

HOUSE BILL 1131

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2002 Regular Session
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By: **Delegates James, Rudolph, Hecht, Riley, Glassman, Parrott, R. Baker, W. Baker, Bobo, Boutin, Bronrott, Cadden, Conway, D'Amato, DeCarlo, Franchot, Getty, Heller, Hubbard, Hubers, Kach, Kagan, Malone, Mandel, McHale, McKee, Pitkin, Stocksdale, and Turner**

Introduced and read first time: February 8, 2002
Assigned to: Environmental Matters

Committee Report: Favorable with amendments
House action: Adopted
Read second time: March 21, 2002

CHAPTER _____

1 AN ACT concerning

2 **Local Land Preservation Programs**

3 FOR the purpose of providing for certain declarations of intent; authorizing local
4 governments to adopt local land preservation programs for certain purposes;
5 providing for the funding of local land preservation programs in a certain
6 manner; providing for the acquisition of certain interests in land in certain
7 manners and under certain conditions; requiring the development and review of
8 certain plans in connection with a local land preservation program; providing for
9 the review of certain applications by the Department of Natural Resources ~~and~~
10 ~~the approval of the applications by the Board of Public Works, subject to the~~
11 ~~availability of certain funding~~; requiring the Department of Natural Resources
12 to adopt criteria, review certain programs and plans, and make certain support
13 available to local jurisdictions that adopt local land preservation programs;
14 providing for consultation and coordination among certain governmental units
15 and other entities; making declarations of the General Assembly; defining
16 certain terms; authorizing certain State funding of certain local land
17 preservation programs under certain circumstances, subject to a certain
18 contingency; requiring certain local governments to notify the Department of
19 Natural Resources of certain actions; requiring the Department of Natural
20 Resources to notify certain units that a certain contingency has been met;
21 making certain portions of this Act subject to a certain contingency; requiring
22 the Department of the Environment and the Department of Natural Resources
23 to study and develop certain funding mechanisms, report on them to certain
24 committees on or before a certain date, and implement them under certain
25 circumstances; and generally relating to local land preservation programs and

1 land conservation.

2 BY adding to

3 Article - Natural Resources

4 Section 5-9B-01 through 5-9B-06, inclusive, to be under the new subtitle

5 "Subtitle 9B. Local Land Preservation Programs"

6 Annotated Code of Maryland

7 (2000 Replacement Volume and 2001 Supplement)

8 BY repealing and reenacting, with amendments,

9 Article - Environment

10 Section 9-1605

11 Annotated Code of Maryland

12 (1996 Replacement Volume and 2001 Supplement)

13 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF

14 MARYLAND, That the Laws of Maryland read as follows:

15 **Article - Natural Resources**

16 **SUBTITLE 9B. LOCAL LAND PRESERVATION PROGRAMS.**

17 5-9B-01.

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

20 (B) "APPLICATION" MEANS AN APPLICATION BY A LOCAL GOVERNMENT TO
21 THE BOARD OF PUBLIC WORKS TO FUND THE PURCHASE OF AN INTEREST IN REAL
22 PROPERTY UNDER A LOCAL LAND PRESERVATION PROGRAM.

23 (C) "PROGRAM" MEANS A LOCAL LAND PRESERVATION PROGRAM
24 ESTABLISHED IN ACCORDANCE WITH THIS SUBTITLE.

25 (D) "SPONSOR" MEANS A LOCAL GOVERNMENT.

26 5-9B-02.

27 ~~(A) THE GENERAL ASSEMBLY DECLARES THAT:~~

28 ~~(1) SPRAWL DEVELOPMENT AND OTHER MODIFICATIONS TO THE~~
29 ~~LANDSCAPE IN MARYLAND CONTINUE AT AN ALARMING RATE, CONSUMING LAND~~
30 ~~RICH IN NATURAL RESOURCE, AGRICULTURAL, AND FORESTRY VALUE, ADVERSELY~~
31 ~~AFFECTING WATER QUALITY, WETLANDS AND HABITAT, THREATENING~~
32 ~~RESOURCE BASED ECONOMIES AND CULTURAL ASSETS, AND RENDING THE FABRIC~~
33 ~~OF RURAL LIFE;~~

1 (2) ~~PRESERVING VALUABLE OPEN SPACE IN ITS NATURAL,~~
2 ~~AGRICULTURAL, OR FORESTRY USE WILL HELP CONTAIN SPRAWL DEVELOPMENT,~~
3 ~~IMPROVE THE WATER QUALITY OF THE CHESAPEAKE BAY AND ITS TRIBUTARIES BY~~
4 ~~LIMITING POINT AND NONPOINT SOURCES OF POLLUTION, AND HELP MEET A GOAL~~
5 ~~OF THE CHESAPEAKE BAY AGREEMENT PERMANENTLY TO PROTECT 20% OF THE~~
6 ~~CHESAPEAKE BAY WATERSHED BY 2010;~~

