

# HOUSE BILL 1312

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By: **Delegate Beidle**

Introduced and read first time: February 7, 2014

Assigned to: Environmental Matters

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## A BILL ENTITLED

1 AN ACT concerning

2 **Program Open Space Sites – Public Access**

3 FOR the purpose of authorizing a local governing body to use certain Program Open  
4 Space funds for the provision of certain public access to certain land;  
5 authorizing the Department of Natural Resources to use certain Program Open  
6 Space funds to provide or enhance certain public access to certain land;  
7 requiring the Department to prepare a certain public access plan for certain  
8 Program Open Space projects; authorizing the Department to use funds in the  
9 Bay Access Areas Fund under Program Open Space to enhance public access to  
10 certain bodies of water; requiring certain local governing bodies to prepare and  
11 submit for review and approval certain public access plans for certain Program  
12 Open Space projects and to propose certain public access projects for certain  
13 Program Open Space land; requiring certain State and local land use plans to  
14 include a certain public access plan for certain Program Open Space land;  
15 altering a certain declaration of need made by the General Assembly for  
16 Program Open Space to include the provision of certain public access to certain  
17 facilities; altering a certain intent of the General Assembly; and generally  
18 relating to public access to Program Open Space sites.

19 BY repealing and reenacting, with amendments,  
20 Article – Natural Resources  
21 Section 5–902(a) and (b), 5–903(b)(1) and (f), 5–904(a) and (c), 5–905(a)(2) and  
22 (b)(2), and 5–906(b)  
23 Annotated Code of Maryland  
24 (2012 Replacement Volume and 2013 Supplement)

25 BY repealing and reenacting, without amendments,  
26 Article – Natural Resources  
27 Section 5–905(a)(1)  
28 Annotated Code of Maryland  
29 (2012 Replacement Volume and 2013 Supplement)

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



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

3 **Article – Natural Resources**

4 5–902.

5 (a) The General Assembly declares that there is need for a program to make  
6 funds available to State agencies and any subdivision to:

7 (1) Expedite acquisition of outdoor recreation and open space areas  
8 before escalating cost of land prevents its purchase for public use and before potential  
9 areas are devoted to some other use; and

10 (2) Accelerate development and capital renewal of needed outdoor  
11 recreation facilities, **INCLUDING THE PROVISION OF MAXIMUM PUBLIC ACCESS TO**  
12 **THE FACILITIES.**

13 (b) This program is known as Program Open Space and carries out the  
14 recommendations of the 1968 Legislative Council committee on recreational areas. By  
15 enacting this program, the General Assembly intends to provide funds to the State  
16 and its subdivisions to enable them to acquire land for outdoor public recreation and  
17 open space use and develop **AND PROVIDE MAXIMUM PUBLIC ACCESS TO** the land  
18 for public recreation.

19 5–903.

20 (b) (1) The General Assembly shall appropriate the remaining funds not  
21 appropriated under subsection (a) of this section to assist local governing bodies in  
22 acquisition and development of land for recreation and open space purposes,  
23 **INCLUDING THE PROVISION OF MAXIMUM PUBLIC ACCESS TO THE LAND.**

24 (f) (1) Subject to the limitation under paragraph (2) of this subsection,  
25 the Department may use acquisition funds to:

26 (i) Stabilize the structural integrity of improvements existing  
27 on land at the time of acquisition;

28 (ii) Eliminate hazards to health and safety, including treatment  
29 and removal of hazardous materials; **[and]**

30 (iii) Protect water quality by implementing environmental  
31 improvements, including shore erosion control measures and vegetated buffers; **AND**

1                   **(IV) PROVIDE PUBLIC ACCESS TO THE RECREATIONAL AND**  
2 **OPEN SPACE USES OF THE ACQUIRED LAND.**

3                   (2) The costs to perform any of the activities described in paragraph  
4 (1) of this subsection may not exceed 10 percent of the purchase price of the land.

5                   **(3) THE DEPARTMENT MAY USE ACQUISITION FUNDS TO**  
6 **ENHANCE PUBLIC ACCESS TO EXISTING RECREATIONAL AND OPEN SPACE SITES**  
7 **TO THE MAXIMUM EXTENT FEASIBLE.**

8 5-904.

9                   (a) (1) Each year the Department, in consultation with the Department of  
10 Planning, shall prepare a list of recommended State projects for funding under this  
11 program for the next fiscal year.

12                   (2) In preparing the list, the Department shall give priority to  
13 properties in targeted areas.

14                   (3) Prior to submitting the list to the Department of Budget and  
15 Management for inclusion in the budget, the legislators from the district within which  
16 the Department is proposing a State acquisition project shall be given an opportunity  
17 to review and comment on the project.

18                   (4) The list shall be submitted to the General Assembly in a manner  
19 similar to other capital projects as provided in Title 3, Subtitle 6 of the State Finance  
20 and Procurement Article.

