

HOUSE BILL 783

M1, B2, Q6

9lr2311

By: **Delegates James, Bohanan, and Gaines**

Introduced and read first time: February 11, 2009

Assigned to: Environmental Matters

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 25, 2009

CHAPTER _____

1 AN ACT concerning

2 **Transfer Tax – Program Open Space Bonds – Land and Easement Acquisition**

3 FOR the purpose of ~~authorizing the Department of Natural Resources, by resolution of~~
4 ~~the Secretary of Natural Resources and subject to the approval of the Board of~~
5 ~~Public Works, to issue certain bonds for the purpose of land acquisition;~~
6 ~~providing for the use of the proceeds; providing that, in addition to other~~
7 funding, Program Open Space funding may be provided in the State
8 Consolidated Capital Bond Funding Program or in separate bond enabling acts;
9 providing that a bond enabling act that provides funding for a particular
10 Program Open Space purpose may not affect the allocation of funds for certain
11 other purposes; providing for the reduction of the distribution of revenues in a
12 certain special fund in an amount equal to the debt service for a certain fiscal
13 year; authorizing, on a certain request, the creation of a State Debt in the
14 amount of Sixty Million Dollars (\$60,000,000), the proceeds to be used for
15 certain land acquisition and easement purchases of the State under certain
16 circumstances; providing generally for the issuance and sale of bonds evidencing
17 the loan under certain circumstances; imposing a certain tax on certain
18 instruments of writing and pledging the proceeds of the tax for certain
19 payments under certain circumstances; requiring the proceeds of a certain tax
20 to be used for the payment of principal and interest on certain bonds under
21 certain circumstances; altering the distribution of the proceeds of a certain tax
22 under certain circumstances; authorizing the Department of Natural Resources
23 to purchase certain real property based on an offer by the State that is less than
24 a certain appraisal; stating the intent of the General Assembly that certain
25 bonds not be included in a certain calculation unless and until the bonds have
26 been issued; authorizing the Comptroller under certain circumstances to

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 advance certain funds for certain land acquisition and easement purchases of
 2 the State; providing that bonds issued under this Act are not subject to a certain
 3 termination provision; dedicating certain revenues from the State transfer tax
 4 to payment of principal and interest on the bonds; and generally relating to the
 5 authority of the Department of Natural Resources to authorize the issuance of
 6 Program Open Space bonds funding.

7 BY ~~adding to~~ repealing and reenacting, with amendments,
 8 Article – Natural Resources
 9 Section ~~5-902.1~~ 5-902(c) and 5-903(a)(2)
 10 Annotated Code of Maryland
 11 (2005 Replacement Volume and 2008 Supplement)

12 BY ~~adding to~~ repealing and reenacting, with amendments,
 13 Article – Tax – Property
 14 Section ~~13-209(h)~~ 13-209(a)
 15 Annotated Code of Maryland
 16 (2007 Replacement Volume and 2008 Supplement)

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

19 **Article – Natural Resources**

20 **~~5-902.1.~~**

21 ~~(A) (1) SUBJECT TO THE APPROVAL OF THE BOARD OF PUBLIC~~
 22 ~~WORKS, THE DEPARTMENT MAY, BY RESOLUTION OF THE SECRETARY, BORROW~~
 23 ~~MONEY AND INCUR INDEBTEDNESS THROUGH ISSUANCE OF PROGRAM OPEN~~
 24 ~~SPACE BONDS.~~

25 ~~(2) THE INDEBTEDNESS AUTHORIZED UNDER THIS SECTION~~
 26 ~~SHALL BE EVIDENCED BY THE ISSUANCE, SALE, AND DELIVERY OF PROGRAM~~
 27 ~~OPEN SPACE BONDS IN ACCORDANCE WITH TITLE 8, SUBTITLE 2 OF THE STATE~~
 28 ~~FINANCE AND PROCUREMENT ARTICLE AND ARTICLE 31, § 22 OF THE CODE.~~