7 (3) ~~CURRENT STATE, COUNTY, AND LOCAL LAND CONSERVATION~~
8 ~~PROGRAMS HELP TO LIMIT THE EFFECT OF SPRAWL DEVELOPMENT BUT LACK~~
9 ~~SUFFICIENT FUNDING AND FOCUS TO PRESERVE KEY AREAS BEFORE ESCALATING~~
10 ~~LAND VALUES MAKE THEIR PROTECTION IMPOSSIBLE OR THE LAND IS LOST TO~~
11 ~~DEVELOPMENT; AND~~

12 (4) ~~LOCAL GRANT PROGRAMS THAT LEVERAGE AVAILABLE FUNDING,~~
13 ~~FOCUS ON PRESERVATION OF STRATEGIC RESOURCES, INCLUDING THOSE~~
14 ~~RESOURCES THREATENED BY SPRAWL DEVELOPMENT, STREAMLINE REAL~~
15 ~~PROPERTY ACQUISITION PROCEDURES TO EXPEDITE LAND PRESERVATION, TAKE~~
16 ~~ADVANTAGE OF INNOVATIVE PRESERVATION TECHNIQUES SUCH AS TRANSFERABLE~~
17 ~~DEVELOPMENT RIGHTS AND THE PURCHASE OF DEVELOPMENT RIGHTS, AND~~
18 ~~PROMOTE A GREATER LEVEL OF NATURAL AND ENVIRONMENTAL RESOURCES~~
19 ~~PROTECTION THAN IS PROVIDED BY EXISTING EFFORTS, WILL ESTABLISH A LEGACY~~
20 ~~FOR FUTURE GENERATIONS.~~

21 (A) THE GENERAL ASSEMBLY DECLARES THAT:

22 (1) IT IS STATE PUBLIC POLICY TO IMPROVE, CONSERVE, AND MANAGE
23 THE QUALITY OF THE WATERS OF THE STATE AND PROTECT, MAINTAIN, AND
24 IMPROVE THE QUALITY OF WATER FOR PUBLIC SUPPLIES, PROPAGATION OF
25 WILDLIFE, FISH AND AQUATIC LIFE, AND DOMESTIC, AGRICULTURAL, INDUSTRIAL,
26 RECREATIONAL, AND OTHER LEGITIMATE BENEFICIAL USES;

27 (2) IT IS ALSO THE POLICY OF THE STATE TO PRESERVE VALUABLE
28 OPEN SPACE IN ITS NATURAL, AGRICULTURAL, OR FORESTRY USE, WHICH WILL NOT
29 ONLY HELP CONTAIN SPRAWL DEVELOPMENT BUT WILL ALSO IMPROVE THE WATER
30 QUALITY OF THE CHESAPEAKE BAY AND ITS TRIBUTARIES BY LIMITING POINT AND
31 NONPOINT SOURCES OF POLLUTION AND HELP MEET A GOAL OF THE CHESAPEAKE
32 BAY AGREEMENT PERMANENTLY TO PROTECT 20% OF THE CHESAPEAKE BAY
33 WATERSHED BY 2010;

34 (3) THE PROMOTION OF WATER QUALITY IN THIS STATE IS CLOSELY
35 RELATED TO THE PROMOTION OF LAND PRESERVATION, REQUIRING INTEGRATION
36 AND COORDINATION OF THE PLANNING FOR THE DEVELOPMENT AND USE OF THE
37 WATER AND ASSOCIATED LAND RESOURCES AND INVITING INNOVATIVE SOLUTIONS
38 FOR PROTECTION OF WATERSHEDS, INCLUDING ACQUISITION OF LAND AND
39 EASEMENTS FOR WATER QUALITY PROTECTION AND PRESERVATION OF NATURAL
40 RESOURCES; AND

41 (4) NEW FUNDING SOURCES DESIGNED TO IMPROVE WATER QUALITY
42 AND LAND PRESERVATION SHOULD BE MADE AVAILABLE IN THE FORM OF

1 MATCHING GRANTS TO LOCAL GOVERNMENTS SO AS TO LEVERAGE AND FULLY
2 UTILIZE ALL AVAILABLE MONEYS AND CREATE INCENTIVES THAT WILL ENCOURAGE
3 LOCAL GOVERNMENTS TO DEVELOP THEIR OWN FUNDING FOR WATER QUALITY
4 PROTECTION AND LAND CONSERVATION AND PRESERVATION PROJECTS.

