

# SENATE BILL 370

L2, C5

EMERGENCY BILL

3lr1249  
CF 3lr1172

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By: **Senator Edwards**

Introduced and read first time: January 25, 2013

Assigned to: Finance

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## A BILL ENTITLED

1 AN ACT concerning

2 **Garrett County – County Commissioners – Industrial Wind Energy**  
3 **Conversion Systems**

4 FOR the purpose of requiring that certain industrial wind energy conversion systems  
5 comply with certain setback requirements; authorizing certain variances under  
6 certain circumstances; requiring that before a permit is issued for certain  
7 industrial wind energy conversion systems, the Garrett County Department of  
8 Planning and Land Development retain at the applicant's expense a certain  
9 professional engineer to prepare a certain cost estimate and require the  
10 applicant to post a certain bond; requiring that the bond be held as surety for  
11 certain purposes; requiring, on completion of the construction of certain  
12 industrial wind energy conversion systems and on a certain periodic basis, the  
13 Department to retain at the applicant's expense a certain professional engineer  
14 for certain purposes; authorizing the Department to alter the amount of a  
15 certain bond under certain circumstances; providing for the release of a bond  
16 under certain circumstances; authorizing the Department to require a certain  
17 owner to decommission and restore a certain pad site under certain  
18 circumstances; authorizing the use of a certain bond under certain  
19 circumstances; defining certain terms; providing that a certain rule, regulation,  
20 law, or ordinance for zoning of industrial wind energy conversion systems  
21 supersedes this Act; providing for the application of this Act; making this Act an  
22 emergency measure; and generally relating to wind turbines in Garrett County.

23 BY adding to

24 Article 25 – County Commissioners  
25 Section 236G  
26 Annotated Code of Maryland  
27 (2011 Replacement Volume and 2012 Supplement)

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

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



## Article 25 – County Commissioners

**236G.**

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

(2) “DECOMMISSIONING” MEANS THE REMOVAL AND LEGAL DISPOSAL OF AN INDUSTRIAL WIND ENERGY CONVERSION SYSTEM AND ANY OTHER COMPONENTS RELATED TO THE INDUSTRIAL WIND ENERGY CONVERSION SYSTEM, INCLUDING BUILDINGS, ROADS, CONCRETE, FENCING, GRAVEL, STONE, AND FOUNDATIONS TO A DEPTH OF 36 INCHES.

(3) “INDUSTRIAL WIND ENERGY CONVERSION SYSTEM” MEANS AN AGGREGATION OF PARTS, INCLUDING THE BASE, WIND TURBINE, GENERATOR, SUPPORTS, GUY WIRES, AND ACCESSORY EQUIPMENT IN A CONFIGURATION NECESSARY TO CONVERT THE POWER OF WIND INTO MECHANICAL OR ELECTRICAL ENERGY THAT IS INTENDED FOR SALE TO ENERGY PROVIDERS THROUGH THE ELECTRIC TRANSMISSION GRID.

(4) “RESTORATION OF PAD SITE” MEANS, AT THE LOCATION OF THE INDUSTRIAL WIND ENERGY CONVERSION SYSTEM:

(I) STABILIZING, GRADING, AND SEEDING DISTURBED AREAS TO GROW GROUND COVER; AND

(II) REPLACING THE EXCAVATED FOUNDATION AREAS WITH TOPSOIL THAT:

1. IS FREE OF NOXIOUS WEEDS, ROCKS, ROOT MAT, OR FOREIGN OBJECTS LARGER THAN 2 INCHES IN SIZE; AND

2. HAS PROPER SOIL NUTRIENTS TO PROVIDE AND SUSTAIN THE GROWTH OF GROUND COVER.

(5) “SETBACK DISTANCE” MEANS THE DISTANCE MEASURED FROM THE BASE OF AN INDUSTRIAL WIND ENERGY CONVERSION SYSTEM TO ANY RESIDENTIAL, COMMERCIAL, PUBLIC, OR AGRICULTURAL BUILDING IN ALL DIRECTIONS.

(6) “STRUCTURE HEIGHT” MEANS THE MEASUREMENT FROM GROUND LEVEL AT THE BASE OF AN INDUSTRIAL WIND ENERGY CONVERSION

1 SYSTEM TO THE HIGHEST POINT OF THE STRUCTURE OR THE HIGHEST POINT OF  
2 THE BLADE AT ITS GREATEST EXTENSION.

3 (7) "WIND TURBINE" MEANS THE TOWER, HUB, BLADES, AND  
4 NACELLE.

5 (B) THIS SECTION APPLIES ONLY TO GARRETT COUNTY.

6 (C) (1) EACH INDIVIDUAL INDUSTRIAL WIND ENERGY CONVERSION  
7 SYSTEM SHALL COMPLY WITH A MINIMUM SETBACK DISTANCE EQUAL TO NO  
8 LESS THAN TWO AND A HALF TIMES THE STRUCTURE HEIGHT.

9 (2) ON WRITTEN AUTHORIZATION OF ALL PROPERTY OWNERS OF  
10 ADJOINING PARCELS TO A PROPOSED WIND ENERGY CONVERSION SYSTEM, THE  
11 APPLICANT OF THE PROPOSED WIND ENERGY CONVERSION SYSTEM MAY SEEK A  
12 VARIANCE WITH THE GARRETT COUNTY DEPARTMENT OF PLANNING AND  
13 LAND DEVELOPMENT OF UP TO 50% OF THE MINIMUM SETBACK DISTANCE  
14 REQUIREMENTS UNDER PARAGRAPH (1) OF THIS SUBSECTION.

