HOUSE BILL 1125

By: **Delegates Holmes, Barkley, Beidle, Cane, G. Clagett, Elmore, James, Jameson, Love, McConkey, Norman, O'Donnell, Serafini, Sossi, Stull, and Wood**

Introduced and read first time: February 17, 2010

Assigned to: Environmental Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Stormwater Management – Development Projects – Redevelopment and**
3 **Preliminary Plan Approval**

4 FOR the purpose of establishing certain requirements for a certain redevelopment
5   project design; authorizing a certain developer to pay a certain fee–in–lieu
6   payment to a certain local government to offset certain stormwater
7   management requirements; requiring a certain fee–in–lieu payment to be in an
8   amount determined by a local government and used for certain purposes;
9   authorizing a person to submit a certain stormwater management plan that
10   complies with certain laws and regulations if a certain development project
11   receives certain approvals before a certain date; defining certain terms; making
12   this Act an emergency measure; and generally relating to stormwater
13   management.

14 BY repealing and reenacting, with amendments,
15   Article – Environment
16   Section 4–203(b) and 4–204
17   Annotated Code of Maryland
18   (2007 Replacement Volume and 2009 Supplement)

19 BY adding to
20   Article – Environment
21   Section 4–203(e)
22   Annotated Code of Maryland
23   (2007 Replacement Volume and 2009 Supplement)

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

EXPLANATION: **CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.**
        [Brackets] indicate matter deleted from existing law.

1   **Article – Environment**

2   4–203.

3   (b)   **[**The**]** SUBJECT TO SUBSECTION (E) OF THIS SECTION, THE
4   Department shall adopt rules and regulations which establish criteria and procedures
5   for stormwater management in Maryland. The rules and regulations shall:

6   (1)   Indicate that the primary goal of the State and local programs will
7   be to maintain after development, as nearly as possible, the predevelopment runoff
8   characteristics;

9   (2)   Make allowance for the difference in hydrologic characteristics and
10   stormwater management needs of different parts of the State;

11   (3)   Specify that watershed–wide analyses may be necessary to prevent
12   undesirable downstream effects of increased stormwater runoff;

13   (4)   Specify the exemptions a county or municipality may grant from
14   the requirements of submitting a stormwater management plan;

15   (5)   (i)   Specify the minimum content of the local ordinances or the
16   rules and regulations of the affected county governing body to be adopted which may
17   be done by inclusion of a model ordinance or model rules and regulations; and

18   (ii)   Establish regulations and a model ordinance that require:

19   1.   The implementation of environmental site design to
20   the maximum extent practicable;

21   2.   The review and modification, if necessary, of planning
22   and zoning or public works ordinances to remove impediments to environmental site
23   design implementation; and

24   3.   A developer to demonstrate that:

25   A.   Environmental site design has been implemented to
26   the maximum extent practicable; and

27   B.   Standard best management practices have been used
28   only where absolutely necessary;

29   (6)   Indicate that water quality practices may be required for any
30   redevelopment, even when predevelopment runoff characteristics are maintained;

31   (7)   Specify   the   minimum   requirements   for   inspection   and
32   maintenance of stormwater practices;

1   (8)   Specify all stormwater management plans shall be designed to:

2   (i)   Prevent soil erosion from any development project;

3   (ii)   Prevent, to the maximum extent practicable, an increase in
4 nonpoint pollution;

5   (iii)   Maintain the integrity of stream channels for their biological
6 function, as well as for drainage;

7   (iv)   Minimize pollutants in stormwater runoff from new
8 development and redevelopment in order to:

9   1.   Restore, enhance and maintain the chemical,
10 physical, and biological integrity of the waters of the State;

11   2.   Protect public health;

12   3.   Safeguard fish and aquatic life and scenic and
13 ecological values; and

14   4.   Enhance the domestic, municipal, recreational,
15 industrial, and other uses of water as specified by the Department;

16   (v)   Protect public safety through the proper design and
17 operation of stormwater management facilities;

