

Chapter 442

(House Bill 1427)

AN ACT concerning

**Sea Level Rise Inundation and Coastal Flooding – Construction, Adaptation,
and Mitigation**

FOR the purpose of altering the application of certain design and siting criteria established by the Coast Smart Council, in consultation with the Department of Natural Resources and the Department of Transportation, to apply only to certain State and local capital projects; altering the date beginning on which certain projects are required to comply with certain design and siting criteria; requiring the Department of Planning, in consultation with the Department of Natural Resources and the Department of the Environment, on or before a certain date, to develop and publish guidelines to assist local jurisdictions in the collection of data to establish certain nuisance flooding baselines; extending the date by which a certain local jurisdiction must develop a plan to address certain nuisance flooding; declaring the intent of the General Assembly; requiring the Department of Budget and Management, the Department of General Services, and the Department of Natural Resources to review and incorporate certain criteria established by the Council into certain instructions and policies; and generally relating to sea level rise inundation and coastal flooding.

BY repealing and reenacting, without amendments,
Article – Natural Resources
Section 3–1001(a) and (c)
Annotated Code of Maryland
(2018 Replacement Volume)

BY repealing and reenacting, with amendments,
Article – Natural Resources
Section 3–1006(a), 3–1009, and 3–1018
Annotated Code of Maryland
(2018 Replacement Volume)

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

Article – Natural Resources

3–1001.

- (a) In this subtitle the following words have the meanings indicated.
- (c) “Council” means the Coast Smart Council.

3–1006.

(a) The Council shall:

(1) Study and provide analysis regarding standards and factors relevant to the establishment of Coast Smart siting criteria and design criteria;

(2) Develop siting and design criteria to establish and implement Coast Smart practices and requirements;

(3) Develop eligibility criteria, standards, and procedures for applying for and obtaining a waiver from compliance with the Coast Smart requirements; and

(4) Establish procedures for evaluating Coast Smart waiver applications that include the consideration of proposed **CAPITAL** projects with regard to:

(i) The anticipated need to prepare for, respond to, and recover from extreme weather events, sea level rise inundation, coastal flooding, storm surges, and shoreline erosion; and

(ii) The need to prevent danger to life and property and to avoid environmental, socio-economic, and economic harm.

3–1009.

(a) (1) This section applies to State and local **CAPITAL** projects for which at least 50% of the project costs are funded with State funds.

(2) This section does not apply to a [public work contract of] **CAPITAL PROJECT THAT COSTS** less than \$500,000.

(b) (1) Beginning July 1, [2019] **2020**, if a State or local **CAPITAL** project includes the construction of a structure or highway facility, the structure or highway facility shall be constructed in compliance with siting and design criteria established under subsection (c) of this section.

(2) Beginning July 1, [2019] **2020**, if a State or local **CAPITAL** project includes the reconstruction of a structure with substantial damage, the structure shall be reconstructed in compliance with siting and design criteria established under subsection (c) of this section.

(c) (1) The Council, in consultation with the Department and the Department of Transportation, shall establish Coast Smart siting and design criteria to address sea level rise inundation and coastal flood impacts on State and local **CAPITAL** projects.

(2) The criteria adopted under this subsection shall include:

(i) Guidelines and any other directives applicable to the preliminary planning and construction of a proposed **CAPITAL** project;

(ii) A requirement that a structure be designed and constructed or reconstructed in a manner to withstand the storm surge from a storm that registers as a category 2 on the Saffir–Simpson hurricane wind scale, including a requirement for structures to be constructed or reconstructed at a minimum elevation above the projected storm surge; and

(iii) Provisions establishing a process to allow a unit of State or local government to obtain a waiver from complying with the requirements of subsection (b) of this section.

3–1018.

(a) **ON OR BEFORE OCTOBER 1, 2019, THE DEPARTMENT OF PLANNING, IN CONSULTATION WITH THE DEPARTMENT AND THE DEPARTMENT OF THE ENVIRONMENT, SHALL DEVELOP AND PUBLISH GUIDELINES TO ASSIST LOCAL JURISDICTIONS IN THE COLLECTION OF DATA TO ESTABLISH NUISANCE FLOODING BASELINES.**

(B) (1) On or before [July 1, 2019] **OCTOBER 1, 2020**, a local jurisdiction that experiences nuisance flooding shall develop a plan to address nuisance flooding.

(2) A local jurisdiction shall update the plan required under paragraph (1) of this subsection at least once every 5 years.

(3) A local jurisdiction shall publish the plans required under this subsection on the local jurisdiction’s website.

[(b)] (C) A local jurisdiction that develops a plan to address nuisance flooding shall submit a copy of the nuisance flooding plan to the Department of Planning.

SECTION 2. AND BE IT FURTHER ENACTED, That it is the intent of the General Assembly that, until the Coast Smart Council has adopted revised siting and design criteria in accordance with the provisions of Section 1 of this Act:

(1) units of State government that propose capital projects for a new State structure or the reconstruction of a substantially damaged State structure shall comply with the siting and design criteria in the Coast Smart Construction Program adopted by the Coast Smart Council in June 2015; and

(2) local capital projects and highway facilities are not subject to the siting and design criteria in the Coast Smart Construction Program adopted by the Coast Smart

Council in June 2015.

SECTION 3. AND BE IT FURTHER ENACTED, That the Department of Budget and Management, the Department of General Services, and the Department of Natural Resources shall review and incorporate criteria established by the Coast Smart Council under the provisions of this Act into the appropriate instructions and policies.

SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2019.

Approved by the Governor, May 13, 2019.