the lesser of:

11 (i) the product of multiplying the original full cash value by the
12 assessment ratio applicable to that tax year; and

13 (ii) the original [assessable] base.

14 (n) “Political subdivision” means a county or a municipal corporation.

15 (o) “State hospital redevelopment” means any combination of private or
16 public commercial, residential, or recreational uses, improvements, and facilities that:

17 (1) is part of a comprehensive coordinated development plan or
18 strategy involving:

19 (i) property that was occupied formerly by a State facility, as
20 defined in § 10–101 of the Health – General Article, or a State residential center, as
21 defined in § 7–101 of the Health – General Article; or

22 (ii) property that is adjacent or reasonably proximate to
23 property that was occupied formerly by a State facility, as defined in § 10–101 of the
24 Health – General Article, or a State residential center, as defined in § 7–101 of the
25 Health – General Article;

26 (2) in accordance with design development principles, maximizes use
27 of the property by those constituencies it is intended to serve; and

28 (3) is designated as a State hospital redevelopment by:

29 (i) the Smart Growth Subcabinet established under § 9–1406 of
30 the State Government Article; and

(ii) the local government or multicounty agency with land use and planning responsibility for the relevant area.

(p) "SUSTAINABLE COMMUNITY" HAS THE MEANING STATED IN § 6-201 OF THE HOUSING AND COMMUNITY DEVELOPMENT ARTICLE.

(Q) “Tax increment” means for any tax year the amount by which the assessable base as of January 1 of the preceding tax year exceeds the original **BASE** [taxable value divided by the assessment ratio used to determine the original taxable value].

9 [(q)] (R) "Tax year" means the period from July 1 of a calendar year
10 through June 30 of the next calendar year.

11 [(r)] (S) “Transit-oriented development” has the meaning stated in § 7–101
12 of the Transportation Article.

13 12-203.

14 (a) Before issuing bonds, the governing body of the political subdivision shall:

15 (1) [designate] by resolution:

(I) DESIGNATE a contiguous area within its jurisdiction as a development district; OR

(II) IDENTIFY AN AREA THAT HAS BEEN DESIGNATED A SUSTAINABLE COMMUNITY:

(i) the portion of the taxes that would be produced at the current tax rate on the original [taxable value] BASE shall be paid to the respective taxing authorities in the same manner as taxes on other property are paid; and

(b) (1) IN THIS SUBSECTION, "BROWNFIELDS SITE" HAS THE MEANING STATED IN § 5-301 OF THIS ARTICLE.

(3) THE DETERMINATION OF THE ORIGINAL BASE OF A BROWNFIELDS SITE UNDER THIS SECTION:

9 (I) IS NOT A DETERMINATION OF THE VALUE OF THE
10 BROWNFIELDS SITE; AND

14 **(C)** The establishment **OR IDENTIFICATION** by a county of a development
15 district **OR A SUSTAINABLE COMMUNITY** that is wholly or partly in a municipal
16 corporation shall also require a resolution approving the development district **OR**
17 **SUSTAINABLE COMMUNITY** by the governing body of the municipal corporation.

18 12-207.

19 (a) [Bond] EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION,
20 BOND proceeds may be used only:

(1) to buy, lease, condemn, or otherwise acquire property, or an interest in property:

27 (2) for site removal;

28 (3) for surveys and studies;

29 (4) to relocate businesses or residents;

(5) to install utilities, construct parks and playgrounds, and for other needed improvements including:

(i) roads to, from, or in the development district;

4 (ii) parking; and

5 (iii) lighting;

(6) to construct or rehabilitate buildings for a governmental purpose
or use;

8 (7) for reserves or capitalized interest;

(8) for necessary costs to issue bonds; and

(9) to pay the principal of and interest on loans, advances, or indebtedness that a political subdivision incurs for a purpose specified in this section.

12 (b) (1) THIS SUBSECTION APPLIES TO A SUSTAINABLE COMMUNITY
13 IDENTIFIED UNDER § 12–203 OF THIS SUBTITLE.