18   (vi)   Maintain 100% of average annual predevelopment
19 groundwater recharge volume for the site;

20   (vii)   Capture and treat stormwater runoff to remove pollutants
21 and enhance water quality;

22   (viii) Implement a channel protection strategy to reduce
23 downstream erosion in receiving streams; and

24   (ix)   Implement quantity control strategies to prevent increases
25 in the frequency and magnitude of out–of–bank flooding from large, less frequent
26 storm events; **AND**

27   (9)   (i)   Establish a comprehensive process for approving grading
28 and sediment control plans and stormwater management plans; and

29   (ii)   Specify that the comprehensive process established under
30 subparagraph (i) of this paragraph takes into account the cumulative impacts of both
31 plans.

1   (E)   (1)   IN THIS SUBSECTION, "REDEVELOPMENT" MEANS:

2   (I)   ANY CONSTRUCTION, ALTERATION, OR IMPROVEMENT
3   PERFORMED ON A SITE IN WHICH EXISTING LAND USE IS COMMERCIAL,
4   INDUSTRIAL, INSTITUTIONAL, OR RESIDENTIAL, INCLUDING MULTIFAMILY
5   RESIDENTIAL; AND

6   (II)   1.   THE EXISTING SITE IMPERVIOUS AREA EXCEEDS
7   30%; OR

8   2.   THE PROPOSED DEVELOPMENT IS FOR AN
9   AFFORDABLE HOUSING OR A TRANSIT–ORIENTED DEVELOPMENT.

10   (2)   EXCEPT AS PROVIDED IN PARAGRAPH (3) OF THIS
11   SUBSECTION, A REDEVELOPMENT PROJECT DESIGN SHALL:

12   (I)   REDUCE EXISTING IMPERVIOUS AREA WITHIN THE
13   LIMIT OF DISTURBANCE, AS DETERMINED BY THE MARYLAND STORMWATER
14   DESIGN MANUAL, BY AT LEAST 20% AND UP TO 50%, TO BE DETERMINED BY A
15   LOCAL GOVERNMENT AFTER A CONSIDERATION OF:

16   1.   THE TOTAL SQUARE FOOTAGE OF THE PROPOSED
17   DEVELOPMENT PROJECT; AND

18   2.   THE COST AND FEASIBILITY OF THE PROPOSED
19   REDUCTION;

20   (II)   PROVIDE WATER QUALITY TREATMENT USING
21   ENVIRONMENTAL SITE DESIGN, ALTERNATIVE STORMWATER MANAGEMENT
22   MEASURES, OR OTHER MEASURES APPROVED BY A LOCAL GOVERNMENT
23   EQUIVALENT TO A REDUCTION OF AT LEAST 20% AND UP TO 50% OF THE
24   EXISTING IMPERVIOUS AREA WITHIN THE LIMIT OF DISTURBANCE, TO BE
25   DETERMINED BY A LOCAL GOVERNMENT AFTER A CONSIDERATION OF:

26   1.   THE TOTAL SQUARE FOOTAGE OF THE PROPOSED
27   DEVELOPMENT PROJECT; AND

28   2.   THE COST AND FEASIBILITY OF THE PROPOSED
29   REDUCTION; OR

30   (III)   USE A COMBINATION OF THE STORMWATER
31   MANAGEMENT STRATEGIES UNDER ITEMS (I) AND (II) OF THIS PARAGRAPH.

1   **(3)   (I)   A DEVELOPER MAY MAKE A FEE–IN–LIEU PAYMENT TO A**
2 **LOCAL GOVERNMENT TO OFFSET THE REQUIREMENTS IN PARAGRAPH (2) OF**
3 **THIS SUBSECTION.**

4   **(II)   A FEE–IN–LIEU PAYMENT COLLECTED UNDER THIS**
5 **PARAGRAPH SHALL BE:**

6   **1.   IN AN AMOUNT DETERMINED BY A LOCAL**
7 **GOVERNMENT; AND**

8   **2.   USED BY A LOCAL GOVERNMENT TO CREATE OR**
9 **ENHANCE STORMWATER MANAGEMENT PROJECTS.**

10 4–204.

