

# HOUSE BILL 1461

M3, C5

7lr2093  
CF SB 980

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By: **Delegates Beitzel, Buckel, Hornberger, McKay, Otto, Reilly, Rose, and Shoemaker**

Introduced and read first time: February 10, 2017

Assigned to: Environment and Transportation and Economic Matters

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## A BILL ENTITLED

1 AN ACT concerning

2 **Environment – Natural Gas and Oil Interest Restitution Fund**

3 FOR the purpose of establishing the Natural Gas and Oil Interest Restitution Fund as a  
4 special, nonlapsing fund; specifying the purpose of the Fund; requiring the  
5 Department of the Environment to administer the Fund; requiring the State  
6 Treasurer to hold the Fund and the Comptroller to account for the Fund; specifying  
7 the contents of the Fund; specifying the purpose for which the Fund may be used;  
8 requiring that a certain owner of a natural gas or oil interest make a certain  
9 demonstration in order to receive compensation from the Fund; requiring that  
10 certain investment earnings be credited to the Fund; requiring the owner of a certain  
11 generating system or facility to deposit a certain amount of revenue from the sale of  
12 certain renewable energy credits for certain purposes to the Fund; exempting the  
13 Fund from a certain provision of law requiring interest earnings on State money to  
14 accrue to the General Fund of the State; authorizing money in the Strategic Energy  
15 Investment Fund to be distributed to the Fund; altering the purpose for which a  
16 certain compliance fee may be used; defining certain terms; providing that existing  
17 obligations or contract rights may not be impaired by this Act; making this Act  
18 contingent on the enactment of a certain prohibition or a prohibition or delay on  
19 issuing a certain permit; requiring the Department of the Environment to notify the  
20 Department of Legislative Services of certain actions within a certain period of time;  
21 and generally relating to natural gas and oil interests.

22 BY repealing and reenacting, without amendments,

23 Article – Environment

24 Section 14–107.1

25 Annotated Code of Maryland

26 (2014 Replacement Volume and 2016 Supplement)

27 BY adding to

28 Article – Environment

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



- 1 Section 14–107.2  
2 Annotated Code of Maryland  
3 (2014 Replacement Volume and 2016 Supplement)
- 4 BY adding to  
5 Article – Public Utilities  
6 Section 7–704(j)  
7 Annotated Code of Maryland  
8 (2010 Replacement Volume and 2016 Supplement)
- 9 BY repealing and reenacting, without amendments,  
10 Article – State Finance and Procurement  
11 Section 6–226(a)(2)(i)  
12 Annotated Code of Maryland  
13 (2015 Replacement Volume and 2016 Supplement)
- 14 BY repealing and reenacting, with amendments,  
15 Article – State Finance and Procurement  
16 Section 6–226(a)(2)(ii)94. and 95.  
17 Annotated Code of Maryland  
18 (2015 Replacement Volume and 2016 Supplement)
- 19 BY adding to  
20 Article – State Finance and Procurement  
21 Section 6–226(a)(2)(ii)96.  
22 Annotated Code of Maryland  
23 (2015 Replacement Volume and 2016 Supplement)
- 24 BY repealing and reenacting, without amendments,  
25 Article – State Government  
26 Section 9–20B–05(a)  
27 Annotated Code of Maryland  
28 (2014 Replacement Volume and 2016 Supplement)
- 29 BY repealing and reenacting, with amendments,  
30 Article – State Government  
31 Section 9–20B–05(f) and (i)  
32 Annotated Code of Maryland  
33 (2014 Replacement Volume and 2016 Supplement)
- 34 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,  
35 That the Laws of Maryland read as follows:
- 36 **Article – Environment**
- 37 14–107.1.

1 (a) (1) In this section, “hydraulic fracturing” means a drilling technique that  
2 expands existing fractures or creates new fractures in rock by injecting fluids, often a  
3 mixture of water and chemicals, sand, or other substances, and often under pressure, into  
4 or underneath the surface of the rock for purposes that include well drilling for the  
5 exploration or production of natural gas.

6 (2) “Hydraulic fracturing” includes:

7 (i) Fracking;

8 (ii) Hydrofracking; and

9 (iii) Hydrofracturing.

