

HOUSE BILL 1591

C5, L6

8lr2775

By: **Delegate Impallaria**

Introduced and read first time: February 9, 2018

Assigned to: Environment and Transportation and Economic Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Solar Facilities – Siting Standards**

3 FOR the purpose of providing that a solar facility may be allowed only by special exception
4 in certain zones of a local jurisdiction; establishing certain requirements for the
5 application, siting, and operation of a solar facility in certain zones; establishing
6 certain limitations on the siting of a solar facility in certain zones; requiring certain
7 approval to be obtained from certain persons before approval of a certain solar
8 facility in certain zones; prohibiting a solar facility from being located in certain
9 districts or areas; limiting certain structures and components of a certain solar
10 facility in certain areas; requiring certain setbacks and landscaping of certain
11 equipment for a solar facility in certain areas; authorizing a hearing examiner or a
12 board of appeals to alter certain setbacks and requirements under certain
13 circumstances; requiring an applicant for a solar facility to comply with certain
14 requirements of local law in certain zones; requiring an applicant for a special
15 exception for a certain solar facility to provide certain notice to certain persons;
16 authorizing a hearing examiner or a board of appeals to impose certain conditions
17 and restrictions on a certain solar facility; applying certain requirements to a solar
18 facility to be proposed in certain zones; requiring an applicant for a building permit
19 for a certain solar facility to provide a bond or other security for certain purposes;
20 authorizing a local code official to use the bond or security for certain purposes;
21 requiring certain persons to be responsible for the maintenance of a solar facility;
22 requiring access to a solar facility to be maintained in a certain manner; requiring a
23 certain applicant to establish and implement a certain land maintenance plan for a
24 solar facility; authorizing certain accessory uses of certain property used for a solar
25 facility; providing certain requirements for the removal of certain solar facilities that
26 have reached the end of their useful life or have been abandoned; providing that a
27 local jurisdiction retains a certain right of entry to certain property as a condition of
28 approval of a certain special exception; authorizing a local code official to take certain
29 actions with respect to a certain solar facility under certain circumstances; providing
30 that a certain solar facility may not be considered to be a public utility for certain
31 purposes; providing for the application of certain requirements in certain local

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 jurisdictions; providing that compliance with certain standards and requirements
 2 shall be deemed compliance with this Act for certain purposes; providing that a
 3 person may not apply to the Public Service Commission for a certificate of public
 4 convenience and necessity for a certain solar facility unless the person demonstrates
 5 compliance with this Act; providing that the Commission may take final action on a
 6 certain application only after due consideration of compliance with this Act;
 7 requiring a person applying to the Commission for certain approval of an
 8 interconnection agreement to provide proof of compliance with this Act; requiring an
 9 application to the Commission for a certain approval to include proof of compliance
 10 with this Act; providing for the scope and application of this Act; applying this Act
 11 to certain home rule counties; defining certain terms; and generally relating to the
 12 siting and operation of solar photovoltaic facilities.

13 BY repealing and reenacting, without amendments,
 14 Article – Land Use
 15 Section 1–401(a) and (c)
 16 Annotated Code of Maryland
 17 (2012 Volume and 2017 Supplement)

18 BY repealing and reenacting, with amendments,
 19 Article – Land Use
 20 Section 1–401(b)(18) through (23) and 10–103(b)(18) and (19)
 21 Annotated Code of Maryland
 22 (2012 Volume and 2017 Supplement)

23 BY adding to
 24 Article – Land Use
 25 Section 1–401(b)(18); 7–501 through 7–508 to be under the new subtitle “Subtitle 5.
 26 Solar Facility Siting”; and 10–103(b)(19)
 27 Annotated Code of Maryland
 28 (2012 Volume and 2017 Supplement)

29 BY repealing and reenacting, with amendments,
 30 Article – Public Utilities
 31 Section 7–207, 7–207.1, and 7–207.2
 32 Annotated Code of Maryland
 33 (2010 Replacement Volume and 2017 Supplement)

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

36 **Article – Land Use**

37 1–401.