5 (B) (1) A COUNTY OR MUNICIPAL CORPORATION MAY ADOPT A LOCAL LAND
6 PRESERVATION PROGRAM TO ENHANCE NATURAL RESOURCE, AGRICULTURAL,
7 FORESTRY, AND ENVIRONMENTAL PROTECTION AND PARK AND RECREATIONAL
8 USES AS PROVIDED IN SUBSECTION (A) OF THIS SECTION WHILE MAINTAINING THE
9 VIABILITY OF RESOURCE-BASED LAND USAGE AND PROPER MANAGEMENT OF
10 TILLABLE AND WOODED AREAS THROUGH ACCEPTED AGRICULTURAL AND
11 SILVICULTURAL PRACTICES FOR FARM PRODUCTION AND TIMBER HARVESTS.

12 (2) A PROGRAM SHALL PROVIDE FUNDS TO THE LOCAL GOVERNMENT
13 UNITS TO PURCHASE INTERESTS IN REAL PROPERTY FROM WILLING SELLERS,
14 INCLUDING EASEMENTS, TRANSFERABLE DEVELOPMENT RIGHTS, AND FEE
15 ESTATES.

16 (3) A PROGRAM SHALL ENCOURAGE PARTNERSHIPS AMONG THE
17 FEDERAL, STATE, AND LOCAL GOVERNMENTS, AND NONPROFIT LAND TRUST
18 ORGANIZATIONS AND ENCOURAGE LOCAL LAND CONSERVATION INITIATIVES.

19 (4) EACH PROGRAM SHALL BE ADMINISTERED IN ACCORDANCE WITH
20 LOCAL LAW ADOPTED UNDER THE AUTHORITY OF THIS SUBTITLE.

21 (C) (1) A PROGRAM SHALL BE FUNDED BY A CONTINUING, DEDICATED, AND
22 CLEARLY IDENTIFIED LOCAL OR PRIVATE FUNDING SOURCE, NOT DERIVED FROM
23 STATE FUNDS, THAT IS ADOPTED IN ACCORDANCE WITH STATE OR LOCAL LAW.
24 FUNDING UNDER THE PROGRAM MAY NOT BE USED BY THE LOCAL GOVERNMENT TO
25 SUPPLANT EXISTING OR PLANNED LOCAL FUNDS DEDICATED TO LAND
26 PRESERVATION.

27 (2) SUBJECT TO AVAILABILITY OF FUNDS UNDER § 5-9B-05 OF THIS
28 SUBTITLE, A PROGRAM SHALL ALSO BE ELIGIBLE FOR STATE FUNDING EACH YEAR
29 THAT EQUALLY MATCHES LOCALLY PROVIDED FUNDING.

30 (3) COMMENCEMENT OF STATE FUNDING UNDER PARAGRAPH (2) OF
31 THIS SUBSECTION IS ALSO SUBJECT TO THE ATTAINMENT OF A SPECIFIED NUMBER
32 OF COUNTIES PARTICIPATING AND A SPECIFIED POPULATION OF PARTICIPATING
33 COUNTIES.

34 (D) THE LOCAL GOVERNING BODY MAY ADOPT REGULATIONS TO IMPLEMENT
35 A LOCAL LAND PRESERVATION PROGRAM UNDER THIS SUBTITLE, INCLUDING
36 PROCEDURES FOR EXPEDITING ACQUISITIONS AND PURCHASING AND SELLING
37 TRANSFERABLE DEVELOPMENT RIGHTS AND USING THE PROCEEDS RELATED TO
38 PURCHASING AND SELLING TRANSFERABLE DEVELOPMENT RIGHTS IN
39 ACCORDANCE WITH LOCAL LAW.

40 (E) (1) THE LOCAL GOVERNING BODY SHALL ESTABLISH A METHOD
41 ACCEPTABLE TO THE DEPARTMENT FOR APPRAISING THE VALUE OF CONSERVATION

1 EASEMENTS ACQUIRED UNDER THIS SUBTITLE. THE LOCAL GOVERNING BODY
2 SHALL USE THE METHOD USED BY THE COUNTY UNDER PROGRAM OPEN SPACE FOR
3 APPRAISING FEE SIMPLE INTERESTS IN PROPERTY ACQUIRED UNDER THIS
4 SUBTITLE.

5 (2) ANY METHOD FOR APPRAISAL ESTABLISHED BY A LOCAL
6 GOVERNING BODY MAY NOT INCLUDE A VALUE FOR ANY RESOURCE USED OR
7 RESERVED BY THE OWNER FOR PRIVATE ECONOMIC BENEFIT.