15 (D) (1) BEFORE A PERMIT IS ISSUED FOR AN INDUSTRIAL WIND  
16 ENERGY CONVERSION SYSTEM, THE GARRETT COUNTY DEPARTMENT OF  
17 PLANNING AND LAND DEVELOPMENT SHALL:

18 (I) AT THE APPLICANT'S EXPENSE, RETAIN AN  
19 INDEPENDENT AND CERTIFIED PROFESSIONAL ENGINEER TO PREPARE A COST  
20 ESTIMATE FOR DECOMMISSIONING AND RESTORATION OF THE PAD SITE; AND

21 (II) REQUIRE THE APPLICANT TO POST A BOND EQUAL TO  
22 100% OF THE COST ESTIMATE DETERMINED UNDER ITEM (I) OF THIS  
23 PARAGRAPH AND ADJUSTED BY A CONSTRUCTION PRICING INDEX TO ENSURE  
24 THAT COST INCREASES DURING THE FOLLOWING 5-YEAR INTERVAL WILL NOT  
25 DECREASE THE VALUE OF THE BOND.

26 (2) A BOND POSTED IN ACCORDANCE WITH PARAGRAPH (1)(II) OF  
27 THIS SUBSECTION SHALL BE HELD BY THE GARRETT COUNTY FINANCE  
28 DEPARTMENT TO BE USED AS SURETY IN THE EVENT OF NONCOMPLIANCE WITH  
29 A REQUIREMENT UNDER THIS SECTION BY AN OWNER OF AN INDUSTRIAL WIND  
30 ENERGY CONVERSION SYSTEM.

31 (3) (I) ON COMPLETION OF THE CONSTRUCTION OF AN  
32 INDUSTRIAL WIND ENERGY CONVERSION SYSTEM, AND EVERY 10 YEARS  
33 THEREAFTER, THE GARRETT COUNTY DEPARTMENT OF PLANNING AND LAND  
34 DEVELOPMENT SHALL, AT THE APPLICANT'S EXPENSE, RETAIN AN

1 INDEPENDENT CERTIFIED PROFESSIONAL ENGINEER TO PREPARE A COST  
2 ESTIMATE, WITHOUT REGARD TO SALVAGE VALUE, FOR DECOMMISSIONING AND  
3 RESTORATION OF THE PAD SITE.

4 (II) THE GARRETT COUNTY DEPARTMENT OF PLANNING  
5 AND LAND DEVELOPMENT MAY ALTER THE AMOUNT OF THE BOND  
6 DETERMINED UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH TO PROVIDE  
7 ADEQUATE SECURITY FOR THE COSTS OF DECOMMISSIONING AND  
8 RESTORATION OF THE PAD SITE.

9 (4) IF AN INDUSTRIAL WIND ENERGY CONVERSION SYSTEM IS  
10 SOLD, THE BOND POSTED IN ACCORDANCE WITH PARAGRAPH (1) OF THIS  
11 SUBSECTION SHALL BE RELEASED IF THE NEW OWNER POSTS A BOND WITH THE  
12 GARRETT COUNTY FINANCE DEPARTMENT THAT:

13 (I) IS EQUAL TO THE AMOUNT OF THE BOND POSTED BY  
14 THE SELLER; OR

15 (II) IS A GREATER AMOUNT IF THE GARRETT COUNTY  
16 DEPARTMENT OF PLANNING AND LAND DEVELOPMENT DETERMINES THAT  
17 ADDITIONAL SECURITY IS NECESSARY TO PROVIDE FOR THE COST OF  
18 DECOMMISSIONING AND RESTORATION OF THE PAD SITE.

19 (5) (I) IF AN INDUSTRIAL WIND ENERGY CONVERSION SYSTEM  
20 HAS NOT GENERATED ELECTRICITY FOR A CONTINUOUS PERIOD OF 180 DAYS  
21 OR AN OWNER HAS ABANDONED AN INDUSTRIAL WIND ENERGY CONVERSION  
22 SYSTEM, THE GARRETT COUNTY DEPARTMENT OF PLANNING AND LAND  
23 DEVELOPMENT MAY REQUIRE THE OWNER TO DECOMMISSION AND RESTORE  
24 THE PAD SITE.

25 (II) IF THE OWNER FAILS TO COMPLY WITH THE  
26 REQUIREMENTS UNDER THIS PARAGRAPH, THE BOND SHALL BE USED BY  
27 GARRETT COUNTY TO COVER THE COSTS OF DECOMMISSIONING AND  
28 RESTORATION OF THE PAD SITE.

29 (E) THIS SECTION DOES NOT APPLY TO ANY INDUSTRIAL WIND ENERGY  
30 CONVERSION SYSTEM THAT HAS SUBMITTED AN INTERCONNECTION  
31 APPLICATION TO THE PJM INTERCONNECTION QUEUE BEFORE MARCH 1, 2013.

32 SECTION 2. AND BE IT FURTHER ENACTED, That, if Garrett County adopts  
33 a rule, a regulation, a law, or an ordinance for zoning of industrial wind energy  
34 conversion systems, that rule, regulation, law, or ordinance supersedes this Act.

1           SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall be  
2 construed to apply only prospectively to industrial wind energy conversion systems  
3 constructed on or after the effective date of this Act and may not be applied or  
4 interpreted to have any effect on or application to any industrial wind energy  
5 conversion systems constructed before the effective date of this Act.

6           SECTION 4. AND BE IT FURTHER ENACTED, That this Act is an emergency  
7 measure, is necessary for the immediate preservation of the public health or safety,  
8 has been passed by a yea and nay vote supported by three-fifths of all the members  
9 elected to each of the two Houses of the General Assembly, and shall take effect from  
10 the date it is enacted.