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

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

2 **(18) TITLE 7, SUBTITLE 5 (SOLAR FACILITY SITING);**

3 **[(18)](19) § 8–401 (Conversion of overhead facilities);**

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

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

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

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

12 **[(23)] (24) Title 11, Subtitle 2 (Civil Penalty).**

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

14 **SUBTITLE 5. SOLAR FACILITY SITING.**

15 **7–501.**

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

18 **(B) “COMMERCIAL USE” MEANS THE TRANSFER TO THE ELECTRICAL**
19 **POWER GRID OF ENERGY PRODUCED BY A SOLAR FACILITY FOR ENERGY CREDITS TO**
20 **CONSUMERS.**

21 **(C) (1) “SOLAR FACILITY” MEANS A FACILITY THAT INCLUDES A SERIES**
22 **OF ONE OR MORE SOLAR COLLECTOR PANELS OR SOLAR ENERGY SYSTEMS THAT ARE**
23 **PLACED IN AN AREA ON A TRACT OF LAND FOR THE PURPOSE OF GENERATING**
24 **ELECTRICITY FOR COMMERCIAL USE BY PHOTOVOLTAIC MEANS.**

25 **(2) “SOLAR FACILITY” INCLUDES A SOLAR POWER PLANT OR A SOLAR**
26 **PHOTOVOLTAIC FARM.**

27 **7–502.**

1 **(A) THIS SUBTITLE DOES NOT APPLY TO A SOLAR FACILITY THAT IS**
2 **LOCATED:**

3 **(1) IN OR ON A YARD AREA, BUILDING, OR STRUCTURE THAT IS**
4 **ACCESSORY TO A PRINCIPAL RESIDENTIAL, AGRICULTURAL, COMMERCIAL, OR**
5 **INSTITUTIONAL USE; OR**

6 **(2) ON FEDERAL, STATE, OR LOCAL GOVERNMENT-OWNED OR**
7 **LEASED LAND THAT PRODUCES ENERGY FOR GOVERNMENT USE.**

8 **(B) A SOLAR FACILITY MAY NOT BE CONSIDERED TO BE A PUBLIC UTILITY**
9 **UNDER LOCAL ZONING LAW OR OTHER LOCAL LAW.**

10 **(C) (1) THE REQUIREMENTS OF THIS SUBTITLE APPLY TO SOLAR**
11 **FACILITIES IN A LOCAL JURISDICTION UNLESS A LOCAL JURISDICTION ADOPTS**
12 **DIFFERENT STANDARDS AND REQUIREMENTS UNDER ITS LOCAL ZONING LAW.**

13 **(2) IF A LOCAL JURISDICTION ADOPTS DIFFERENT STANDARDS AND**
14 **REQUIREMENTS FOR SOLAR FACILITIES, COMPLIANCE WITH THOSE STANDARDS**
15 **AND REQUIREMENTS SHALL BE DEEMED COMPLIANCE WITH THIS SUBTITLE WITHIN**
16 **THE LOCAL JURISDICTION FOR PURPOSES OF §§ 7-207, 7-207.1, AND 7-207.2 OF**
17 **THE PUBLIC UTILITIES ARTICLE.**

18 **7-503.**

19 **A SOLAR FACILITY IS ALLOWED ONLY BY SPECIAL EXCEPTION IN A BUSINESS,**
20 **MANUFACTURING, OR RURAL CONSERVATION ZONE OF A LOCAL JURISDICTION.**

21 **7-504.**

22 **(A) A SOLAR FACILITY LOCATED IN A RESOURCE CONSERVATION ZONE IS**
23 **SUBJECT TO THE REQUIREMENTS OF THIS SECTION.**

24 **(B) ON LAND ZONED FOR AGRICULTURAL USE:**

25 **(1) THE MAXIMUM SIZE OF A SOLAR FACILITY IS 25% OF THE TOTAL**
26 **PARCEL WHERE A SOLAR FACILITY IS PROPOSED TO BE LOCATED; AND**

27 **(2) A PROPOSED SOLAR FACILITY MAY PRODUCE UP TO 200% OF THE**
28 **AVERAGE YEARLY ENERGY REQUIRED FOR THE LAST 3 YEARS FOR A COMMERCIAL**
29 **AGRICULTURAL OPERATION.**

1 **(C) ON LAND ZONED FOR DEFERRED DEVELOPMENT, WATERSHED**
2 **PROTECTION, RURAL RESIDENTIAL, OR RURAL CONSERVATION AND RESIDENTIAL**
3 **USE:**

4 **(1) A PROPOSED SOLAR FACILITY SHALL COUNT AS ONE EASEMENT**
5 **AND BE PART OF THE MARYLAND COMMUNITY SOLAR PROGRAM;**

6 **(2) NOT MORE THAN TWO SOLAR FACILITIES MAY BE ALLOWED IN:**

7 **(I) EACH COMMISSIONER OR COUNCILMANIC DISTRICT, AS**
8 **APPROPRIATE; OR**

9 **(II) ANY AREA OF 50 SQUARE MILES;**

10 **(3) A PROPOSED SOLAR FACILITY MAY NOT PRODUCE MORE THAN 2**
11 **MEGAWATTS; AND**

12 **(4) BEFORE A PROPOSED SOLAR FACILITY MAY BE APPROVED, THE**
13 **APPLICANT SHALL:**

14 **(I) CONDUCT A COMMUNITY MEETING AT THE CLOSEST FIRE**
15 **HOUSE OR OTHER COMMUNITY CENTER TO THE PROPOSED SOLAR FACILITY; AND**