11   (a)   **(1)**   **[**After July 1, 1984, unless exempted,**]** **UNLESS OTHERWISE**
12 **EXEMPTED FROM THE REQUIREMENTS OF THIS SECTION AND SUBJECT TO**
13 **SUBSECTION (B) OF THIS SECTION,** a person may not develop any land for
14 residential, commercial, industrial, or institutional use without **[**submitting**]:**

15   **(I)   SUBMITTING** a stormwater management plan to the county
16 or municipality that has jurisdiction**[**,**]; and**

17   **(II)   [**obtaining**] OBTAINING** approval of the plan from the
18 county or municipality.

19   **(2)**   A grading or building permit may not be issued for a property
20 unless a stormwater management plan has been approved that is consistent with this
21 subtitle.

22   **(B)   (1)   (I)   IN THIS SUBSECTION THE FOLLOWING WORDS HAVE**
23 **THE MEANINGS INDICATED.**

24   **(II)   "DEVELOPMENT PROJECT" INCLUDES:**

25   **1.   A DEVELOPMENT OR REDEVELOPMENT PROJECT;**
26 **OR**

27   **2.   ANY PHASE OF A DEVELOPMENT OR**
28 **REDEVELOPMENT PROJECT.**

29   **(III)   "PRELIMINARY PLAN APPROVAL" INCLUDES:**

30   **1.   AN APPROVAL OF:**

1   **A.   A DEVELOPMENT PLAN;**

2   **B.   A PROJECT PLAN;**

3   **C.   A SKETCH PLAN;**

4   **D.   A CONCEPT PLAN; OR**

5   **E.   A SITE PLAN; OR**

6   **2.   AN ADEQUATE PUBLIC FACILITIES APPROVAL; OR**

7   **3.   ANY OTHER EQUIVALENT APPROVAL UNDER THE**
8   **LOCAL LAWS OR REGULATIONS OF THE JURISDICTION IN WHICH THE**
9   **DEVELOPMENT PROJECT IS SITUATED.**

10   **(2)   IF A DEVELOPMENT PROJECT RECEIVES PRELIMINARY PLAN**
11   **APPROVAL BEFORE MAY 4, 2010, A PERSON MAY SUBMIT A STORMWATER**
12   **MANAGEMENT PLAN, IN ACCORDANCE WITH SUBSECTION (A) OF THIS SECTION,**
13   **THAT COMPLIES WITH THE LAWS AND REGULATIONS IN EFFECT AT THE TIME**
14   **THE   PERSON   RECEIVED   PRELIMINARY   PLAN   APPROVAL   FOR   THE**
15   **DEVELOPMENT PROJECT.**

16   **[**(b)**] (C)**   The developer shall certify that all land clearing, construction,
17   development, and drainage will be done according to the plan.

18   **[**(c)**] (D)**   Each county or municipality may provide by ordinance for the
19   review and approval of stormwater management plans by the local soil conservation
20   district.

21   **[**(d)**] (E)**   (1)   Each governing body of a county or municipality may adopt
22   a system of charges to fund the implementation of stormwater management programs,
23   including the following:

24   (i)   Reviewing stormwater management plans;

25   (ii)   Inspection and enforcement activities;

26   (iii)   Watershed planning;

27   (iv)   Planning, design, land acquisition, and construction of
28   stormwater management systems and structures;

29   (v)   Retrofitting developed areas for pollution control;

1   (vi)   Water quality monitoring and water quality programs;

2   (vii)   Operation and maintenance of facilities; and

3   (viii) Program development of these activities.

4   (2)   The charges shall take effect upon enactment by the local
5 governing body.

6   (3)   The charges may be collected in the same manner as county and
7 municipal property taxes, have the same priority, and bear the same interest and
8 penalties.

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