

## CHAPTER 206

(Senate Bill 163)

AN ACT concerning

### **Program Open Space – Use of Funds – Indoor or Outdoor Recreational Facilities**

FOR the purpose of authorizing a local government body to use certain Program Open Space funds for the construction of certain indoor or outdoor recreational facilities; requiring certain indoor recreational facilities to meet or exceed a certain rating under certain circumstances; requiring certain indoor recreational facilities to incorporate, to the maximum extent practicable, certain site design standards; altering the percentage of funds that the State shall provide to a local governing body for the construction of an indoor recreational facility located outside of a priority funding area under certain circumstances; altering the percentage of funds that the State shall provide to a local governing body for the acquisition of land located within a priority funding area under certain circumstances; requiring the Department of Planning, in consultation with the Department of Natural Resources, to conduct a certain evaluation; requiring the Department of Planning to report its evaluation to certain committees of the General Assembly on or before a certain date; providing for the application of this Act; making this Act an emergency measure; and generally relating to the use of funds for Program Open Space.

BY repealing and reenacting, without amendments,  
Article – Natural Resources  
Section 5–903(a)  
Annotated Code of Maryland  
(2005 Replacement Volume and 2008 Supplement)

BY repealing and reenacting, with amendments,  
Article – Natural Resources  
Section 5–903(b) and 5–905(c)(3)  
Annotated Code of Maryland  
(2005 Replacement Volume and 2008 Supplement)

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

#### **Article – Natural Resources**

5–903.

(a) (1) Of the funds distributed to Program Open Space under § 13–209 of the Tax – Property Article, up to \$3,000,000 may be transferred by an appropriation in the State budget, or by an amendment to the State budget under Title 7, Subtitle 2 of the State Finance and Procurement Article, to the Maryland Heritage Areas Authority Financing Fund established under Title 13, Subtitle 11 of the Financial Institutions Article to be used for the purposes provided in that subtitle.

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

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

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

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

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

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

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

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

(b) (1) The General Assembly shall appropriate the remaining funds not appropriated under subsection (a) of this section to assist local governing bodies in acquisition and development of land for recreation and open space purposes.

(2) ~~FUNDS~~ EXCEPT AS PROVIDED IN PARAGRAPH (3) OF THIS SUBSECTION, FUNDS APPROPRIATED UNDER PARAGRAPH (1) OF THIS SUBSECTION FOR DEVELOPMENT OF LAND FOR RECREATION AND OPEN SPACE PURPOSES MAY BE USED FOR INDOOR OR OUTDOOR RECREATION AND OPEN SPACE PURPOSES, INCLUDING THE CONSTRUCTION OF INDOOR OR OUTDOOR RECREATIONAL FACILITIES SUCH AS AQUATIC, GOLF, COMMUNITY, AND NATURE CENTERS.

(3) AN INDOOR RECREATIONAL FACILITY FUNDED UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL:

(i) IF THE FACILITY IS 7,500 SQUARE FEET OR GREATER, MEET OR EXCEED THE CURRENT VERSION OF THE U.S. GREEN BUILDING COUNCIL'S LEED GREEN BUILDING RATING SYSTEM SILVER RATING, HOWEVER, THE FACILITY IS NOT REQUIRED TO BE CERTIFIED THROUGH THE LEED CERTIFICATION PROCESS; AND

(ii) INCORPORATE, TO THE MAXIMUM EXTENT PRACTICABLE, THE NONSTRUCTURAL SITE DESIGN PRACTICES IN THE MARYLAND STORMWATER DESIGN MANUAL, INCORPORATED BY REFERENCE IN COMAR 26.17.02.

5-905.

(c) (3) (i) [If] EXCEPT AS PROVIDED IN SUBPARAGRAPH (III) OF THIS PARAGRAPH, IF the local governing body is unable to obtain federal funds pursuant to § 5-906 of this subtitle, for each approved local development project the State shall provide:

1. 75 percent of the total project cost; or
2. If the Department has certified pursuant to paragraph (1) of this subsection that acquisition goals have been met, 90 percent of the total project cost.

(ii) [If] EXCEPT AS PROVIDED IN SUBPARAGRAPH (III) OF THIS PARAGRAPH, IF federal funds are provided on any acquisition or development project cost, the State shall provide 50 percent of the difference between the total project cost and the federal contribution. Subject to the limitation that total State funds, when added to every other available fund, may not exceed 100 percent of a project's cost, the minimum State contribution to a project shall be 25 percent. If the

federal funds are less than 50 percent of the total project cost, the State shall provide an amount equal to the difference between the federal contribution and:

1. 75 percent of the total project cost; or
2. If the Department has certified pursuant to paragraph (1) of this subsection that acquisition goals have been met, 90 percent of the total project cost.

**(III) 1. SUBJECT TO THE REQUIREMENT IN SUBSUBPARAGRAPH 3 OF THIS SUBPARAGRAPH, IF A LOCAL GOVERNING BODY USES ITS FUNDS APPROPRIATED UNDER § 5-903(B)(1) OF THIS SUBTITLE TO ACQUIRE LAND WITHIN A PRIORITY FUNDING AREA, AS DEFINED IN § 5-7B-02 OF THE STATE FINANCE AND PROCUREMENT ARTICLE, THE STATE SHALL PROVIDE 90 PERCENT OF THE TOTAL PROJECT COST.**

**2. IF A LOCAL GOVERNING BODY USES ITS FUNDS APPROPRIATED UNDER § 5-903(B)(1) OF THIS SUBTITLE TO CONSTRUCT AN INDOOR RECREATIONAL FACILITY THAT IS NOT ANCILLARY AND NECESSARY FOR OUTDOOR RECREATION, AND WILL BE LOCATED OUTSIDE OF A PRIORITY FUNDING AREA, AS DEFINED IN § 5-7B-02 OF THE STATE FINANCE AND PROCUREMENT ARTICLE, THE STATE SHALL PROVIDE 50 PERCENT OF THE TOTAL PROJECT COST.**

**3. THE STATE SHALL PROVIDE 90 PERCENT OF THE TOTAL PROJECT COST UNDER SUBSUBPARAGRAPH 1 OF THIS SUBPARAGRAPH IF THE LOCAL GOVERNING BODY AGREES TO LIMIT THE AMOUNT OF IMPERVIOUS SURFACE ON THE LAND ACQUIRED WITHIN A PRIORITY FUNDING AREA, AS DEFINED IN § 5-7B-02 OF THE STATE FINANCE AND PROCUREMENT ARTICLE, TO NO MORE THAN 10 PERCENT OF THE LAND.**

SECTION 2. AND BE IT FURTHER ENACTED, That the Department of Planning shall evaluate, in consultation with the Department of Natural Resources and local governments, the degree to which State goals for recreation, parks, open space, and land acquisition are being effectively addressed through the local side Program Open Space process. On or before October 1, 2010, the Department of Planning shall report its evaluation, as well as any recommended statutory or administrative changes, to the Senate Education, Health, and Environmental Affairs Committee and the House Environmental Matters Committee, in accordance with § 2-1246 of the State Government Article.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall be construed to apply prospectively and may not be applied or interpreted to have any effect on projects initiated prior to the effective date of this Act.

SECTION ~~2~~ 4. AND BE IT FURTHER ENACTED, That this Act is an emergency measure, is necessary for the immediate preservation of the public health or safety, has been passed by a yea and nay vote supported by three-fifths of all the members elected to each of the two Houses of the General Assembly, and shall take effect from the date it is enacted.

**Approved by the Governor, May 7, 2009.**