16 **(II) OBTAIN PRIOR WRITTEN APPROVAL FROM THE OWNER OF**
17 **EACH RESIDENTIALLY USED PROPERTY WITHIN 1,000 FEET THAT HAS A VIEW OF THE**
18 **PROPOSED SOLAR FACILITY.**

19 **(D) THE PORTION OF LAND WHERE A SOLAR FACILITY IS PROPOSED MAY**
20 **NOT BE ENCUMBERED BY AN AGRICULTURAL PRESERVATION EASEMENT OR AN**
21 **ENVIRONMENTAL PRESERVATION EASEMENT.**

22 **(E) A PROPOSED SOLAR FACILITY MAY NOT BE LOCATED IN A HISTORIC**
23 **DISTRICT OR ON A PROPERTY THAT IS LISTED ON THE LANDMARKS LIST OF THE**
24 **LOCAL JURISDICTION.**

25 **(F) THE PORTION OF LAND WHERE A SOLAR FACILITY IS PROPOSED MAY**
26 **NOT BE LOCATED ON LAND THAT IS SUBJECT TO A FOREST CONSERVATION**
27 **EASEMENT, IN A FOREST AS DEFINED IN STATE OR LOCAL LAW, OR IN A DESIGNATED**
28 **CONSERVANCY AREA IN AN AREA ZONED FOR WATERSHED PROTECTION OR RURAL**
29 **CONSERVATION AND RESIDENTIAL USE.**

30 **(G) A PROPOSED SOLAR FACILITY MAY NOT BE LOCATED IN A STATE OR**
31 **LOCALLY DESIGNATED RURAL LEGACY AREA.**

1 **(H) ON LAND ZONED FOR AGRICULTURAL OR RURAL CONSERVATION AND**
2 **RESIDENTIAL USE, THE PORTION OF LAND WHERE A SOLAR FACILITY IS PROPOSED**
3 **MAY NOT BE PRIME AND PRODUCTIVE AGRICULTURAL LAND, AS IDENTIFIED IN THE**
4 **STATE SOIL SURVEY.**

5 **(I) (1) SUBJECT TO PARAGRAPHS (2) AND (3) OF THIS SUBSECTION, THE**
6 **ABOVEGROUND COMPONENTS OF THE PROPOSED SOLAR FACILITY, INCLUDING**
7 **SOLAR COLLECTOR PANELS, INVERTERS, AND SIMILAR EQUIPMENT, MUST BE SET**
8 **BACK A MINIMUM OF 300 FEET FROM THE PARCEL BOUNDARY.**

9 **(2) THE SETBACK REQUIREMENT DOES NOT APPLY TO THE**
10 **INSTALLATION OF THE ASSOCIATED LANDSCAPING, SECURITY FENCING, WIRING, OR**
11 **POWER LINES.**

12 **(3) A HEARING EXAMINER OR, ON APPEAL, THE BOARD OF APPEALS**
13 **MAY:**

14 **(I) INCREASE THE REQUIRED SETBACK BASED ON THE IMPACT**
15 **OF THE PROPOSED STRUCTURES ON ADJACENT OR SURROUNDING RESIDENTIALLY**
16 **USED PROPERTIES; OR**

17 **(II) DECREASE THE SETBACK IF THE SOLAR FACILITY IS TO BE**
18 **LOCATED NEAR A FOREST OR ANOTHER SUFFICIENT BUFFER.**

19 **(J) A SOLAR FACILITY STRUCTURE MAY NOT EXCEED 10 FEET IN HEIGHT.**

20 **(K) (1) A LANDSCAPING BUFFER SHALL BE PROVIDED AROUND THE**
21 **PERIMETER OF ANY PORTION OF A SOLAR FACILITY THAT IS VISIBLE FROM AN**
22 **ADJACENT RESIDENTIALLY USED PROPERTY OR A PUBLIC STREET.**

23 **(2) SCREENING OF STATE AND LOCAL SCENIC ROUTES AND SCENIC**
24 **VIEWS IS REQUIRED IN ACCORDANCE WITH THE LANDSCAPE MANUAL OF THE LOCAL**
25 **JURISDICTION.**