10 (b) On or before October 1, 2016, the Department shall adopt regulations to  
11 provide for the hydraulic fracturing of a well for the exploration or production of natural  
12 gas in the State.

13 (c) Regulations adopted by the Department in accordance with subsection (b) of  
14 this section may not become effective until October 1, 2017.

15 (d) The Department may not issue a permit for the hydraulic fracturing of a well  
16 for the exploration or production of natural gas in the State until October 1, 2017.

17 **14-107.2.**

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

20 (2) “FUND” MEANS THE NATURAL GAS AND OIL INTEREST  
21 RESTITUTION FUND.

22 (3) “HYDRAULIC FRACTURING” HAS THE MEANING STATED IN §  
23 14-107.1 OF THIS SUBTITLE.

24 (4) “OWNER” MEANS AN INDIVIDUAL WHO OWNS A NATURAL GAS OR  
25 OIL INTEREST IN AT LEAST 50 ACRES OF CONTIGUOUS LAND IN THE STATE.

26 (B) THERE IS A NATURAL GAS AND OIL INTEREST RESTITUTION FUND.

27 (C) THE PURPOSE OF THE FUND IS TO COMPENSATE EACH OWNER FOR THE  
28 MONEY LOST DUE TO THE INABILITY TO LEASE OR SELL A NATURAL GAS OR OIL  
29 INTEREST FOR THE PURPOSE OF HYDRAULIC FRACTURING.

30 (D) THE DEPARTMENT SHALL ADMINISTER THE FUND.

1           **(E) (1) THE FUND IS A SPECIAL, NONLAPSING FUND THAT IS NOT**  
2 **SUBJECT TO § 7-302 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.**

3           **(2) THE STATE TREASURER SHALL HOLD THE FUND SEPARATELY,**  
4 **AND THE COMPTROLLER SHALL ACCOUNT FOR THE FUND.**

5           **(F) THE FUND CONSISTS OF:**

6           **(1) REVENUE DISTRIBUTED TO THE FUND UNDER § 7-704(J) OF THE**  
7 **PUBLIC UTILITIES ARTICLE;**

8           **(2) MONEY DISTRIBUTED TO THE FUND UNDER § 9-20B-05 OF THE**  
9 **STATE GOVERNMENT ARTICLE;**

10           **(3) MONEY APPROPRIATED IN THE STATE BUDGET TO THE FUND;**  
11 **AND**

12           **(4) ANY OTHER MONEY FROM ANY OTHER SOURCE ACCEPTED FOR**  
13 **THE BENEFIT OF THE FUND.**

14           **(G) (1) (I) THE FUND MAY BE USED ONLY FOR COMPENSATING AN**  
15 **OWNER FOR THE MONEY LOST DUE TO THE INABILITY TO LEASE OR SELL A NATURAL**  
16 **GAS OR OIL INTEREST FOR THE PURPOSE OF HYDRAULIC FRACTURING.**

17           **(II) THE FUND MAY NOT BE USED TO COMPENSATE AN OWNER**  
18 **FOR THE MONEY LOST DUE TO THE INABILITY TO LEASE OR SELL A NATURAL GAS OR**  
19 **OIL INTEREST FOR THE PURPOSE OF HYDRAULIC FRACTURING IF THE INABILITY IS**  
20 **DUE TO A PROHIBITION ON HYDRAULIC FRACTURING BY THE LOCAL JURISDICTION**  
21 **IN WHICH THE NATURAL GAS OR OIL INTEREST IS HELD.**

22           **(2) TO RECEIVE COMPENSATION FROM THE FUND, AN OWNER SHALL**  
23 **DEMONSTRATE THAT A LEASE OR SALE OF THE OWNER'S NATURAL GAS OR OIL**  
24 **INTEREST TO A THIRD PARTY WAS TERMINATED DUE TO A STATEWIDE PROHIBITION**  
25 **ON HYDRAULIC FRACTURING OR A PROHIBITION OR DELAY ON ISSUING A PERMIT**  
26 **FOR HYDRAULIC FRACTURING UNDER § 14-107.1 OF THIS SUBTITLE.**

27           **(H) (1) THE STATE TREASURER SHALL INVEST THE MONEY OF THE FUND**  
28 **IN THE SAME MANNER AS OTHER STATE MONEY MAY BE INVESTED.**