29 ~~(B) THE BONDS TO EVIDENCE THE INDEBTEDNESS AUTHORIZED UNDER~~
 30 ~~THIS SECTION OR INSTALLMENTS OF THE INDEBTEDNESS AUTHORIZED UNDER~~
 31 ~~THIS SECTION MAY BE SOLD AS A SINGLE ISSUE OR MAY BE CONSOLIDATED AND~~
 32 ~~SOLD AS PART OF A SINGLE ISSUE OF BONDS.~~

33 ~~(C) THE CASH PROCEEDS OF THE SALE OF THE BONDS SHALL BE PAID~~
 34 ~~TO THE STATE TREASURER AND FIRST SHALL BE APPLIED TO THE PAYMENT OF~~
 35 ~~THE EXPENSES OF ISSUING, SELLING, AND DELIVERING THE BONDS, UNLESS~~
 36 ~~FUNDS FOR THIS PURPOSE ARE OTHERWISE PROVIDED, AND THEN SHALL BE~~
 37 ~~CREDITED ON THE BOOKS OF THE COMPTROLLER AND EXPENDED, ON~~

~~1 APPROVAL BY THE BOARD OF PUBLIC WORKS, FOR STATE LAND ACQUISITION
2 UNDER THIS SUBTITLE, INCLUDING ANY APPLICABLE ARCHITECTS' AND
3 ENGINEERS' FEES.~~

~~4 (D) (1) FOR THE PURPOSE OF PAYING THE PRINCIPAL OF AND
5 INTEREST ON THE BONDS, AS AND WHEN DUE AND UNTIL PAID IN FULL, THE
6 TRANSFER TAX UNDER TITLE 13, SUBTITLE 2 OF THE TAX - PROPERTY
7 ARTICLE IS HEREBY IMPOSED AND DEDICATED.~~

~~8 (2) THE PRINCIPAL SHALL BE DISCHARGED WITHIN 15 YEARS
9 AFTER THE DATE OF ISSUE OF THE BONDS.~~

10 5-902.

11 (c) (1) To effectuate the purposes of this section, the General Assembly
12 has established a TRANSFER TAX funding program under [Chapter 403 of the Acts of
13 the General Assembly of 1969] TITLE 13, SUBTITLE 2 OF THE TAX - PROPERTY
14 ARTICLE.

15 (2) IN ADDITION TO OR IN LIEU OF THE FUNDING UNDER
16 PARAGRAPH (1) OF THIS SUBSECTION, PROGRAM OPEN SPACE FUNDING MAY
17 BE PROVIDED IN THE STATE CONSOLIDATED CAPITAL BOND FUNDING
18 PROGRAM OR IN A SEPARATE BOND ENABLING ACT.

19 (3) In any fiscal year in which funding for Program Open Space is
20 provided through the State Consolidated Capital Bond Funding Program or other bond
21 enabling act, UNLESS OTHERWISE PROVIDED BY THE ENABLING ACT, [the debt
22 allocations shall be provided to the Department of Natural Resources and] the
23 Department shall allocate THE funds [among local governing bodies according to the
24 apportionment formula] AS described in § 5-903 of this subtitle.

25 (4) A BOND ENABLING ACT THAT PROVIDES FUNDING FOR A
26 PARTICULAR PROGRAM OPEN SPACE PURPOSE MAY NOT AFFECT THE
27 ALLOCATION OF FUNDS UNDER § 5-903 OF THIS SUBTITLE.

28 5-903.

29 (a) (2) (i) 1. Of the remaining funds not appropriated under
30 paragraph (1) of this subsection:

31 A. One half of the funds shall be used for recreation and
32 open space purposes by the Department and the Historic St. Mary's City Commission;
33 and

1 B. 20% of the funds or \$21,000,000, whichever is greater,
2 shall be appropriated to the Forest and Park Service in the Department to operate
3 State forests and parks.

