

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

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 8, 2014

CHAPTER _____

1 AN ACT concerning

2 ~~Climate Risk Reduction Act~~

3 Coast Smart Council

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

22 BY adding to

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 Article – Natural Resources
2 Section 3–1001 through 3–1004 to be under the new subtitle “Subtitle 10. Coast
3 Smart Council”
4 Annotated Code of Maryland
5 (2012 Replacement Volume and 2013 Supplement)

6 BY adding to
7 Article – State Finance and Procurement
8 Section 3–602.3
9 Annotated Code of Maryland
10 (2009 Replacement Volume and 2013 Supplement)

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

13 **Article – Natural Resources**

14 **SUBTITLE 10. COAST SMART COUNCIL.**

15 **3–1001.**

16 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS
17 INDICATED.

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

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

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

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

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

30 **3–1002.**

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

1 **(B) THE DEPARTMENT SHALL PROVIDE STAFF SUPPORT FOR THE**
2 **COUNCIL.**

3 **3-1003.**

4 **(A) THE COAST SMART COUNCIL SHALL INCLUDE:**

5 **(1) THE SECRETARY OF NATURAL RESOURCES, OR THE**
6 **SECRETARY'S DESIGNEE;**

7 **(2) THE SECRETARY OF BUDGET AND MANAGEMENT, OR THE**
8 **SECRETARY'S DESIGNEE;**

9 **(3) THE SECRETARY OF THE ENVIRONMENT, OR THE**
10 **SECRETARY'S DESIGNEE;**

11 **(4) THE SECRETARY OF GENERAL SERVICES, OR THE**
12 **SECRETARY'S DESIGNEE;**

13 **(5) THE SECRETARY OF PLANNING, OR THE SECRETARY'S**
14 **DESIGNEE;**

15 **(6) THE SECRETARY OF TRANSPORTATION, OR THE**
16 **SECRETARY'S DESIGNEE;**

17 **(7) THE SECRETARY OF BUSINESS AND ECONOMIC**
18 **DEVELOPMENT, OR THE SECRETARY'S DESIGNEE;**

19 **(8) THE CHAIR OF THE CRITICAL AREA COMMISSION FOR THE**
20 **CHESAPEAKE AND ATLANTIC COASTAL BAYS, OR THE CHAIR'S DESIGNEE;**

21 ~~**(7)**~~ **(9) THE DIRECTOR OF THE MARYLAND EMERGENCY**
22 **MANAGEMENT AGENCY, OR THE DIRECTOR'S DESIGNEE;**

23 ~~**(8)**~~ **(10) THE CHANCELLOR OF THE UNIVERSITY SYSTEM OF**
24 **MARYLAND, OR THE CHANCELLOR'S DESIGNEE; AND**

25 ~~**(9)**~~ **(11) FIVE MEMBERS APPOINTED BY THE GOVERNOR TO**
26 **REPRESENT LOCAL GOVERNMENT, ENVIRONMENTAL, AND BUSINESS**
27 **INTERESTS.**

28 **(B) THE SECRETARY OF NATURAL RESOURCES OR THE SECRETARY'S**
29 **DESIGNEE SHALL CHAIR THE COUNCIL.**

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

3 **(2) THE GOVERNOR SHALL STAGGER THE TERMS OF THE INITIAL**
4 **APPOINTED MEMBERS.**

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

7 **(4) A MEMBER WHO IS APPOINTED AFTER A TERM HAS BEGUN**
8 **SERVES ONLY FOR THE REMAINDER OF THAT TERM AND UNTIL A SUCCESSOR IS**
9 **APPOINTED AND QUALIFIES.**

10 **(5) THE GOVERNOR MAY REMOVE AN APPOINTED MEMBER FOR**
11 **INCOMPETENCE, MISCONDUCT, OR FAILURE TO PERFORM THE DUTIES OF THE**
12 **POSITION.**

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

17 **3-1004.**

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

19 **(1) STUDY AND PROVIDE ANALYSIS REGARDING STANDARDS AND**
20 **FACTORS RELEVANT TO THE ESTABLISHMENT OF COAST SMART SITING**
21 **CRITERIA AND DESIGN CRITERIA;**

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

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

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

30 **(I) THE ANTICIPATED NEED TO PREPARE FOR, RESPOND**
31 **TO, AND RECOVER FROM EXTREME WEATHER EVENTS, SEA LEVEL RISE**

1 INUNDATION, COASTAL FLOODING, STORM SURGES, AND SHORELINE EROSION;
2 AND

3 (II) THE NEED TO PREVENT DANGER TO LIFE AND
4 PROPERTY AND TO AVOID ENVIRONMENTAL, SOCIO-ECONOMIC, AND ECONOMIC
5 HARM.