21                   **(5) THE DEPARTMENT, FOR EACH PROJECT RECOMMENDED**  
22 **UNDER THIS SUBSECTION, SHALL PREPARE AND SUBMIT A PLAN TO PROVIDE**  
23 **PUBLIC ACCESS TO THE RECREATIONAL AND OPEN SPACE SITE TO THE**  
24 **MAXIMUM EXTENT FEASIBLE.**

25                   (c) (1) There is a Bay Access Areas Fund.

26                   (2) A portion of the funds available under this program for State  
27 projects may be appropriated in the State budget for the Bay Access Areas Fund.

28                   (3) The Department may use funds available in the Bay Access Areas  
29 Fund to [purchase]:

30                   **(I) PURCHASE** sites that provide public access to a body of  
31 water; **OR**

1                                   **(II) ENHANCE PUBLIC ACCESS TO A BODY OF WATER ON AN**  
2 **EXISTING RECREATIONAL AND OPEN SPACE SITE.**

3                   (4) In purchasing sites under this subsection, the Department shall  
4 give preference to sites that:

5                                   (i) 1. Are directly on the bay; or

6   2. Are on a tributary of the bay and are near the bay;

7                                   (ii) Are near a population center;

8                                   (iii) Are readily accessible by the public; and

9                                   (iv) Would fulfill a need for public water access identified in the  
10 Maryland Land Preservation and Recreation Plan or a local land preservation and  
11 recreation plan.

12                   (5) (i) Before the Department makes an expenditure from the Bay  
13 Access Areas Fund, the Department shall submit the proposed expenditure with  
14 complete supporting documentation to the budget committees of the General Assembly  
15 for review and comment by those committees.

16                                   (ii) The budget committees have 45 days after receipt of the  
17 documentation to submit comments to the Board of Public Works.

18                   (6) Any expenditure of funds from the Bay Access Areas Fund is  
19 subject to the approval of the Board of Public Works.

20 5-905.

21                   (a) (1) On or before May 1 of each year, the Department shall notify each  
22 local governing body of its allocation of local acquisition and development funds for the  
23 next fiscal year within the limits imposed by the formula developed for the  
24 apportionment of the annual appropriations for Program Open Space.

25                                   (2) (i) By the first of July each year, a participating local governing  
26 body shall submit an annual program of proposed acquisition and development  
27 projects, together with a list of projects submitted by any municipal corporation to the  
28 local governing body and not included in the local governing body's annual program, to  
29 the Department of Planning for review and to the Department for approval.

30   (ii) A municipal corporation may submit an annual program  
31 through its local governing body.

32                                   **(III) A PARTICIPATING LOCAL GOVERNING BODY SHALL:**

1                   **1. FOR EACH PROPOSED PROJECT UNDER THIS**  
2 **SUBSECTION PREPARE AND SUBMIT FOR REVIEW AND APPROVAL A PLAN TO**  
3 **PROVIDE PUBLIC ACCESS TO THE RECREATIONAL AND OPEN SPACE SITE TO THE**  
4 **MAXIMUM EXTENT FEASIBLE; AND**

5                   **2. PROPOSE DEVELOPMENT PROJECTS TO ENHANCE**  
6 **PUBLIC ACCESS TO EXISTING RECREATIONAL AND OPEN SPACE SITES TO THE**  
7 **MAXIMUM EXTENT FEASIBLE.**

8           (b) (2) A local governing body shall prepare a local land preservation and  
9 recreation plan with acquisition goals based upon the most current population data  
10 available from the Department of Planning and submit it to the Department and to  
11 the Department of Planning for joint approval according to the criteria and goals set  
12 forth in guidelines prepared by the Department and the Department of Planning. **A**  
13 **LOCAL LAND PRESERVATION AND RECREATION PLAN SHALL INCLUDE A PLAN**  
14 **TO ENHANCE PUBLIC ACCESS TO EXISTING RECREATIONAL AND OPEN SPACE**  
15 **SITES TO THE MAXIMUM EXTENT FEASIBLE.** A local governing body shall revise its  
16 local land preservation and recreation plan at least every 5 years and submit the  
17 revised local plan to the Department and to the Department of Planning for joint  
18 approval 1 year prior to the revision of the Maryland Land Preservation and  
19 Recreation Plan. Prior to approval of a revised local plan, the Department shall  
20 provide the legislators from the district within which any part of the local jurisdiction  
21 is located the opportunity to review and comment on the revised local plan.

22 5-906.

23           (b) Every acquisition and development project funded by the State in whole  
24 or in part shall meet needs identified in the Maryland Land Preservation and  
25 Recreation Plan prepared and revised every 5 years by the Department in consultation  
26 with the Department of Planning and local governments. The document shall identify  
27 and recommend for State acquisition efforts those resource areas facing the most  
28 intense or immediate development pressure. These resource areas shall be designated  
29 as targeted areas. **THE MARYLAND LAND PRESERVATION AND RECREATION**  
30 **PLAN SHALL INCLUDE A PLAN TO ENHANCE PUBLIC ACCESS TO EXISTING**  
31 **RECREATIONAL AND OPEN SPACE SITES TO THE MAXIMUM EXTENT FEASIBLE.**  
32 The document and any changes to it shall be distributed to every local governing body.

33           SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
34 October 1, 2014.