29           **(2) ANY INTEREST EARNINGS OF THE FUND SHALL BE CREDITED TO**  
30 **THE FUND.**



1                    [(i)] 1.        cost-effective energy efficiency and conservation  
2 programs, projects, or activities, including measurement and verification of energy savings;

3                    [(ii)] 2.        renewable and clean energy resources;

4                    [(iii)] 3.        climate change programs directly related to reducing or  
5 mitigating the effects of climate change; and

6                    [(iv)] 4.        demand response programs that are designed to promote  
7 changes in electric usage by customers in response to:

8                    [1.] A.        changes in the price of electricity over time; or

9                    [2.] B.        incentives designed to induce lower electricity use  
10 at times of high wholesale market prices or when system reliability is jeopardized;

11                   [(2)] (II)      to provide targeted programs, projects, activities, and  
12 investments to reduce electricity consumption by customers in the low-income and  
13 moderate-income residential sectors;

14                   [(3)] (III)     to provide supplemental funds for low-income energy assistance  
15 through the Electric Universal Service Program established under § 7-512.1 of the Public  
16 Utilities Article and other electric assistance programs in the Department of Human  
17 Resources;

18                   [(4)] (IV)     to provide rate relief by offsetting electricity rates of residential  
19 customers, including an offset of surcharges imposed on ratepayers under § 7-211 of the  
20 Public Utilities Article;

21                   [(5)] (V)       to provide grants, loans, and other assistance and investment as  
22 necessary and appropriate to implement the purposes of the Program as set forth in §  
23 9-20B-03 of this subtitle;

24                   [(6)] (VI)     to implement energy-related public education and outreach  
25 initiatives regarding reducing energy consumption and greenhouse gas emissions;

26                   [(7)] (VII)    to provide rebates under the Electric Vehicle Recharging  
27 Equipment Rebate Program established under § 9-2009 of this title;

28                   [(8)] (VIII)   to provide grants to encourage combined heat and power projects  
29 at industrial facilities; and

30                   [(9)] (IX)     to pay the expenses of the Program.

1           **(2) THE ADMINISTRATION MAY DISTRIBUTE MONEY FROM THE FUND**  
2 **TO THE NATURAL GAS AND OIL INTEREST RESTITUTION FUND ESTABLISHED**  
3 **UNDER § 14-107.2 OF THE ENVIRONMENT ARTICLE.**

4           (i) (1) Except as provided in paragraph (2) of this subsection, compliance fees  
5 paid under § 7-705(b) of the Public Utilities Article may be used only to:

6                   **(I) make loans and grants to support the creation of new Tier 1**  
7 **renewable energy sources in the State; OR**

8                   **(II) MAKE DEPOSITS INTO THE NATURAL GAS AND OIL**  
9 **INTEREST RESTITUTION FUND ESTABLISHED UNDER § 14-107.2 OF THE**  
10 **ENVIRONMENT ARTICLE.**

11           (2) Compliance fees paid under § 7-705(b)(2)(i)2 of the Public Utilities  
12 Article shall be accounted for separately within the Fund and may be used only to make  
13 loans and grants to support the creation of new solar energy sources in the State.

14           **SECTION 2. AND BE IT FURTHER ENACTED,** That a presently existing obligation  
15 or contract right may not be impaired in any way by this Act.

16           **SECTION 3. AND BE IT FURTHER ENACTED,** That Section 1 of this Act is  
17 contingent on the enactment of a statewide prohibition on hydraulic fracturing or a  
18 prohibition or delay on issuing a permit for hydraulic fracturing under § 14-107.1 of the  
19 Environment Article. The Department of the Environment shall notify the Department of  
20 Legislative Services within 5 days after enactment of a statewide prohibition on hydraulic  
21 fracturing or a prohibition or delay on issuing a permit for hydraulic fracturing. If notice of  
22 the prohibition on hydraulic fracturing or a prohibition or delay on issuing a permit for  
23 hydraulic fracturing is not received by the Department of Legislative Services on or before  
24 June 1, 2027, this Act shall be null and void without the necessity of further action by the  
25 General Assembly.

26           **SECTION 4. AND BE IT FURTHER ENACTED,** That, subject to Section 3 of this  
27 Act, this Act shall take effect June 1, 2017.