

## Article - Natural Resources

§5–903.

(a) (1) Of the funds distributed to Program Open Space under § 13–209 of the Tax – Property Article, up to \$3,000,000 may be transferred by an appropriation in the State budget, or by an amendment to the State budget under Title 7, Subtitle 2 of the State Finance and Procurement Article, to the Maryland Heritage Areas Authority Financing Fund established under Title 13, Subtitle 11 of the Financial Institutions Article to be used for the purposes provided in that subtitle.

(2) (i) 1. Of the remaining funds not appropriated under paragraph (1) of this subsection:

A. One half of the funds shall be used for recreation and open space purposes by the Department and the Historic St. Mary’s City Commission; and

B. 20% of the funds or \$21,000,000, whichever is greater, shall be appropriated to the Forest and Park Service in the Department to operate State forests and parks.

2. Except as otherwise provided in this section, any funds the General Assembly appropriates to the State under this subsection shall be used only for land acquisition projects.

(ii) At least \$1,500,000 of the State’s share of funds available under subparagraph (i)1A of this paragraph for this program shall be utilized to make grants to Baltimore City for projects which meet park purposes. The grants shall be in addition to any funds Baltimore City is eligible to receive under subsection (b) of this section, and may be used for acquisition or development. In order for Baltimore City to be eligible for a State grant, the Department shall review projects or land to be acquired within Baltimore City, and upon the Department’s recommendation, the Board of Public Works may approve projects and land including the cost. Title to the land shall be in the name of the Mayor and City Council of Baltimore City. The State is not responsible for costs involved in the development or maintenance of the land.

(iii) 1. A portion of the State’s share of funds available under subparagraph (i)1A of this paragraph for this program not to exceed \$8,000,000 for each fiscal year may be transferred by an appropriation in the State budget to the Rural Legacy Program under Subtitle 9A of this title.

2. In each fiscal year, up to \$2 million of the funds transferred under this subparagraph to the Rural Legacy Program may be used to purchase zero coupon bonds for easements.

3. Sums allocated to the Rural Legacy Program may not revert to the General Fund of the State.

(iv) The Department may acquire real property under subparagraph (i)1A of this paragraph based on an offer by the State that is less than the lowest approved appraisal for the property.

(v) For each of fiscal years 2010 through 2015, \$1,217,000 of the State's share of funds available under subparagraph (i)1A of this paragraph may be appropriated in the budgets of the Department, the Department of General Services, and the Department of Planning for expenses necessary to administer this Program.

(b) (1) The General Assembly shall appropriate the remaining funds not appropriated under subsection (a) of this section to assist local governing bodies in acquisition and development of land for recreation and open space purposes, including the provision of public access to the land.

(2) Except as provided in paragraph (3) of this subsection, funds appropriated under paragraph (1) of this subsection for development of land for recreation and open space purposes may be used for indoor or outdoor recreation and open space purposes, including the construction of indoor or outdoor recreational facilities such as aquatic, golf, community, and nature centers.

(3) An indoor recreational facility funded under paragraph (1) of this subsection shall:

(i) If the facility is 7,500 square feet or greater, meet or exceed the current version of the U.S. Green Building Council's LEED Green Building Rating System Silver rating, however, the facility is not required to be certified through the LEED certification process; and

(ii) Incorporate, to the maximum extent practicable, the nonstructural site design practices in the Maryland Stormwater Design Manual, incorporated by reference in COMAR 26.17.02.

(c) (1) A committee, appointed by the Governor, shall prepare and adopt an apportionment formula relating to the percent of the total funds each subdivision will receive. The committee consists of two members of the Senate, three members of the House of Delegates, and four members of the public at large.

(2) The Secretary of the Department of Planning and the Secretary shall serve as advisers to the committee.

(3) The committee shall meet at least annually to review and update the apportionment formula. In determining the allocation formula, the committee shall take into account for each subdivision:

(i) Current population;

(ii) Projected population; and

(iii) Other factors it deems desirable.

