

Chapter 304

**(House Bill 687)**

AN ACT concerning

**Agriculture – Cost-Sharing Program – Fixed Natural Filter Practices**

FOR the purpose of prohibiting the use of certain cost-sharing funds to fund a conservation practice that does not meet certain requirements; authorizing certain cost-sharing funds to be made available for certain fixed natural filter practices; prohibiting basing a reduction in certain cost-sharing rates on certain information or on a certain formula; requiring that certain cost-sharing funds be based on a certain rate; requiring that certain cost-sharing rates for the planting of multiple species of cover crops equal or exceed the rates paid for the planting of a single species of cover crop; requiring that certain cost-sharing funds be disbursed for a fixed natural filter practice only after the State Department of Agriculture makes a certain determination; ~~expanding the use of certain funds transferred from the Bay Restoration Fund to include the implementation of fixed natural filter practices;~~ defining a certain term; making stylistic and conforming changes; and generally relating to the cost-sharing program and fixed natural filter practices.

BY repealing and reenacting, with amendments,  
Article – Agriculture  
Section 8-701, 8-703(b)(2), and 8-704  
Annotated Code of Maryland  
(2016 Replacement Volume and 2019 Supplement)

~~BY repealing and reenacting, without amendments,  
Article – Environment  
Section 9-1605.2(a)(1)  
Annotated Code of Maryland  
(2014 Replacement Volume and 2019 Supplement)~~

~~BY repealing and reenacting, with amendments,  
Article – Environment  
Section 9-1605.2(h)(2)(ii) and (i)(2)(xi)  
Annotated Code of Maryland  
(2014 Replacement Volume and 2019 Supplement)~~

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

**Article – Agriculture**

8-701.

(a) In this subtitle the following words have the meanings indicated.

(b) “Best management practice” means a conservation or pollution control practice that manages soil loss due to farming practices or manages nutrients, animal wastes, or agricultural chemicals so as to minimize movement into the surface waters of the State.

(c) “Eligible cost” means a capital expenditure for installing, purchasing, or constructing a best management practice. It does not include the cost of land or interests in land, or the costs of operating or maintaining best management practices.

(d) **“FIXED NATURAL FILTER PRACTICE” MEANS ONE OF THE FOLLOWING PRACTICES:**

**(1) THE PLANTING OF RIPARIAN FOREST BUFFERS;**

**(2) THE PLANTING OF RIPARIAN HERBACEOUS COVER;**

**(3) TREE PLANTINGS THAT ARE:**

**(I) ON AGRICULTURAL LAND; AND**

**(II) OUTSIDE A RIPARIAN BUFFER;**

**(4) WETLAND RESTORATION; OR**

**(5) PASTURE MANAGEMENT, INCLUDING ROTATIONAL GRAZING SYSTEMS SUCH AS:**

**(I) LIVESTOCK FENCING; AND**

**(II) WATERING SYSTEMS IMPLEMENTED AS PART OF THE CONVERSION OF CROPLAND TO PASTURE.**

**(E)** “Person” means an individual, partnership, corporation, trust, or other business enterprise which as an owner, landlord, or tenant, participates in the operation of a farm.

**[(e)] (F)** “Pooling agreement” means a written agreement between persons, approved by the Secretary of Agriculture, to perform best management practices and which is intended to solve a mutual pollution problem on different farms.

**[(f)] (G)** “Project” means a project to prevent or control agriculturally related nonpoint source water pollution by establishing best management practices on a farm.

8-703.

(b) (2) State [cost sharing] **COST-SHARING** funds may not be used to [reestablish]:

(I) **REESTABLISH** agricultural practices which have deteriorated due to the negligence or mismanagement of an applicant; **OR**

(II) **FUND A CONSERVATION PRACTICE THAT DOES NOT:**

1. **ADDRESS A NATURAL RESOURCE CONCERN IDENTIFIED BY THE U.S. DEPARTMENT OF AGRICULTURE'S NATURAL RESOURCES CONSERVATION SERVICE; OR**

2. **RESULT IN ~~A~~ AN IMPROVED CONSERVATION BENEFIT.**

8-704.

(a) (1) State cost sharing in any project may be made available for up to [87 1/2 percent] **87.5%** of eligible costs, not to exceed a dollar amount of up to \$200,000 as determined by a regulation adopted jointly by the Secretary of Agriculture and the Secretary of the Environment.