8 (F) A LOCAL GOVERNING BODY MAY ENTER INTO AGREEMENTS WITH OTHER
9 GOVERNMENTAL UNITS, INCLUDING THE RURAL LEGACY BOARD, THE MARYLAND
10 AGRICULTURAL LAND PRESERVATION FOUNDATION, AND THE MARYLAND
11 ENVIRONMENTAL TRUST, FOR THE PURPOSE OF ESTABLISHING PARTNERSHIPS TO
12 CARRY OUT A LOCAL LAND PRESERVATION PROGRAM.

13 5-9B-03.

14 (A) THE SPONSOR SHALL SUBMIT APPLICATIONS TO APPROPRIATE STATE
15 AND LOCAL UNITS AND CONSIDER ANY RECOMMENDATIONS MADE REGARDING THE
16 APPLICATIONS.

17 (B) AN EASEMENT ACQUIRED UNDER THIS SUBTITLE IS PERPETUAL AND MAY
18 NOT BE EXTINGUISHED OR RELEASED.

19 (C) (1) IN A COUNTY WITH A LOCALLY ADOPTED TRANSFERABLE
20 DEVELOPMENT RIGHTS PROGRAM AND WITH THE APPROVAL OF THE COUNTY,
21 FUNDS UNDER A PROGRAM MAY BE USED TO PURCHASE TRANSFERABLE
22 DEVELOPMENT RIGHTS IN THE COUNTY IN ACCORDANCE WITH THE LOCALLY
23 ADOPTED TRANSFERABLE DEVELOPMENT RIGHTS PROGRAM.

24 (2) THE RIGHT TO RESELL THE DEVELOPMENT RIGHT, IF ANY, SHALL BE
25 STATED IN THE INSTRUMENT OF PURCHASE.

26 (3) TRANSFERABLE DEVELOPMENT RIGHTS MAY BE RESOLD ONLY TO
27 OWNERS OR OPTION PURCHASERS OF REAL PROPERTY LOCATED IN PRIORITY
28 FUNDING AREAS, INCLUDING MUNICIPAL CORPORATIONS, WITHIN THE COUNTY IN
29 WHICH THE RIGHTS WERE PURCHASED.

30 (D) ALL EASEMENT ACQUISITIONS MUST BE RECORDED AMONG THE LAND
31 RECORDS WHERE THE REAL PROPERTY IS LOCATED.

32 5-9B-04.

33 (A) A SPONSOR THAT APPLIES FOR FUNDING TO IMPLEMENT A LOCAL LAND
34 PRESERVATION PROGRAM UNDER THIS SUBTITLE SHALL:

35 (1) DEVELOP A PLAN TO GUIDE THE CONSERVATION OF PROPERTY IN
36 THE JURISDICTION UNDER THE PROGRAM;

1 (2) ENSURE THAT EACH APPLICATION IS CONSISTENT WITH THE
2 APPROVED LOCAL LAND PRESERVATION AND RECREATION PLAN FOR THE COUNTY,
3 TO GUIDE THE ACQUISITION OF PROPERTY INTERESTS LISTED IN THE APPLICATION;
4 AND

5 (3) SUBMIT THE APPLICATION, DESCRIPTION OF PROPERTIES AND
6 EASEMENTS TO BE ACQUIRED, TOGETHER WITH A DESCRIPTION OF CONSISTENCY
7 WITH THE PLAN AND ANY CONDITIONS PLACED ON THE CONVEYANCE OF THE
8 PROPERTY, TO THE DEPARTMENT OF NATURAL RESOURCES FOR REVIEW.

9 (B) A SPONSOR MAY SATISFY THE REQUIREMENTS OF SUBSECTION (A)(1) OF
10 THIS SECTION WITH MATERIALS DEVELOPED UNDER OR IN CONJUNCTION WITH:

11 (1) THE COMPREHENSIVE PLAN FOR THE JURISDICTION REVIEWED AND
12 REVISED UNDER ARTICLE 66B, § 1.03(B) OR § 4.09 OF THE CODE;

13 (2) THE LOCAL LAND PRESERVATION AND RECREATION PLAN UNDER §
14 5-905 OF THIS TITLE;

15 (3) AN APPROVED LOCAL AGRICULTURAL LAND PRESERVATION
16 PROGRAM UNDER § 2-512 OF THE AGRICULTURE ARTICLE, FOR THE MARYLAND
17 AGRICULTURAL LAND PRESERVATION PROGRAM;

