

SENATE BILL 166

L6

6lr1461
CF 6lr0992

By: **Senator Conway**

Introduced and read first time: January 18, 2016

Assigned to: Education, Health, and Environmental Affairs

A BILL ENTITLED

1 AN ACT concerning

2 **Land Use Actions – Legislative Bodies – Judicial Review**

3 FOR the purpose of authorizing certain persons to file a request for judicial review of a land
4 use action of a legislative body by a circuit court; specifying certain persons that have
5 standing to bring and maintain a certain action in a circuit court to allow judicial
6 review of a land use action of a legislative body; applying a certain provision of law
7 to a charter county and to Baltimore City; and generally relating to judicial review
8 of land use actions of legislative bodies.

9 BY repealing and reenacting, with amendments,
10 Article – Land Use
11 Section 1–401, 4–406, and 10–103
12 Annotated Code of Maryland
13 (2012 Volume and 2015 Supplement)

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

16 **Article – Land Use**

17 1–401.

18 (a) Except as provided in this section, this division does not apply to charter
19 counties.

20 (b) The following provisions of this division apply to a charter county:

21 (1) this subtitle, including Parts II and III (Charter county –
22 Comprehensive plans);

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



- 1 (2) § 1–101(l), (m), and (o) (Definitions – “Plan”, “Priority funding area”,
2 and “Sensitive area”);
- 3 (3) § 1–201 (Visions);
- 4 (4) § 1–206 (Required education);
- 5 (5) § 1–207 (Annual report – In general);
- 6 (6) § 1–208 (Annual report – Measures and indicators);
- 7 (7) Title 1, Subtitle 3 (Consistency);
- 8 (8) Title 1, Subtitle 5 (Growth Tiers);
- 9 (9) § 4–104(b) (Limitations – Bicycle parking);
- 10 (10) § 4–208 (Exceptions – Maryland Accessibility Code);
- 11 (11) § 4–210 (Permits and variances – Solar panels);
- 12 **(12) § 4–406 (ADDITIONAL MATTERS FOR JUDICIAL REVIEW);**
- 13 [(12)] **(13)** § 5–102(d) (Subdivision regulations – Burial sites);
- 14 [(13)] **(14)** § 5–104 (Major subdivision – Review);
- 15 [(14)] **(15)** Title 7, Subtitle 1 (Development Mechanisms);
- 16 [(15)] **(16)** Title 7, Subtitle 2 (Transfer of Development Rights);
- 17 [(16)] **(17)** Except in Montgomery County or Prince George’s County, Title
18 7, Subtitle 3 (Development Rights and Responsibilities Agreements);
- 19 [(17)] **(18)** Title 7, Subtitle 4 (Inclusionary Zoning);
- 20 [(18)] **(19)** § 8–401 (Conversion of overhead facilities);
- 21 [(19)] **(20)** For Baltimore County only, Title 9, Subtitle 3 (Single–County
22 Provisions – Baltimore County);
- 23 [(20)] **(21)** For Howard County only, Title 9, Subtitle 13 (Single–County
24 Provisions – Howard County);
- 25 [(21)] **(22)** For Talbot County only, Title 9, Subtitle 18 (Single–County
26 Provisions – Talbot County); and

1 ~~[(22)]~~ **(23)** Title 11, Subtitle 2 (Civil Penalty).

2 (c) This section supersedes any inconsistent provision of Division II of this article.
3 4–406.

4 (a) In addition to the judicial review provided under this subtitle [a]:

5 **(1)** A legislative body may allow judicial review by the circuit court of any
6 matter arising under the planning and zoning laws of the local jurisdiction;

7 **(2)** ANY OF THE FOLLOWING PERSONS MAY FILE A REQUEST FOR
8 JUDICIAL REVIEW OF A LAND USE ACTION, INCLUDING A COMPREHENSIVE
9 PLANNING OR REZONING ACTION, OF A LEGISLATIVE BODY BY THE CIRCUIT COURT
10 OF THE COUNTY:

11 **(I)** A PERSON AGGRIEVED BY THE DECISION OR ACTION;

12 **(II)** A TAXPAYER; OR

13 **(III)** AN OFFICER OR A UNIT OF THE LOCAL JURISDICTION; AND

14 **(3)** THE FOLLOWING PERSONS HAVE STANDING TO BRING AND
15 MAINTAIN AN ACTION UNDER ITEM **(2)** OF THIS SUBSECTION IN THE CIRCUIT COURT
16 OF THE COUNTY:

17 **(I)** A PERSON THAT OWNS PROPERTY LOCATED WITHIN **1,000**
18 FEET OF THE BORDER OF A PROPERTY THAT HAS A CHANGE IN ZONING OR USE
19 THROUGH THE LAND USE ACTION AND IS PRESUMPTIVELY AGGRIEVED; AND

20 **(II)** A PERSON THAT:

21 **1.** OWNS PROPERTY LOCATED MORE THAN **1,000** FEET
22 FROM THE BORDER OF A PROPERTY THAT HAS A CHANGE IN ZONING OR USE
23 THROUGH THE LAND USE ACTION; AND

24 **2.** ALLEGES AND PROVES THAT THE CHANGE IS LIKELY
25 TO CAUSE THAT PERSON A HARM THAT DIFFERS IN KIND OR DEGREE FROM ANY
26 HARM TO THE PUBLIC AT LARGE.

27 (b) A judgment of the circuit court under this section may be appealed to the
28 Court of Special Appeals.

1 10–103.

2 (a) Except as provided in this section, this division does not apply to Baltimore
3 City.

4 (b) The following provisions of this division apply to Baltimore City:

5 (1) this title;

6 (2) § 1–101(m) (Definitions – “Priority funding area”);

7 (3) § 1–101(o) (Definitions – “Sensitive area”);

8 (4) § 1–201 (Visions);

9 (5) § 1–206 (Required education);

10 (6) § 1–207 (Annual report – In general);

11 (7) § 1–208 (Annual report – Measures and indicators);

12 (8) Title 1, Subtitle 3 (Consistency);

13 (9) Title 1, Subtitle 4, Parts II and III (Home Rule Counties –
14 Comprehensive Plans; Implementation);

15 (10) § 4–104(b) (Limitations – Bicycle parking);

16 (11) § 4–205 (Administrative adjustments);

17 (12) § 4–207 (Exceptions – Maryland Accessibility Code);

18 (13) § 4–210 (Permits and variances – Solar panels);

19 **(14) § 4–406 (ADDITIONAL MATTERS FOR JUDICIAL REVIEW);**

20 [(14)] **(15)** § 5–201(d) (Subdivision regulations – Burial sites);

21 [(15)] **(16)** Title 7, Subtitle 1 (Development Mechanisms);

22 [(16)] **(17)** Title 7, Subtitle 2 (Transfer of Development Rights);

23 [(17)] **(18)** Title 7, Subtitle 3 (Development Rights and Responsibilities
24 Agreements);

25 [(18)] **(19)** Title 7, Subtitle 4 (Inclusionary Zoning); and

1 **[(19)] (20)** Title 11, Subtitle 2 (Civil Penalty).

2 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
3 October 1, 2016.