

## Chapter 415

(House Bill 615)

AN ACT concerning

~~Climate Risk Reduction Act~~

Coast Smart Council

FOR the purpose of establishing a Coast Smart Council in the Department of Natural Resources; providing for the membership, chair, and staffing of the Council; establishing the membership term for certain members of the Council; prohibiting certain members of the Council from receiving certain compensation, but authorizing the reimbursement of certain expenses; providing for the duties of the Council; authorizing the chair of the Council to establish subcommittees under certain circumstances; requiring certain structures to be constructed in accordance with certain siting and design criteria established by the Council; requiring the Council, in consultation with the Department, to develop certain criteria in accordance with certain requirements on or before a certain date; declaring the intent of the General Assembly; requiring the Departments of Budget and Management, General Services, and Natural Resources to review and incorporate certain criteria established by the Council into certain instructions and policies; providing for the application of certain provisions of this Act; defining certain terms; and generally relating to the application of certain siting and design criteria related to sea level rise and coastal flood impacts to the construction or reconstruction of certain capital projects and the Coast Smart Council.

BY adding to

Article – Natural Resources

Section 3–1001 through 3–1004 to be under the new subtitle “Subtitle 10. Coast Smart Council”

Annotated Code of Maryland

(2012 Replacement Volume and 2013 Supplement)

BY adding to

Article – State Finance and Procurement

Section 3–602.3

Annotated Code of Maryland

(2009 Replacement Volume and 2013 Supplement)

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

**Article – Natural Resources**

**SUBTITLE 10. COAST SMART COUNCIL.**

**3-1001.**

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

**(B) (1) “COAST SMART” MEANS A CONSTRUCTION PRACTICE IN WHICH PRELIMINARY PLANNING, SITING, DESIGN, CONSTRUCTION, OPERATION, MAINTENANCE, AND REPAIR OF A STRUCTURE AVOIDS OR MINIMIZES FUTURE IMPACTS ASSOCIATED WITH COASTAL FLOODING AND SEA LEVEL RISE.**

**(2) “COAST SMART” INCLUDES DESIGN CRITERIA AND SITING CRITERIA THAT ARE APPLICABLE THROUGHOUT THE ENTIRE LIFE CYCLE OF A PROJECT.**

**(C) “COUNCIL” MEANS THE COAST SMART COUNCIL.**

**(D) “DESIGN CRITERIA” MEANS STANDARD SPECIFICATIONS RELATED TO THE SHAPE, SIZE, OR FORM OF A CONSTRUCTION PRACTICE.**

**(E) “SITING CRITERIA” MEANS SPECIFICATIONS RELATED TO THE LOCATION OR USE OF A STRUCTURE.**

**3-1002.**

**(A) THERE IS A COAST SMART COUNCIL IN THE DEPARTMENT.**

**(B) THE DEPARTMENT SHALL PROVIDE STAFF SUPPORT FOR THE COUNCIL.**

**3-1003.**

**(A) THE COAST SMART COUNCIL SHALL INCLUDE:**

**(1) THE SECRETARY OF NATURAL RESOURCES, OR THE SECRETARY’S DESIGNEE;**

**(2) THE SECRETARY OF BUDGET AND MANAGEMENT, OR THE SECRETARY’S DESIGNEE;**

(3) THE SECRETARY OF THE ENVIRONMENT, OR THE SECRETARY'S DESIGNEE;

(4) THE SECRETARY OF GENERAL SERVICES, OR THE SECRETARY'S DESIGNEE;

(5) THE SECRETARY OF PLANNING, OR THE SECRETARY'S DESIGNEE;

(6) THE SECRETARY OF TRANSPORTATION, OR THE SECRETARY'S DESIGNEE;

(7) THE SECRETARY OF BUSINESS AND ECONOMIC DEVELOPMENT, OR THE SECRETARY'S DESIGNEE;

(8) THE CHAIR OF THE CRITICAL AREA COMMISSION FOR THE CHESAPEAKE AND ATLANTIC COASTAL BAYS, OR THE CHAIR'S DESIGNEE;

~~(7)~~ (9) THE DIRECTOR OF THE MARYLAND EMERGENCY MANAGEMENT AGENCY, OR THE DIRECTOR'S DESIGNEE;

~~(8)~~ (10) THE CHANCELLOR OF THE UNIVERSITY SYSTEM OF MARYLAND, OR THE CHANCELLOR'S DESIGNEE; AND

~~(9)~~ (11) FIVE MEMBERS APPOINTED BY THE GOVERNOR TO REPRESENT LOCAL GOVERNMENT, ENVIRONMENTAL, AND BUSINESS INTERESTS.

(B) THE SECRETARY OF NATURAL RESOURCES OR THE SECRETARY'S DESIGNEE SHALL CHAIR THE COUNCIL.

(C) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, THE TERM OF A MEMBER APPOINTED BY THE GOVERNOR IS 2 YEARS.

(2) THE GOVERNOR SHALL STAGGER THE TERMS OF THE INITIAL APPOINTED MEMBERS.

(3) AT THE END OF A TERM, A MEMBER CONTINUES TO SERVE UNTIL A SUCCESSOR IS APPOINTED AND QUALIFIES.