18 (4) AN APPROVED ANNUAL PROGRAM SUBMITTED BY THE SPONSOR
19 UNDER PROGRAM OPEN SPACE;

20 (5) AN APPROVED RURAL LEGACY AREA AND GRANT AGREEMENT
21 UNDER THE RURAL LEGACY PROGRAM UNDER SUBTITLE 9A OF THIS TITLE;

22 (6) THE GREENPRINT PROGRAM UNDER SUBTITLE 15A OF THIS TITLE;
23 OR

24 (7) ANOTHER ACQUISITION PLAN PREPARED BY, JOINTLY FUNDED, OR
25 ACCEPTED BY THE DEPARTMENT FOR THE PROTECTION OF LOCAL OR STATE LAND
26 PRESERVATION OR RECREATIONAL GOALS.

27 5-9B-05.

28 (A) A SPONSOR MAY SUBMIT FUNDING REQUESTS FOR ACQUISITION OF
29 PROPERTY UNDER ITS LOCAL LAND PRESERVATION PROGRAM TO THE DEPARTMENT
30 OF NATURAL RESOURCES FOR EVALUATION AND SUBMISSION TO THE BOARD OF
31 PUBLIC WORKS UNDER THIS SECTION.

32 (B) THE DEPARTMENT SHALL:

33 (1) REVIEW LOCAL PROGRAMS AND APPLICATIONS FOR FUNDING
34 SUBMITTED BY SPONSORS FOR CONSISTENCY WITH THE LOCAL PLANS UNDER §
35 5-9B-04(A) OF THIS SUBTITLE;

1 (2) SUBMIT APPLICATIONS REVIEWED UNDER PARAGRAPH (1) OF THIS
2 SUBSECTION TO THE BOARD OF PUBLIC WORKS FOR FUNDING, ALONG WITH THE
3 DEPARTMENT'S RECOMMENDATION ON THE APPLICATION; AND

4 (3) COORDINATE APPLICATIONS RECEIVED WITH AVAILABLE
5 REMAINING FUNDING.

6 (C) (1) APPLICATIONS FOR FUNDING UNDER THIS SECTION IN A FISCAL
7 YEAR SHALL BE RECEIVED AT A DATE DETERMINED BY THE DEPARTMENT AND
8 REVIEWED USING CRITERIA ESTABLISHED BY THE DEPARTMENT UNDER §
9 5-9B-06(A)(2) OF THIS SUBTITLE.

10 (2) APPLICATIONS RECOMMENDED FOR APPROVAL BY THE
11 DEPARTMENT SHALL BE FORWARDED TO THE BOARD OF PUBLIC WORKS WITH A
12 FAVORABLE RECOMMENDATION IN ACCORDANCE WITH THE CRITERIA.

13 ~~(D) (1) THE BOARD OF PUBLIC WORKS SHALL APPROVE STATE FUNDING
14 FOR QUALIFIED APPLICATIONS IN AN AMOUNT EQUAL TO THE FUNDING SUPPLIED
15 BY THE LOCAL GOVERNMENT, TO THE EXTENT THAT UNEXPENDED STATE MONEYS
16 ARE AVAILABLE FOR THAT FISCAL YEAR FROM:~~

17 ~~(1) 80% OF THE INTEREST EARNED IN THE PRECEDING FISCAL
18 YEAR BY THE MARYLAND WATER QUALITY REVOLVING LOAN FUND UNDER § 9-1605
19 OF THE ENVIRONMENT ARTICLE; AND~~

20 ~~(II) UP TO 15% OF ANY AVAILABLE SURPLUS IN THE STATE BUDGET
21 FOR THE CURRENT FISCAL YEAR.~~

22 ~~(2) AN APPLICATION THAT IS REJECTED DUE TO UNAVAILABILITY OF
23 STATE FUNDS IN A GIVEN FISCAL YEAR MAY BE RENEWED BY THE LOCAL
24 GOVERNMENT AT THE START OF THE NEXT FISCAL YEAR.~~

25 5-9B-06.