(4) In determining the apportionment for any year the committee may consider under-utilization of available funds and may transfer or advance unused allocations that have not been utilized within a given period. The committee may reallocate funds, subject however to the policy that over the 10-year period any subdivision shall be allocated in the aggregate the funds it would have been entitled to receive if able to utilize them.

(5) Before adopting an apportionment formula and before allocating funds for any year, the committee shall notify the governing bodies of every affected subdivision of its intended action and, after reasonable notice, afford an opportunity for hearings on the apportionment or allocation.

(d) Any funds previously or subsequently appropriated or reimbursed to the Department from the Land and Water Conservation Fund of the United States Department of the Interior, National Park Service shall be used to supplement the acquisition and development program of the Department and of other eligible State agencies and local government bodies.

(e) (1) The Department may, with the approval of the Board of Public Works, use acquisition funds to make matching or refundable grants to land trusts for the acquisition of interests or rights in real property for recreational or open space purposes.

(2) Subject to the availability of funds and in accordance with other provisions of this article regarding open space and wildland areas, the Department may enter into agreements with a land trust for the State to acquire title to or an interest or right in property owned by the land trust or property on which the land trust holds an option or a contract to purchase.

(3) An agreement under this subsection shall be subject to approval by the Board of Public Works under § 1-109(c) of this article.

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

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

(ii) Eliminate hazards to health and safety, including treatment and removal of hazardous materials;

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

(iv) Provide public access to the recreational and open space uses of

the acquired land.

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

(3) The Department may use acquisition funds to enhance public access to existing recreational and open space sites.

(g) (1) Any amount appropriated in the State budget, and for each subsequent fiscal year, up to 25 percent of the State's share of funds that would be available under the program if 100 percent of the funds not required under § 13-209(b) of the Tax – Property Article were available for distribution as provided in § 13-209(d)(3) of the Tax – Property Article may be used for capital improvements on land owned by the State for the use of the Department, the Maryland Historical Trust for museums operated by the Trust, or the Historic St. Mary's Commission, if the improvements are:

(i) Approved in the State budget; and

(ii) Compatible with:

1. Any master plan developed for the land; and
2. The natural features of the land.

(2) (i) For the fiscal year commencing July 1, 1996, up to 12.5% of the State's share of funds available for capital improvements may be used to operate State forests and parks, but only if the funds expended for operating costs do not exceed the portion of the State allocation available under this subsection that is derived from current revenues, as distinguished from proceeds of bond issues.

(ii) For the fiscal year commencing July 1, 1997, up to \$1,000,000 of the State's share of funds available for capital improvements may be used to operate State forests and parks, but only if the funds expended for operating costs do not exceed the portion of the State allocation available under this subsection that is derived from current revenues, as distinguished from proceeds of bond issues.

(iii) For the fiscal year commencing July 1, 1998, and all subsequent fiscal years, up to \$1,200,000 of the State's share of funds available for capital improvements may be used to operate State forests and parks, but only if the funds expended for operating costs do not exceed the portion of the State allocation available under this subsection that is derived from current revenues, as distinguished from proceeds of bond issues.

(iv) The only wages that can be paid with the portion of the State's share of funds authorized under subparagraphs (ii) and (iii) of this paragraph are the wages of employees in the State forests and parks.

(3) If the General Assembly amends the Budget Bill to strike out an

improvement or operating costs under this subsection submitted by the Governor, the Governor may consider reallocating the funds through a supplemental budget for the same fiscal year:

(i) To finance specific alternative land acquisition, development projects, or operating costs; or

(ii) To the Advance Option and Purchase Fund established under § 5–904(b) of this subtitle.

(h) In allocating the State’s share of funds under this section, the Secretary shall consider the following land conservation priorities, notwithstanding other priorities specified in this title:

(1) Conserving working landscapes, as defined in § 5–101 of this title;

(2) Protecting and restoring forests from threats, including catastrophic wildfires, hurricanes, windstorms, snow or ice storms, flooding, drought, invasive species, insect or disease outbreak, and development; and

(3) Conserving land that drains into a reservoir in the State.