(4) A MEMBER WHO IS APPOINTED AFTER A TERM HAS BEGUN SERVES ONLY FOR THE REMAINDER OF THAT TERM AND UNTIL A SUCCESSOR IS APPOINTED AND QUALIFIES.

**(5) THE GOVERNOR MAY REMOVE AN APPOINTED MEMBER FOR INCOMPETENCE, MISCONDUCT, OR FAILURE TO PERFORM THE DUTIES OF THE POSITION.**

**(D) A MEMBER APPOINTED BY THE GOVERNOR MAY NOT RECEIVE COMPENSATION BUT IS ENTITLED TO REIMBURSEMENT FOR EXPENSES UNDER THE STANDARD STATE TRAVEL REGULATIONS, AS PROVIDED IN THE STATE BUDGET.**

**3-1004.**

**(A) THE COUNCIL SHALL:**

**(1) STUDY AND PROVIDE ANALYSIS REGARDING STANDARDS AND FACTORS RELEVANT TO THE ESTABLISHMENT OF COAST SMART SITING CRITERIA AND DESIGN CRITERIA;**

**(2) DEVELOP SITING AND DESIGN CRITERIA TO ESTABLISH AND IMPLEMENT COAST SMART PRACTICES AND REQUIREMENTS;**

**(3) DEVELOP ELIGIBILITY CRITERIA, STANDARDS, AND PROCEDURES FOR APPLYING FOR AND OBTAINING A WAIVER FROM COMPLIANCE WITH THE COAST SMART REQUIREMENTS; AND**

**(4) ESTABLISH PROCEDURES FOR EVALUATING COAST SMART WAIVER APPLICATIONS THAT INCLUDE THE CONSIDERATION OF PROPOSED CAPITAL PROJECTS WITH REGARD TO:**

**(I) THE ANTICIPATED NEED TO PREPARE FOR, RESPOND TO, AND RECOVER FROM EXTREME WEATHER EVENTS, SEA LEVEL RISE INUNDATION, COASTAL FLOODING, STORM SURGES, AND SHORELINE EROSION; AND**

**(II) THE NEED TO PREVENT DANGER TO LIFE AND PROPERTY AND TO AVOID ENVIRONMENTAL, SOCIO-ECONOMIC, AND ECONOMIC HARM.**

**(B) THE CHAIR OF THE COUNCIL MAY ESTABLISH SUBCOMMITTEES CONSISTING OF MEMBERS OF THE COUNCIL, EXPERTS IN FIELDS RELATED TO CLIMATE CHANGE AND SEA LEVEL RISE, AND INTERESTED PARTIES TO ADDRESS OR STUDY SPECIFIC ISSUES.**

**Article – State Finance and Procurement**

**3-602.3.**

**(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.**

**(2) “100-YEAR BASE FLOOD” MEANS A FLOOD HAVING A 1% CHANCE OF BEING EQUALED OR EXCEEDED IN ANY GIVEN YEAR.**

**(3) “BASE FLOOD ELEVATION” MEANS:**

**(I) THE WATER SURFACE ELEVATION OF THE 100-YEAR BASE FLOOD AS SPECIFIED ON FEDERAL EMERGENCY MANAGEMENT AGENCY FLOOD INSURANCE RATE MAPS; OR**

**(II) IN AN AREA OF SHALLOW FLOODING:**

**1. THE HIGHEST ADJACENT NATURAL GRADE ADDED TO THE DEPTH NUMBER SPECIFIED IN FEET ON THE FLOOD INSURANCE RATE MAP; OR**

**2. IF THE DEPTH NUMBER IS NOT SPECIFIED ON THE FLOOD INSURANCE RATE MAP, 4 FEET.**

**(4) (I) “COAST SMART” MEANS A CONSTRUCTION PRACTICE IN WHICH PRELIMINARY PLANNING, SITING, DESIGN, CONSTRUCTION, OPERATION, MAINTENANCE, AND REPAIR OF A STRUCTURE AVOIDS OR MINIMIZES FUTURE IMPACTS ASSOCIATED WITH COASTAL FLOODING AND SEA LEVEL RISE.**

**(II) “COAST SMART” INCLUDES DESIGN CRITERIA AND SITING CRITERIA THAT ARE APPLICABLE THROUGHOUT THE ENTIRE LIFE CYCLE OF A PROJECT.**

**(5) “DESIGN CRITERIA” MEANS STANDARD SPECIFICATIONS RELATED TO THE SHAPE, SIZE, OR FORM OF A CONSTRUCTION PRACTICE.**

**(6) (I) “REPLACEMENT COST” MEANS, AT THE TIME OF RECONSTRUCTION, THE COST OF RECONSTRUCTING A STRUCTURE AND ITS SURROUNDING PROPERTY TO FULL USE WITH MATERIALS OF THE SAME KIND AND QUALITY AS THE ORIGINAL MATERIALS.**

**(II) “REPLACEMENT COST” DOES NOT INCLUDE:**

1. THE VALUE OF THE LAND ON WHICH A STRUCTURE IS LOCATED; OR

2. FOR TAX PURPOSES, A DEDUCTION FOR DEPRECIATION.

(7) “SITING CRITERIA” MEANS SPECIFICATIONS RELATED TO THE LOCATION OR USE OF A STRUCTURE.