(2) State [cost sharing] **COST-SHARING** funds may be made available for any project if:

(i) The Department of Agriculture, the soil conservation district, and a person have executed an agreement which, among other things, obligates the person to [establish]:

1. **ESTABLISH**, construct, or install the best management practice **OR FIXED NATURAL FILTER PRACTICE** in accordance with technical specifications[, to maintain];

2. **MAINTAIN** the best management practice **OR FIXED NATURAL FILTER PRACTICE** for its expected life span[,]; and [to provide]

3. **PROVIDE** the required matching funds for the project;

(ii) The Board of Public Works has given approval to the project when the proceeds of State bonds are to be used to finance the State share; and

(iii) The soil conservation district has certified to the Department that the project meets all applicable technical standards, and that all submitted invoices properly represent eligible costs.

**(3) A REDUCTION IN STATE COST-SHARING RATES FOR RIPARIAN FOREST BUFFERS, RIPARIAN HERBACEOUS COVER, WETLAND RESTORATION, OR PASTURE MANAGEMENT MAY NOT BE BASED ON TONS OF SOIL SAVED OR AN AMORTIZATION FORMULA.**

**(4) STATE COST-SHARING RATES FOR PASTURE MANAGEMENT SHALL BE BASED ON THE APPLICABLE RATE ESTABLISHED BY THE U.S. DEPARTMENT OF AGRICULTURE'S ENVIRONMENTAL QUALITY INCENTIVES PROGRAM.**

**(5) STATE COST-SHARING RATES PAID FOR THE PLANTING OF MULTIPLE SPECIES OF COVER CROPS SHALL EQUAL OR EXCEED THE RATES PAID FOR THE PLANTING OF A SINGLE SPECIES OF COVER CROP.**

**[(3)] (6) (i) 1.** Except as authorized under subparagraph 2 of this subparagraph and before the Department of Agriculture executes a [cost sharing] **COST-SHARING** agreement with a farm tenant, it shall obtain the consent of the landlord to the terms and conditions of the agreement.

2. The Department may execute the agreement without the consent of the landlord if:

A. The agreement concerns a short-term project that involves only the planting of a cover crop; and

B. The Department has sent by first-class mail written notice of a cover crop project to the landlord at least 10 calendar days before executing the agreement for the first cover crop project during the term of the lease.

(ii) The Department may also require the granting to the State of an appropriate security interest in any equipment, structures or similar items purchased with State money.

**[(4)] (7)** A [cost sharing] **COST-SHARING** agreement executed as required under this subtitle may be assigned and transferred to a successor in title of all or part of a tract of land subject to a best management practice.

(b) **(1)** State [cost sharing] **COST-SHARING** funds shall be disbursed, [upon] **ON** warrant of the Comptroller, only after the Department has determined that the best management practice **OR FIXED NATURAL FILTER PRACTICE** has been established, or in the case of equipment, structures, or similar items, that it has been received and properly installed.

**(2)** Payment may be made either to the person when the person has advanced money, or directly to a vendor or contractor in accordance with the written

agreement required by this section, or supplemental written agreements with the vendor or contractor.

(c) (1) (I) **[The] EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH, THE** Secretary of Agriculture and the Secretary of the Environment shall jointly **[promulgate rules and] ADOPT** regulations to implement this subtitle.

(II) **[However, rules and regulations] REGULATIONS** solely involving internal management of the **[cost sharing] COST-SHARING** program need only be **[promulgated] ADOPTED** by the Secretary of Agriculture.

(III) The Department of Natural Resources shall be consulted **[prior to] BEFORE** any **[rule making effort] REGULATIONS ARE ADOPTED** to assure coordination with its sediment control and related watershed programs.

(2) All **[rules and] regulations [promulgated] ADOPTED** under this section shall be approved by the Board of Public Works prior to the use of the proceeds of State bonds in the **[cost sharing] COST-SHARING** program.

(3) The Department of Agriculture and the Department of the Environment may enter into agreements with appropriate federal and local governmental entities to assist in administering this subtitle.

### ~~Article—Environment~~

~~§ 1605.2.~~

~~(a) (1) There is a Bay Restoration Fund.~~

~~(h) (2) The Comptroller shall:~~

~~(ii) Transfer 40% of the funds to the Maryland Agriculture Water Quality [Cost Share] COST-SHARE Program in the Department of Agriculture in order to fund cover crop activities AND THE IMPLEMENTATION OF FIXED NATURAL FILTER PRACTICES AS DEFINED UNDER § 8-701 OF THE AGRICULTURE ARTICLE.~~

~~(i) (2) Funds in the Bay Restoration Fund shall be used only:~~

~~(xi) Subject to the allocation of funds and the conditions under subsection (h) of this section, for projects related to the removal of nitrogen from on-site sewage disposal systems [and], cover crop activities, AND FIXED NATURAL FILTER PRACTICES AS DEFINED UNDER § 8-701 OF THE AGRICULTURE ARTICLE;~~

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2020.

**Enacted under Article II, § 17(c) of the Maryland Constitution, May 8, 2020.**