14 **(2) IN ADDITION TO THE PURPOSES UNDER SUBSECTION (A) OF**
15 **THIS SECTION, BOND PROCEEDS MAY BE USED IN A SUSTAINABLE COMMUNITY**
16 **FOR:**

(iv) HIGHWAYS AS DEFINED IN § 8-101 OF THE
TRANSPORTATION ARTICLE OR TRANSIT SERVICE AS DEFINED IN § 7-101 OF
THE TRANSPORTATION ARTICLE THAT SUPPORT SUSTAINABLE COMMUNITIES;

(v) SCHOOLS: AND

(vi) AFFORDABLE OR MIXED INCOME HOUSING

27 **(c)** (1) In addition to the purposes listed in subsection (a) of this section,
28 the proceeds from bonds that Prince George's County or the revenue authority of
29 Prince George's County issues may be used:

- (i) for convention, conference, or visitors' centers;
 - (ii) to maintain infrastructure improvements and convention, ors' centers;
 - (iii) to market development district facilities and other
 - (iv) for the purpose of encouraging redevelopment in those areas
oh (2) of this subsection, to install infrastructure improvements,
 - 1. streets;
 - 2. parking structures of any type whether for public or
 - 3. utilities;
 - 4. street lights;
 - 5. stormwater management and storm drain facilities;
 - 6. fencing;
 - 7. noise walls;
 - 8. retaining walls;
 - 9. trails;
 - 10. sidewalks;
 - 11. pedestrian and vehicular bridges; and
 - 12. park facilities.

(2) The purpose of the authority granted by paragraph (1)(iv) of this subsection is to encourage redevelopment in:

(iv) the Developed Tier, growth corridors, and growth centers, as defined in the county General Plan.

3 [(c)] (D) (1) In addition to the purposes listed in subsection (a) of this
4 section, the proceeds from bonds that a municipal corporation issues may be used for
5 the purpose of encouraging redevelopment in those areas listed in paragraph (2) of this
6 subsection, to install infrastructure improvements, including:

(i) streets;

(ii) parking structures of any type whether for public or private
use;

(iii) utilities;

(iv) street lights;

12 (v) stormwater management and storm drain facilities;

13 (vi) fencing;

(vii) noise walls;

15 (viii) retaining walls;

16 (ix) trails;

17 (x) sidewalks;

(xi) pedestrian and vehicular bridges; and

19 (xii) park facilities.

(2) The purpose of the authority granted by paragraph (1) of this subsection is to encourage redevelopment in:

22 (i) revitalization areas designated by a county or municipal
23 corporation;

(ii) mixed use centers;

25 (iii) blighted areas; and

(iv) developed areas and growth areas, as defined in a county or municipal corporation land use plan.

1 (a) The governing body of a political subdivision may adopt a resolution
2 creating a special fund for a development district **OR A SUSTAINABLE COMMUNITY**
3 even though no bonds:

4 (1) have been issued for the development district **OR THE**
5 **SUSTAINABLE COMMUNITY**; or

6 (2) are outstanding at the time of adoption.

7 (b) The taxes allocated to the special fund in accordance with §
8 12–203(a)(3)(ii) of this subtitle shall be deposited in the special fund while the
9 resolution that created the special fund remains in effect.

10 (c) Other than tax revenues received from residential properties in Prince
11 George's County, the tax collected under § 12–203(a)(3)(ii) of this subtitle is not
12 considered a tax of the political subdivision for the purposes of any constant yield
13 limitation or State or local restriction.

14 (d) State real property taxes may not be paid into the special fund.

15 12–209.

16 (a) Subject to subsection (c) of this section, the special fund for the
17 development district **OR THE SUSTAINABLE COMMUNITY** may be used for any of the
18 following purposes as determined by the governing body of the political subdivision:

19 (1) a purpose specified in § 12–207 of this subtitle;

20 (2) accumulated to pay debt service on bonds to be issued later;

21 (3) payment or reimbursement of debt service, or payments under an
22 agreement described in subsection (b) of this section, that the political subdivision is
23 obliged under a general or limited obligation to pay, or has paid, on or relating to
24 bonds issued by the State, a political subdivision, or the revenue authority of Prince
25 George's County if the proceeds were used for a purpose specified in § 12–207 of this
26 subtitle; or

27 (4) payment to the political subdivision for any other legal purpose.

28 (b) (1) Subject to paragraph (2) of this subsection, the political subdivision
29 that has created a special fund for a development district **OR A SUSTAINABLE**
30 **COMMUNITY** may pledge under an agreement that amounts deposited to the special
31 fund shall be paid over to secure payment on MEDCO obligations.

32 (2) The agreement shall:

- (i) be in writing;
 - (ii) be executed by the political subdivision making the pledge, Economic Development Corporation, and the other persons that the political subdivision determines; and
 - (iii) run to the benefit of and be enforceable on behalf of the DCO obligations secured by the agreement.

(c) If bonds are outstanding with respect to a development district **OR A SUSTAINABLE COMMUNITY**, the special fund may be used as described in subsection (a) of this section in any fiscal year only if:

(1) the balance of the special fund exceeds the unpaid debt service payable on the bonds in the fiscal year; and

(2) the special fund is not restricted so as to prohibit the use.