26 (A) THE DEPARTMENT OF NATURAL RESOURCES SHALL:

27 (1) PROVIDE TECHNICAL SUPPORT AND ASSISTANCE TO LOCAL
28 GOVERNMENTS IN THE DEVELOPMENT OF LOCAL LAND PRESERVATION PROGRAMS,
29 INCLUDING MAPPING, AND IDENTIFICATION OF SMALLER PARCELS THAT MAY BE
30 AGGREGATED FOR PROTECTION UNDER LOCAL LAND PRESERVATION PROGRAMS;

31 (2) ADOPT CRITERIA FOR DISTRIBUTING AVAILABLE STATE FUNDING TO
32 LOCAL LAND PRESERVATION PROGRAMS IN ACCORDANCE WITH THE PURPOSES OF
33 THIS SUBTITLE;

34 (3) ASSIST SPONSORS TO COORDINATE LAND PRESERVATION EFFORTS
35 IN THEIR REGIONS UNDER LOCAL LAND PRESERVATION AND RECREATION PLANS
36 WITH RELATED EFFORTS UNDER PROGRAM OPEN SPACE, THE RURAL LEGACY
37 PROGRAM, THE HERITAGE AREA PROGRAM, THE AGRICULTURAL LAND
38 PRESERVATION PROGRAM, AND THE GREENPRINT PROGRAM; AND

1 (4) CONSULT WITH OTHER FEDERAL, STATE, AND LOCAL UNITS AND
2 PRIVATE LAND TRUSTS IN ORDER TO FACILITATE CONSERVATION EFFORTS UNDER
3 THIS SUBTITLE.

4 (B) THE PURPOSES OF THE CRITERIA ADOPTED UNDER SUBSECTION (A) OF
5 THIS SECTION INCLUDE:

6 (1) PRESERVATION OF OPEN SPACE;

7 (2) CONTAINMENT OF SPRAWL DEVELOPMENT; AND

8 (3) IMPROVEMENT OF WATER QUALITY IN THE CHESAPEAKE BAY AND
9 OTHER WATERSHEDS OF THE STATE.

10 (C) THE CRITERIA SHALL BE BASED ON:

11 (1) THE CURRENT POPULATION OF PARTICIPATING JURISDICTIONS AND
12 ADJACENT AREAS;

13 (2) PROJECTED POPULATION GROWTH IN THOSE AREAS;

14 (3) THE SENSITIVITY OF SURFACE AND GROUND WATERS IN AND
15 DERIVED FROM THOSE AREAS TO DEGRADATION FROM POINT AND NONPOINT
16 SOURCE POLLUTION; AND

17 (4) GIVING HIGHER PRIORITY TO APPLICATIONS FOR THE PROTECTION
18 OF LANDS AND LAND USES THAT PROVIDE THE HIGHEST LEVEL OF PROTECTION FOR
19 WATER QUALITY.

20 (D) THE CRITERIA SHALL BE USED AT THE START OF EACH FISCAL YEAR TO
21 ALLOCATE FUNDING AVAILABLE TO LOCAL PROGRAMS IN PARTICIPATING LOCAL
22 GOVERNMENTS IN ORDER TO PROVIDE FOR APPROPRIATE AND TIMELY
23 DELIBERATION AND REVIEW OF ELIGIBLE PROPOSALS FOR ACQUISITION BY EACH
24 PARTICIPATING LOCAL GOVERNMENT.

25 (E) THE DEPARTMENT MAY INITIALLY ESTABLISH ALLOCATIONS OF
26 AVAILABLE FUNDING BASED ON THE FUNDING THAT IS MADE AVAILABLE TO EACH
27 PARTICIPATING LOCAL GOVERNMENT UNDER PROGRAM OPEN SPACE IN THE SAME
28 PROPORTION THAT THE LOCAL GOVERNMENT RECEIVES PROGRAM OPEN SPACE
29 FUNDING IN RELATION TO THE PROGRAM OPEN SPACE ALLOCATIONS OF ALL
30 PARTICIPATING LOCAL GOVERNMENTS.

31 SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland
32 read as follows:

Article - Environment

1 9-1605.

3 (a) (1) There is a Maryland Water Quality Revolving Loan Fund. The Water
4 Quality Fund shall be maintained and administered by the Administration in
5 accordance with the provisions of this subtitle and such rules or program directives as
6 the Secretary or the Board may from time to time prescribe.

7 (2) The Water Quality Fund is a special, continuing, nonlapsing fund
8 which is not subject to § 7-302 of the State Finance and Procurement Article and
9 which shall be available in perpetuity for the purpose of providing financial
10 assistance in accordance with the provisions of this subtitle and Title VI of the
11 Federal Water Pollution Control Act.

12 (3) Subject to the provisions of any applicable bond resolution regarding
13 the holding or application of amounts in the Water Quality Fund, the Treasurer shall
14 separately hold, and the Comptroller shall account for, the Water Quality Fund.

15 (4) (i) Except as provided in subparagraph (ii) of this paragraph, and
16 subject to the provisions of any applicable bond resolution governing the investment
17 of amounts in the Water Quality Fund, the Water Quality Fund shall be invested and
18 reinvested in the same manner as other State funds.