(8) “SPECIAL FLOOD HAZARD AREA” MEANS LAND IN A TIDALLY INFLUENCED FLOODPLAIN THAT IS:

(I) SUBJECT TO AT LEAST A 1% CHANCE OF FLOODING IN ANY GIVEN YEAR; AND

(II) DESIGNATED BY THE FEDERAL EMERGENCY MANAGEMENT AGENCY IN FLOOD INSURANCE STUDIES AND ON FLOOD INSURANCE RATE MAPS AS ZONE A, AE, AH, AO, A1-30, A99, VE, OR V1-30.

(9) “STRUCTURE” MEANS:

(I) A WALLED OR ROOFED BUILDING;

(II) A MANUFACTURED HOME; OR

(III) A GAS OR LIQUID STORAGE TANK THAT IS PRINCIPALLY ABOVE GROUND.

(10) “SUBSTANTIAL DAMAGE” MEANS DAMAGE CAUSED BY ANY SOURCE THAT IS SUSTAINED BY A STRUCTURE SUCH THAT THE COST OF RECONSTRUCTION TO ITS BEFORE-DAMAGED CONDITION IS AT LEAST HALF OF THE STRUCTURE’S REPLACEMENT COST BEFORE THE DAMAGE OCCURRED.

(B) (1) THIS SUBSECTION APPLIES TO STATE CAPITAL PROJECTS PLANNED AND BUILT BY UNITS OF STATE GOVERNMENT THAT ARE PARTIALLY OR FULLY FUNDED WITH STATE FUNDS.

(2) BEGINNING JULY 1, 2015, IF A STATE CAPITAL PROJECT INCLUDES THE CONSTRUCTION OF A STRUCTURE OR THE RECONSTRUCTION OF A STRUCTURE WITH SUBSTANTIAL DAMAGE, THE STRUCTURE SHALL BE CONSTRUCTED OR RECONSTRUCTED IN COMPLIANCE WITH SITING AND DESIGN CRITERIA ESTABLISHED UNDER SUBSECTION (C) OF THIS SECTION.

**(C) (1) IN CONSULTATION WITH THE DEPARTMENT OF NATURAL RESOURCES, THE COAST SMART COUNCIL ESTABLISHED UNDER § 3-1002 OF THE NATURAL RESOURCES ARTICLE SHALL ESTABLISH COAST SMART SITING AND DESIGN CRITERIA TO ADDRESS SEA LEVEL RISE AND COASTAL FLOOD IMPACTS ON CAPITAL PROJECTS.**

**(2) THE CRITERIA ADOPTED UNDER THIS SUBSECTION SHALL INCLUDE:**

**(I) GUIDELINES, AND ANY OTHER DIRECTIVES APPLICABLE TO THE PRELIMINARY PLANNING AND CONSTRUCTION OF A PROPOSED CAPITAL PROJECT ~~THAT IS LOCATED WITHIN A SPECIAL FLOOD HAZARD AREA;~~**

**(II) A REQUIREMENT THAT THE LOWEST FLOOR ELEVATION OF EACH STRUCTURE LOCATED WITHIN A SPECIAL FLOOD HAZARD AREA IS BUILT AT AN ELEVATION OF AT LEAST 2 FEET ABOVE THE BASE FLOOD ELEVATION; AND**

**(III) PROVISIONS ESTABLISHING A PROCESS TO ALLOW A UNIT OF STATE GOVERNMENT TO OBTAIN A WAIVER FROM COMPLYING WITH THE REQUIREMENTS OF SUBSECTION (B) OF THIS SECTION.**

SECTION 2. AND BE IT FURTHER ENACTED, That the Coast Smart Council shall adopt initial criteria in accordance with the provisions of § 3-602.3(c) of the State Finance and Procurement Article, as enacted by this Act, on or before June 30, 2015.

SECTION 3. AND BE IT FURTHER ENACTED, That it is the intent of the General Assembly that, until the Coast Smart Council has adopted criteria in accordance with the provisions of Section 2 of this Act, units of State government that propose capital projects for a new State structure or the reconstruction or rehabilitation of a substantially damaged State structure shall comply with the guidelines and requirements of Executive Order 01.01.2012.29.

SECTION 4. AND BE IT FURTHER ENACTED, That the Departments of Budget and Management, General Services, and Natural Resources shall review and incorporate criteria developed by the Coast Smart Council under the provisions of this Act in the appropriate instructions and policies.

SECTION 5. AND BE IT FURTHER ENACTED, That § 3-602.3(b) of the State Finance and Procurement Article, as enacted under Section 1 of this Act, shall be construed to apply only prospectively and may not be applied or interpreted to have any effect on or application to any capital project approved by the General Assembly before July 1, 2015.

SECTION 6. AND BE IT FURTHER ENACTED, That this Act shall take effect ~~July~~ June 1, 2014.

**Approved by the Governor, May 5, 2014.**