

# HOUSE BILL 1588

L6, C5

8lr2983  
CF 8lr3795

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By: **Delegates S. Howard, Rose, and Saab**

Introduced and read first time: February 9, 2018

Assigned to: Environment and Transportation

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## A BILL ENTITLED

1 AN ACT concerning

2 **Zoning Amendments – Energy Generation Systems**

3 FOR the purpose of prohibiting a local legislative body from granting an amendment to  
4 change a certain zoning classification based on a certain finding if the primary  
5 reason for the proposed amendment is the existence of a certain energy generation  
6 system; providing for the application of this Act; defining a certain term; and  
7 generally relating to zoning and energy generation systems.

8 BY repealing and reenacting, with amendments,

9 Article – Land Use

10 Section 1–401 and 10–103

11 Annotated Code of Maryland

12 (2012 Volume and 2017 Supplement)

13 BY adding to

14 Article – Land Use

15 Section 4–211

16 Annotated Code of Maryland

17 (2012 Volume and 2017 Supplement)

18 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,

19 That the Laws of Maryland read as follows:

20 **Article – Land Use**

21 1–401.

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

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

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



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

3 (2) § 1–101(l), (m), and (o) (Definitions – “Plan”, “Priority funding area”,  
4 and “Sensitive area”);

5 (3) § 1–201 (Visions);

6 (4) § 1–206 (Required education);

7 (5) § 1–207 (Annual report – In general);

8 (6) § 1–208 (Annual report – Measures and indicators);

9 (7) Title 1, Subtitle 3 (Consistency);

10 (8) Title 1, Subtitle 5 (Growth Tiers);

11 (9) § 4–104(b) (Limitations – Bicycle parking);

12 (10) § 4–208 (Exceptions – Maryland Accessibility Code);

13 (11) § 4–210 (Permits and variances – Solar panels);

14 (12) **§ 4–211 (CHANGE IN ZONING CLASSIFICATION – ENERGY**  
15 **GENERATION SYSTEMS);**

16 **(13) § 5–102(d) (Subdivision regulations – Burial sites);**

17 **[(13)] (14) § 5–104 (Major subdivision – Review);**

18 **[(14)] (15) Title 7, Subtitle 1 (Development Mechanisms);**

19 **[(15)] (16) Title 7, Subtitle 2 (Transfer of Development Rights);**

20 **[(16)] (17) except in Montgomery County or Prince George’s County, Title**  
21 **7, Subtitle 3 (Development Rights and Responsibilities Agreements);**

22 **[(17)] (18) Title 7, Subtitle 4 (Inclusionary Zoning);**

23 **[(18)] (19) § 8–401 (Conversion of overhead facilities);**

24 **[(19)] (20) for Baltimore County only, Title 9, Subtitle 3 (Single–County**  
25 **Provisions – Baltimore County);**

1            [(20)] **(21)** for Frederick County only, Title 9, Subtitle 10 (Single-County  
2 Provisions – Frederick County);

3            [(21)] **(22)** for Howard County only, Title 9, Subtitle 13 (Single-County  
4 Provisions – Howard County);

5            [(22)] **(23)** for Talbot County only, Title 9, Subtitle 18 (Single-County  
6 Provisions – Talbot County); and

7            [(23)] **(24)** Title 11, Subtitle 2 (Civil Penalty).

8            (c) This section supersedes any inconsistent provision of Division II of this article.

9            **4-211.**

10            **(A) IN THIS SECTION, “ENERGY GENERATION SYSTEM” MEANS AN ENERGY**  
11 **GENERATING SYSTEM:**

12            **(1) FOR WHICH A CERTIFICATE OF PUBLIC CONVENIENCE AND**  
13 **NECESSITY IS REQUIRED BY STATE LAW; OR**

14            **(2) (I) FOR WHICH A CERTIFICATE OF PUBLIC CONVENIENCE AND**  
15 **NECESSITY IS NOT REQUIRED BY STATE LAW; AND**

16            **(II) IS NOT CONSIDERED TO BE AN ACCESSORY USE UNDER THE**  
17 **ZONING LAW OF THE LOCAL JURISDICTION WHERE THE SYSTEM IS LOCATED.**

18            **(B) IF THE PRIMARY REASON FOR A PROPOSED AMENDMENT TO CHANGE A**  
19 **ZONING CLASSIFICATION IS THE EXISTENCE OF AN ENERGY GENERATION SYSTEM, A**  
20 **LEGISLATIVE BODY MAY NOT GRANT AN AMENDMENT TO CHANGE THE ZONING**  
21 **CLASSIFICATION BASED ON A FINDING THAT THERE WAS:**

22            **(1) A SUBSTANTIAL CHANGE IN THE CHARACTER OF THE**  
23 **NEIGHBORHOOD WHERE THE PROPERTY IS LOCATED; OR**

24            **(2) A MISTAKE IN THE EXISTING ZONING CLASSIFICATION.**

25            10-103.

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

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

29            (1) this title;

- 1           (2)    § 1–101(m) (Definitions – “Priority funding area”);
- 2           (3)    § 1–101(o) (Definitions – “Sensitive area”);
- 3           (4)    § 1–201 (Visions);
- 4           (5)    § 1–206 (Required education);
- 5           (6)    § 1–207 (Annual report – In general);
- 6           (7)    § 1–208 (Annual report – Measures and indicators);
- 7           (8)    Title 1, Subtitle 3 (Consistency);
- 8           (9)    Title 1, Subtitle 4, Parts II and III (Home Rule Counties –  
9 Comprehensive Plans; Implementation);
- 10          (10)   § 4–104(b) (Limitations – Bicycle parking);
- 11          (11)   § 4–205 (Administrative adjustments);
- 12          (12)   § 4–207 (Exceptions – Maryland Accessibility Code);
- 13          (13)   § 4–210 (Permits and variances – Solar panels);
- 14          (14)   **§ 4–211 (CHANGE IN ZONING CLASSIFICATION – ENERGY**  
15 **GENERATION SYSTEMS);**
- 16          **(15)**   § 5–201(d) (Subdivision regulations – Burial sites);
- 17          **[(15)] (16)** Title 7, Subtitle 1 (Development Mechanisms);
- 18          **[(16)] (17)** Title 7, Subtitle 2 (Transfer of Development Rights);
- 19          **[(17)] (18)** Title 7, Subtitle 3 (Development Rights and Responsibilities  
20 Agreements);
- 21          **[(18)] (19)** Title 7, Subtitle 4 (Inclusionary Zoning); and
- 22          **[(19)] (20)** Title 11, Subtitle 2 (Civil Penalty).

23           SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
24 October 1, 2018.