19 (ii) The Administration, in cooperation with the Treasurer, may
20 establish a linked deposit program to carry out the purposes of this subtitle and Title
21 VI of the Federal Water Pollution Control Act.

22 (5) [Any] SUBJECT TO PARAGRAPH (6) OF THIS SUBSECTION, ANY
23 investment earnings shall be retained to the credit of the Water Quality Fund.

24 (6) THE BOARD OF PUBLIC WORKS MAY APPROVE PAYMENT OF MONEYS
25 TO MATCH LOCAL FUNDING OF PROPERTY ACQUISITION BY LOCAL LAND
26 PRESERVATION PROGRAMS FROM THE INVESTMENT EARNINGS OF THE WATER
27 QUALITY FUND IN ACCORDANCE WITH § 5-9B-05 OF THE NATURAL RESOURCES
28 ARTICLE.

29 (7) The Water Quality Fund shall be subject to biennial audit by the
30 Office of Legislative Audits as provided for in § 2-1220 of the State Government
31 Article.

32 (b) There shall be deposited in the Water Quality Fund:

33 (1) Federal capitalization grants and awards or other federal assistance
34 received by the State pursuant to Title VI of the Federal Water Pollution Control Act
35 and any funds transferred to the Water Quality Fund pursuant to § 302 of the federal
36 Safe Drinking Water Act;

37 (2) Funds appropriated by the General Assembly for deposit to the Water
38 Quality Fund;

1 (3) Payments received from any borrower in repayment of a loan,
2 including amounts withheld by the State Comptroller and paid to the Administration
3 pursuant to a pledge made by a borrower under § 9-1606(d) of this article or § 7-222
4 of the State Finance and Procurement Article;

5 (4) Net proceeds of bonds issued by the Administration;

6 (5) Interest or other income earned on the investment of moneys in the
7 Water Quality Fund; and

8 (6) Any additional moneys made available from any sources, public or
9 private, for the purposes for which the Water Quality Fund has been established.

10 (c) The Administration may from time to time establish accounts and
11 subaccounts within the Water Quality Fund as may be deemed desirable to effectuate
12 the purposes of this subtitle, to comply with the provisions of any bond resolution, or
13 to meet any requirement of the Federal Water Pollution Control Act or rules or
14 program directives established by the Secretary or the Board. Such accounts and
15 subaccounts may include:

16 (1) A federal receipts account;

17 (2) A State receipts account;

18 (3) A management and administration expense account;

19 (4) A bond proceeds account;

20 (5) An account to segregate a portion or portions of the revenues or
21 corpus of the Water Quality Fund as security for bonds of the Administration;

22 (6) A loan repayment account; and

23 (7) An investment earnings account.

24 (d) Amounts in the Water Quality Fund may be used only:

25 (1) To make loans, on the condition that:

26 (i) The loans are made at or below market interest rates, including
27 interest free loans, at terms not to exceed 20 years;

28 (ii) Annual principal and interest payments will commence not
29 later than 1 year after completion of any wastewater facility and all loans will be fully
30 amortized not later than 20 years after project completion;

31 (iii) The local government borrower will establish a dedicated source
32 of revenue for repayment of loans;

1 (iv) In the case of a wastewater facility owned by a borrower other
2 than a local government, the borrower will provide adequate security for repayment
3 of loans; and

4 (v) The Water Quality Fund will be credited with all payments of
5 principal and interest on all loans;

6 (2) To buy or refinance debt obligations of local governments at or below
7 market rates, if such debt obligations were incurred after March 7, 1985;

8 (3) To guarantee, or purchase insurance for, bonds, notes, or other
9 evidences of obligation issued by a local government for the purpose of financing all or
10 a portion of the cost of a wastewater facility, if such action would improve credit
11 market access or reduce interest rates;

12 (4) As a source of revenue or security for the payment of principal and
13 interest on bonds issued by the Administration if the proceeds of the sale of such
14 bonds will be deposited in the Water Quality Fund;

15 (5) To earn interest on Water Quality Fund accounts;

16 (6) To establish a linked deposit program to promote loans for controlling
17 nonpoint sources of pollution and protecting the quality of the waters of the State;

18 (7) For the reasonable costs of administering the Water Quality Fund
19 and conducting activities under Title VI of the Federal Water Pollution Control Act;
20 [and]

21 (8) ONLY WITH RESPECT TO A PORTION OF THE INVESTMENT EARNINGS
22 OF THE WATER QUALITY FUND, TO MATCH LOCAL FUNDING OF PROPERTY
23 ACQUISITION THROUGH LOCAL LAND PRESERVATION PROGRAMS UNDER TITLE 5,
24 SUBTITLE 9B OF THE NATURAL RESOURCES ARTICLE FOR THE PRESERVATION OF
25 OPEN SPACE AND LAND FROM DEVELOPMENT THAT MAY HAVE AN ADVERSE EFFECT
26 ON SURFACE OR GROUND WATERS OF THE STATE; AND

27 [(8)] (9) For any other purpose authorized by Title VI of the Federal
28 Water Pollution Control Act or § 302 of the federal Safe Drinking Water Act.

