

HOUSE BILL 1588

L6, C5

8lr2983
CF 8lr3795

By: **Delegates S. Howard, Rose, and Saab**

Introduced and read first time: February 9, 2018

Assigned to: Environment and Transportation

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 13, 2018

CHAPTER _____

1 AN ACT concerning

2 **Zoning Amendments – Energy ~~Generation~~ Generating Systems**

3 FOR the purpose of prohibiting a local legislative body from granting an amendment to
4 change a certain zoning classification on a certain parcel of land based on a certain
5 finding if the primary reason for the proposed amendment is the existence of a
6 certain energy ~~generation~~ generating system; providing for the application of this
7 Act; defining a certain term; and generally relating to zoning and energy ~~generation~~
8 generating systems.

9 BY repealing and reenacting, with amendments,
10 Article – Land Use
11 Section 1–401 and 10–103
12 Annotated Code of Maryland
13 (2012 Volume and 2017 Supplement)

14 BY adding to
15 Article – Land Use
16 Section 4–211
17 Annotated Code of Maryland
18 (2012 Volume and 2017 Supplement)

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

21 **Article – Land Use**

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 1-401.

2 (a) Except as provided in this section, this division does not apply to charter
3 counties.

4 (b) The following provisions of this division apply to a charter county:

5 (1) this subtitle, including Parts II and III (Charter
6 county – Comprehensive plans);

7 (2) § 1-101(l), (m), and (o) (Definitions – “Plan”, “Priority funding area”,
8 and “Sensitive area”);

9 (3) § 1-201 (Visions);

10 (4) § 1-206 (Required education);

11 (5) § 1-207 (Annual report – In general);

12 (6) § 1-208 (Annual report – Measures and indicators);

13 (7) Title 1, Subtitle 3 (Consistency);

14 (8) Title 1, Subtitle 5 (Growth Tiers);

15 (9) § 4-104(b) (Limitations – Bicycle parking);

16 (10) § 4-208 (Exceptions – Maryland Accessibility Code);

17 (11) § 4-210 (Permits and variances – Solar panels);

18 (12) **§ 4-211 (CHANGE IN ZONING CLASSIFICATION – ENERGY**
19 **GENERATION GENERATING SYSTEMS);**

20 **(13)** § 5-102(d) (Subdivision regulations – Burial sites);

21 **[(13)] (14)** § 5-104 (Major subdivision – Review);

22 **[(14)] (15)** Title 7, Subtitle 1 (Development Mechanisms);

23 **[(15)] (16)** Title 7, Subtitle 2 (Transfer of Development Rights);

24 **[(16)] (17)** except in Montgomery County or Prince George’s County, Title
25 7, Subtitle 3 (Development Rights and Responsibilities Agreements);

1 [(17)] (18) Title 7, Subtitle 4 (Inclusionary Zoning);

2 [(18)] (19) § 8–401 (Conversion of overhead facilities);

3 [(19)] (20) for Baltimore County only, Title 9, Subtitle 3 (Single–County
4 Provisions – Baltimore County);

5 [(20)] (21) for Frederick County only, Title 9, Subtitle 10 (Single–County
6 Provisions – Frederick County);

7 [(21)] (22) for Howard County only, Title 9, Subtitle 13 (Single–County
8 Provisions – Howard County);

9 [(22)] (23) for Talbot County only, Title 9, Subtitle 18 (Single–County
10 Provisions – Talbot County); and

11 [(23)] (24) Title 11, Subtitle 2 (Civil Penalty).

12 (c) This section supersedes any inconsistent provision of Division II of this article.

13 **4–211.**

14 (A) **IN THIS SECTION, “ENERGY ~~GENERATION~~ GENERATING SYSTEM” MEANS**
15 **AN ENERGY GENERATING SYSTEM:**

16 (1) **FOR WHICH A CERTIFICATE OF PUBLIC CONVENIENCE AND**
17 **NECESSITY IS REQUIRED BY STATE LAW; OR**

18 (2) (I) **FOR WHICH A CERTIFICATE OF PUBLIC CONVENIENCE AND**
19 **NECESSITY IS NOT REQUIRED BY STATE LAW; AND**

20 (II) **THAT IS NOT CONSIDERED TO BE AN ACCESSORY USE UNDER**
21 **THE ZONING LAW OF THE LOCAL JURISDICTION WHERE THE SYSTEM IS LOCATED.**

22 (B) **IF THE PRIMARY REASON FOR A PROPOSED AMENDMENT TO CHANGE A**
23 **ZONING CLASSIFICATION ON A PARCEL OF LAND IS THE EXISTENCE OF AN ENERGY**
24 **~~GENERATION~~ GENERATING SYSTEM ON THAT PARCEL OF LAND OR ON A PARCEL OF**
25 **LAND THAT IS ADJACENT TO OR IN CLOSE PROXIMITY TO THAT PARCEL OF LAND, A**
26 **LEGISLATIVE BODY MAY NOT GRANT AN AMENDMENT TO CHANGE THE ZONING**
27 **CLASSIFICATION BASED ON A FINDING THAT THERE WAS:**

28 (1) **A SUBSTANTIAL CHANGE IN THE CHARACTER OF THE**
29 **NEIGHBORHOOD WHERE THE PROPERTY IS LOCATED; OR**

30 (2) **A MISTAKE IN THE EXISTING ZONING CLASSIFICATION.**

1 10–103.

2 (a) Except as provided in this section, this division does not apply to Baltimore
3 City.

4 (b) The following provisions of this division apply to Baltimore City:

5 (1) this title;

6 (2) § 1–101(m) (Definitions – “Priority funding area”);

7 (3) § 1–101(o) (Definitions – “Sensitive area”);

8 (4) § 1–201 (Visions);

9 (5) § 1–206 (Required education);

10 (6) § 1–207 (Annual report – In general);

11 (7) § 1–208 (Annual report – Measures and indicators);

12 (8) Title 1, Subtitle 3 (Consistency);

13 (9) Title 1, Subtitle 4, Parts II and III (Home Rule
14 Counties – Comprehensive Plans; Implementation);

15 (10) § 4–104(b) (Limitations – Bicycle parking);

16 (11) § 4–205 (Administrative adjustments);

17 (12) § 4–207 (Exceptions – Maryland Accessibility Code);

18 (13) § 4–210 (Permits and variances – Solar panels);

19 (14) **§ 4–211 (CHANGE IN ZONING CLASSIFICATION – ENERGY**
20 **~~GENERATION~~ GENERATING SYSTEMS);**

21 **(15)** § 5–201(d) (Subdivision regulations – Burial sites);

22 **[(15)] (16)** Title 7, Subtitle 1 (Development Mechanisms);

23 **[(16)] (17)** Title 7, Subtitle 2 (Transfer of Development Rights);

24 **[(17)] (18)** Title 7, Subtitle 3 (Development Rights and Responsibilities
25 Agreements);

1 [(18)] **(19)** Title 7, Subtitle 4 (Inclusionary Zoning); and

2 [(19)] **(20)** Title 11, Subtitle 2 (Civil Penalty).

3 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
4 October 1, 2018.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.