4 2. Except as otherwise provided in this section, any
5 funds the General Assembly appropriates to the State under this subsection shall be
6 used only for land acquisition projects.

7 (ii) At least \$1,500,000 of the State's share of funds available
8 under subparagraph (i)1A of this paragraph for this program shall be utilized to make
9 grants to Baltimore City for projects which meet park purposes. The grants shall be in
10 addition to any funds Baltimore City is eligible to receive under subsection (b) of this
11 section, and may be used for acquisition or development. In order for Baltimore City to
12 be eligible for a State grant, the Department shall review projects or land to be
13 acquired within Baltimore City, and upon the Department's recommendation, the
14 Board of Public Works may approve projects and land including the cost. Title to the
15 land shall be in the name of the Mayor and City Council of Baltimore City. The State
16 is not responsible for costs involved in the development or maintenance of the land.

17 (iii) 1. A portion of the State's share of funds available under
18 subparagraph (i)1A of this paragraph for this program not to exceed \$8,000,000 for
19 each fiscal year may be transferred by an appropriation in the State budget to the
20 Rural Legacy Program under Subtitle 9A of this title.

21 2. In each fiscal year, up to \$2 million of the funds
22 transferred under this subparagraph to the Rural Legacy Program may be used to
23 purchase zero coupon bonds for easements.

24 3. Sums allocated to the Rural Legacy Program may not
25 revert to the General Fund of the State.

26 **(IV) THE DEPARTMENT MAY ACQUIRE REAL PROPERTY**
27 **UNDER SUBPARAGRAPH (I)1A OF THIS PARAGRAPH BASED ON AN OFFER BY THE**
28 **STATE THAT IS LESS THAN THE LOWEST APPROVED APPRAISAL FOR THE**
29 **PROPERTY.**

30 **Article - Tax - Property**

31 13-209.

32 ~~**(H) THE AMOUNT ALLOCATED IN THE STATE BUDGET FOR LAND**~~
33 ~~**ACQUISITION UNDER TITLE 5, SUBTITLE 9 OF THE NATURAL RESOURCES**~~
34 ~~**ARTICLE (PROGRAM OPEN SPACE) SHALL BE APPROPRIATED IN THE FIRST**~~
35 ~~**INSTANCE FOR PAYMENT OF PRINCIPAL AND INTEREST ON PROGRAM OPEN**~~
36 ~~**SPACE BONDS ISSUED UNDER § 5-902.1 OF THE NATURAL RESOURCES**~~
37 ~~**ARTICLE.**~~

1 (a) (1) BEFORE ANY OTHER DISTRIBUTION UNDER THIS SECTION, IN
2 ANY FISCAL YEAR THAT BONDS SECURED BY A PLEDGE OF THE STATE
3 TRANSFER TAX ARE OUTSTANDING, THE REVENUE FROM THE TRANSFER TAX
4 SHALL BE USED TO PAY, AS AND WHEN DUE, THE PRINCIPAL OF AND INTEREST
5 ON THE BONDS.

6 (2) The Department shall deduct the cost of administering the transfer
7 tax from the taxes collected under this title and credit those revenues to the fund
8 established under § 1-203.3 of the Corporations and Associations Article.

9 ~~[(2)]~~ (3) EXCEPT AS PROVIDED IN PARAGRAPH (4) OF THIS
10 SUBSECTION, [After] AFTER deducting the revenues required under [paragraph (1)]
11 PARAGRAPHS (1) AND (2) of this subsection, the revenue from transfer tax is payable
12 to the Comptroller for deposit in a special fund.