29 (e) The costs of administering the Water Quality Fund shall be paid from
30 federal capitalization grants and awards, from bond sale proceeds, and from amounts
31 received from borrowers pursuant to loan agreements, and not from any State
32 moneys appropriated to the Fund, except general funds of the State used to match
33 federal capitalization grants and awards to the Water Quality Fund.

34 SECTION 3. AND BE IT FURTHER ENACTED, That each jurisdiction that
35 establishes a local land preservation program under this Act shall notify the
36 Comptroller and the Departments of Natural Resources, the Environment, and
37 Legislative Services of the establishment, and of the current population of the
38 jurisdiction. The Department of Natural Resources shall notify the Comptroller and
39 the Departments of the Environment and Legislative Services when at least three

1 counties have adopted local land preservation programs under Section 1 of this Act
2 and the cumulative population of jurisdictions that have adopted local land
3 preservation programs under Section 1 of this Act is at least 750,000.

4 SECTION 4. AND BE IT FURTHER ENACTED, That Section 2 of this Act shall
5 take effect on the later of July 1, 2004 or the date that the Department of Natural
6 Resources notifies the Comptroller and the Departments of the Environment and
7 Legislative Services that at least three counties have established local land
8 preservation programs under this Act and that the cumulative population of
9 jurisdictions that have adopted local land preservation programs under this Act is at
10 least 750,000, without further action required by the General Assembly. If the
11 requirements for the minimum number of counties and population for availability of
12 State funding under this section and Section 3 have been met, and Section 2 of this
13 Act takes effect, funding under Section 2 of this Act may continue thereafter
14 notwithstanding any subsequent change in the number of participating counties or
15 level of population.

16 ~~SECTION 5. AND BE IT FURTHER ENACTED, That this Act may not take~~
17 ~~effect until the State receives appropriate authorization from the United States~~
18 ~~Environmental Protection Agency to use funding derived from interest on the~~
19 ~~Maryland Water Quality Revolving Loan Fund to match local funding for local land~~
20 ~~preservation programs under this Act; that on or before December 31, 2002, the~~
21 ~~Governor shall petition the Environmental Protection Agency for that authorization~~
22 ~~under federal law; and that if the Environmental Protection Agency does not provide~~
23 ~~appropriate authorization for the matching of local funding for local land preservation~~
24 ~~programs under this Act on or before December 31, 2003, this Act shall be null and~~
25 ~~void without the necessity of further action by the General Assembly.~~

26 ~~SECTION 6. AND BE IT FURTHER ENACTED, That, except as provided in~~
27 ~~Sections 3, 4, and 5 of this Act, this Act shall take effect October 1, 2002.~~

28 SECTION 5. AND BE IT FURTHER ENACTED, That the Department of the
29 Environment and the Department of Natural Resources shall collaborate to study and
30 develop viable funding mechanisms, including the leveraging of federal and State
31 funds, to implement State funding to match funding provided by local governments
32 under local land preservation programs under this Act. The departments shall report
33 their findings and recommendations, including any necessary administrative or
34 legislative changes needed to implement these funding mechanisms, on or before
35 October 1, 2002 to the House Appropriations and Environmental Matters committees
36 and the Senate Budget and Taxation and Education, Health, and Environmental
37 Affairs committees. If the departments identify viable funding mechanisms under
38 this section that do not require legislation for implementation, the departments shall
39 implement State matching funds in accordance with those funding mechanisms and
40 other applicable law and shall notify the committees set forth above in this section
41 and the Department of Legislative Services of that implementation.

42 SECTION 6. AND BE IT FURTHER ENACTED, That the State shall take the
43 appropriate steps to work in partnership with the United States Environmental
44 Protection Agency and other appropriate federal agencies to identify and secure

1 financial support from the federal government for local land acquisition and
2 preservation programs under this Act.

3 SECTION 7. AND BE IT FURTHER ENACTED, That Section 5 of this Act shall
4 take effect June 1, 2002.

5 SECTION 8. AND BE IT FURTHER ENACTED, That, except as provided in
6 Sections 4 and 7 of this Act, this Act shall take effect October 1, 2002.