6 (B) THE CHAIR OF THE COUNCIL MAY ESTABLISH SUBCOMMITTEES
7 CONSISTING OF MEMBERS OF THE COUNCIL, EXPERTS IN FIELDS RELATED TO
8 CLIMATE CHANGE AND SEA LEVEL RISE, AND INTERESTED PARTIES TO ADDRESS
9 OR STUDY SPECIFIC ISSUES.

10 Article – State Finance and Procurement

11 3-602.3.

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

14 (2) “100-YEAR BASE FLOOD” MEANS A FLOOD HAVING A 1%
15 CHANCE OF BEING EQUALED OR EXCEEDED IN ANY GIVEN YEAR.

16 (3) “BASE FLOOD ELEVATION” MEANS:

17 (I) THE WATER SURFACE ELEVATION OF THE 100-YEAR
18 BASE FLOOD AS SPECIFIED ON FEDERAL EMERGENCY MANAGEMENT AGENCY
19 FLOOD INSURANCE RATE MAPS; OR

20 (II) IN AN AREA OF SHALLOW FLOODING:

21 1. THE HIGHEST ADJACENT NATURAL GRADE ADDED
22 TO THE DEPTH NUMBER SPECIFIED IN FEET ON THE FLOOD INSURANCE RATE
23 MAP; OR

24 2. IF THE DEPTH NUMBER IS NOT SPECIFIED ON THE
25 FLOOD INSURANCE RATE MAP, 4 FEET.

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

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

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

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

10 (II) “REPLACEMENT COST” DOES NOT INCLUDE:

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

13 2. FOR TAX PURPOSES, A DEDUCTION FOR
14 DEPRECIATION.

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

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

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

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

24 (9) “STRUCTURE” MEANS:

25 (I) A WALLED OR ROOFED BUILDING;

26 (II) A MANUFACTURED HOME; OR

27 (III) A GAS OR LIQUID STORAGE TANK THAT IS PRINCIPALLY
28 ABOVE GROUND.

29 (10) “SUBSTANTIAL DAMAGE” MEANS DAMAGE CAUSED BY ANY
30 SOURCE THAT IS SUSTAINED BY A STRUCTURE SUCH THAT THE COST OF

1 RECONSTRUCTION TO ITS BEFORE-DAMAGED CONDITION IS AT LEAST HALF OF
2 THE STRUCTURE'S REPLACEMENT COST BEFORE THE DAMAGE OCCURRED.

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

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

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

16 (2) THE CRITERIA ADOPTED UNDER THIS SUBSECTION SHALL
17 INCLUDE:

18 (I) GUIDELINES, AND ANY OTHER DIRECTIVES APPLICABLE
19 TO THE PRELIMINARY PLANNING AND CONSTRUCTION OF A PROPOSED CAPITAL
20 PROJECT ~~THAT IS LOCATED WITHIN A SPECIAL FLOOD HAZARD AREA;~~

21 (II) A REQUIREMENT THAT THE LOWEST FLOOR ELEVATION
22 OF EACH STRUCTURE LOCATED WITHIN A SPECIAL FLOOD HAZARD AREA IS
23 BUILT AT AN ELEVATION OF AT LEAST 2 FEET ABOVE THE BASE FLOOD
24 ELEVATION; AND

25 (III) PROVISIONS ESTABLISHING A PROCESS TO ALLOW A
26 UNIT OF STATE GOVERNMENT TO OBTAIN A WAIVER FROM COMPLYING WITH
27 THE REQUIREMENTS OF SUBSECTION (B) OF THIS SECTION.

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

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

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

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

10 SECTION 6. AND BE IT FURTHER ENACTED, That this Act shall take effect
11 ~~July~~ June 1, 2014.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.