(d) The issuance of bonds pledging the full faith and credit of the political subdivision shall comply with appropriate county or municipal charter requirements.

15 12-210.

(a) (1) Subject to paragraph (2) of this subsection, the governing body of a political subdivision that is not the issuer may pledge under an agreement that its property taxes levied on the tax increment shall be paid into the special fund for the development district **OR A SUSTAINABLE COMMUNITY**.

(2) The agreement shall:

(i) be in writing;

(ii) be executed by the governing bodies of the issuer and the political subdivision making the pledge; and

24 (iii) run to the benefit of and be enforceable on behalf of any
25 bondholder.

26 (b) The governing body of Prince George's County may also pledge hotel
27 rental tax revenues to the special fund.

(c) The governing body of a political subdivision, including the issuer, may pledge by or under a resolution, including by an agreement with the issuer, as applicable, that alternative local tax revenues generated within, or that are otherwise determined to be attributable to, a development district that is a transit-oriented

1 development, **A SUSTAINABLE COMMUNITY**, or a State hospital redevelopment be
2 paid, as provided in the resolution, into the special fund to:

3 (1) secure the payment of debt service on bonds or MEDCO
4 obligations; or

5 (2) be applied to the other purposes stated in § 12–209 of this subtitle.

6 12–211.

7 (a) The principal amount of bonds, interest payable on bonds, the transfer of
8 bonds, and income from bonds, including profit made in the sale or transfer of bonds,
9 are exempt from State and local taxes.

10 (b) If a political subdivision leases as a lessor its property within a
11 development district **OR A SUSTAINABLE COMMUNITY**:

12 (1) the property shall be assessed and taxed in the same manner as
13 privately owned property; and

14 (2) the lease shall require the lessee to pay taxes or payments in lieu
15 of taxes on the assessed value of the entire property and not only on the assessed
16 value of the leasehold interest.

17 **Article – Housing and Community Development**

18 6–201.

19 (l) “Sustainable community” means the part of a priority funding area that:

20 (1) as determined by the Smart Growth Subcabinet, satisfies the
21 requirements of § 6–205 of this subtitle;

22 (2) has been designated as a BRAC Revitalization and Incentive Zone
23 under Title 5, Subtitle 13 of the Economic Development Article; or

24 (3) has been designated a transit-oriented development under § 7–101
25 of the Transportation Article.

26 6–205.

27 (a) The Smart Growth Subcabinet, on the recommendation of the Secretary,
28 may designate an area as a sustainable community if the sponsor demonstrates that
29 past and current trends in homeownership, property values, commercial and
30 residential vacancy, and business or housing investment show a need for reinvestment
31 in the area and if:

1 (1) entities in the community, such as local governments, employers,
2 educational institutions, civic organizations, community organizations, or cultural
3 organizations, support the proposed sustainable community plan and have pledged
4 resources to develop or implement it;

5 (2) the proposed sustainable community plan addresses the need for
6 reinvestment in the area and will enhance the area, and give individuals of different
7 incomes a range of housing options, employment opportunities, and other amenities;

8 (3) a community in the proposed area is culturally or historically
9 significant;

10 (4) the proposed area is near a town center or a transportation center;

11 (5) the proposed sustainable community plan is consistent with and
12 complements other existing or proposed projects for housing, commercial or
13 community development, education, historic preservation, neighborhood revitalization,
14 transportation, or other things significant to the comprehensive enhancement of the
15 community; or

16 (6) there is a demonstrated need for financing assistance for small
17 businesses, nonprofit organizations, or microenterprises.

18 SECTION 2. AND BE IT FURTHER ENACTED, That this Act may not be
19 construed or interpreted to limit the use outside of a sustainable community of tax
20 increment financing as provided for in Title 12, Subtitle 2 of the Economic
21 Development Article.

22 SECTION 3. AND BE IT FURTHER ENACTED, That a political subdivision
23 that issues bonds, notes, or other similar instruments for a sustainable community as
24 provided for in Article 23A, § 44A of the Code, Article 24, § 9–1301 of the Code, or Title
25 12, Subtitle 2 of the Economic Development Article, shall receive priority for other
26 State funding for that sustainable community in the following programs:

27 (1) Community Legacy Program;

28 (2) Sustainable Communities Tax Credit Program for commercial
29 properties;

30 (3) Neighborhood Business Development Program;

31 (4) Maryland Historical Trust Grant Programs; and

32 (5) African American Heritage Grant Program.

33 SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take effect
34 October 1, 2013.