13 (4) IN ANY FISCAL YEAR IN WHICH TRANSFER TAX REVENUE IS
14 USED TO PAY DEBT SERVICE ON OUTSTANDING BONDS UNDER PARAGRAPH (1)
15 OF THIS SUBSECTION, THE DISTRIBUTION OF REVENUES IN THE SPECIAL FUND
16 UNDER THIS SECTION AND AS SPECIFIED IN SUBPARAGRAPH (I)1A OF §
17 5-903(A)(2) OF THE NATURAL RESOURCES ARTICLE, FOR STATE LAND
18 ACQUISITION, OR TO THE AGRICULTURAL LAND PRESERVATION FUND TO THE
19 EXTENT ANY DEBT SERVICE IS ATTRIBUTABLE TO THAT FUND, SHALL BE
20 REDUCED BY AN AMOUNT EQUAL TO THE DEBT SERVICE FOR THE FISCAL YEAR.

21 SECTION 2. AND BE IT FURTHER ENACTED, That:

22 (1) On request of the Secretary of Natural Resources, the Board of Public
23 Works may borrow money and incur special obligation indebtedness through a special
24 obligation loan to be known as the Program Open Space Acquisition Opportunity Loan
25 of 2009 in the total principal amount up to \$60,000,000. This loan shall be evidenced
26 by the issuance, sale, and delivery of Maryland Program Open Space bonds
27 authorized, issued, sold, and delivered in accordance with a resolution adopted by the
28 Board of Public Works.

29 (2) The bonds to evidence the loan or installments of the loan may be sold as
30 a single issue or may be consolidated and sold as part of a single issue of bonds under
31 § 8-122 of the State Finance and Procurement Article.

32 (3) The cash proceeds of the sale of the bonds shall be paid to the Treasurer
33 and first shall be applied to the payment of the expenses of issuing, selling, and
34 delivering the bonds, unless funds for this purpose are otherwise provided, and then
35 shall be credited on the books of the Comptroller and expended, only on approval by
36 the Board of Public Works, for the following public purposes: as a grant to the
37 Department of Natural Resources for:

1 (a) the acquisition by the State of land for Program Open Space only if
2 the cost of the land to be acquired is supported by current appraisals and the land
3 presents a unique acquisition opportunity, as a result of:

4 (i) the reduced price of the land; or

5 (ii) the extraordinary location or environmental value of the
6 land; and

7 (b) on the request of the Secretary of Agriculture, up to \$5,000,000 of
8 the proceeds may be transferred to the Agricultural Land Preservation Fund for the
9 purchase of easements that present unique opportunities as a result of:

10 (i) the reduced price of the easements; or

11 (ii) the extraordinary location or agricultural value of the
12 easements.

13 (4) A State transfer tax is imposed on instruments of writing as provided
14 under Title 13, Subtitle 2 of the Tax – Property Article and is hereby pledged to the
15 extent necessary to pay the principal of and interest on the bonds, as and when due
16 and until paid in full. The principal shall be discharged within 15 years after the date
17 of issuance of the bonds.

18 (5) The proceeds of the sale of these bonds may not be used to reimburse the
19 State for the acquisition of land prior to the effective date of this Act.

20 SECTION 3. AND BE IT FURTHER ENACTED, That it is the intent of the
21 General Assembly that the \$60,000,000 of Program Open Space bonds authorized by
22 this Act not be included as State tax supported debt by the Capital Debt Affordability
23 Committee, in accordance with § 8–112 of the State Finance and Procurement Article,
24 unless and until the bonds authorized by this Act have been issued.

25 SECTION 4. AND BE IT FURTHER ENACTED, That the Comptroller may,
26 upon the request of the Department of Natural Resources, advance funds for land
27 acquisition opportunity purposes under this Act, provided that if special obligation
28 bonds have not been issued under the authority of this Act, the Board of Public Works
29 shall within 1 year issue Program Open Space bonds under the authority of this Act in
30 an amount at least equivalent to the amount of the funds so advanced.

31 SECTION 5. AND BE IT FURTHER ENACTED, That the bond authorization
32 under Section 1 of this Act is not subject to § 8–128 of the State Finance and
33 Procurement Article.

34 SECTION ~~2~~ 6. AND BE IT FURTHER ENACTED, That this Act shall take
35 effect ~~July~~ June 1, 2009.