26 **(L) SECURITY FENCING SHALL BE PROVIDED BETWEEN THE LANDSCAPING**
27 **BUFFER AND THE SOLAR FACILITY.**

28 **(M) A SOLAR COLLECTOR PANEL OR COMBINATION OF SOLAR COLLECTOR**
29 **PANELS SHALL BE LANDSCAPED TO:**

30 **(1) MINIMIZE GLARE OR REFLECTION ONTO ADJACENT PROPERTIES**
31 **AND ADJACENT ROADWAYS; AND**

1 **(2) AVOID INTERFERING WITH TRAFFIC OR CREATING A SAFETY**
2 **HAZARD.**

3 **(N) AN APPLICANT FOR A SOLAR FACILITY SHALL:**

4 **(1) COMPLY WITH THE PLAN REQUIREMENTS OF LOCAL LAW**
5 **RELATING TO THE PROTECTION OF WATER QUALITY, STREAMS, WETLANDS, AND**
6 **FLOODPLAINS; AND**

7 **(2) INCLUDE ADEQUATE BUFFERS TO PROTECT NATURAL STREAMS**
8 **AND WATERWAYS FROM DEGRADATION OF AQUATIC WILDLIFE AS A RESULT OF**
9 **STORMWATER RUNOFF.**

10 **(O) (1) AT LEAST 60 DAYS BEFORE THE PUBLIC HEARING ON A SPECIAL**
11 **EXCEPTION FOR A SOLAR FACILITY, THE APPLICANT SHALL SEND NOTICE BY**
12 **CERTIFIED MAIL, RETURN RECEIPT REQUESTED, TO ADJOINING PROPERTY OWNERS**
13 **AND COMMUNITY ASSOCIATIONS OF:**

14 **(I) 1. THE ADDRESS OF THE PROPERTY WHERE THE SOLAR**
15 **FACILITY IS PROPOSED TO BE LOCATED; OR**

16 **2. IF THE ADDRESS IS NOT AVAILABLE, A DESCRIPTION**
17 **OF THE PROPERTY;**

18 **(II) THE ACTION REQUESTED BY THE APPLICATION; AND**

19 **(III) THE DATE, TIME, AND PLACE OF THE PUBLIC HEARING.**

20 **(2) THE PREFERRED LOCATION FOR THE PUBLIC HEARING IS THE**
21 **FIRE HOUSE OR OTHER COMMUNITY CENTER CLOSEST TO THE PROPOSED SOLAR**
22 **FACILITY.**

23 **(P) IN GRANTING A SPECIAL EXCEPTION FOR A SOLAR FACILITY, THE**
24 **HEARING EXAMINER OR, ON APPEAL, THE BOARD OF APPEALS MAY IMPOSE**
25 **CONDITIONS OR RESTRICTIONS ON THE SOLAR FACILITY AS NECESSARY TO:**

26 **(1) PROTECT THE ENVIRONMENT AND SCENIC VIEWS; AND**

27 **(2) LESSEN THE POTENTIAL IMPACT OF THE SOLAR FACILITY ON THE**
28 **HEALTH, SAFETY, AND GENERAL WELFARE OF SURROUNDING RESIDENTIALLY USED**
29 **PROPERTIES AND COMMUNITIES.**

1 **7-505.**

2 **THE REQUIREMENTS OF § 7-504(I) THROUGH (M) OF THIS SUBTITLE APPLY TO**
3 **A SOLAR FACILITY PROPOSED TO BE LOCATED IN A BUSINESS OR MANUFACTURING**
4 **ZONE.**

5 **7-506.**

6 **(A) AN APPLICANT FOR A BUILDING PERMIT FOR A SOLAR FACILITY SHALL**
7 **PROVIDE A BOND OR OTHER FORM OF SECURITY ACCEPTABLE TO THE LOCAL**
8 **JURISDICTION IN THE FORM AND AMOUNT DETERMINED BY THE LOCAL**
9 **ADMINISTRATIVE OFFICER.**

10 **(B) A LOCAL CODE OFFICIAL MAY USE THE BOND OR OTHER SECURITY TO**
11 **PROCURE THE CORRECTION OF ANY UNSAFE OR HAZARDOUS CONDITIONS FOUND**
12 **AT THE SOLAR FACILITY UNDER § 7-507 OF THIS SUBTITLE OR REMOVAL OF A SOLAR**
13 **FACILITY UNDER § 7-508 OF THIS SUBTITLE, IN ACCORDANCE WITH THE CODE**
14 **ENFORCEMENT PROVISIONS OF LOCAL LAW.**

15 **7-507.**

16 **(A) EACH PARTY THAT HAS A LEASE OR OWNERSHIP INTEREST IN A SOLAR**
17 **FACILITY IS RESPONSIBLE FOR THE MAINTENANCE OF THE SOLAR FACILITY.**

18 **(B) (1) MAINTENANCE INCLUDES:**

19 **(I) PAINTING;**

20 **(II) STRUCTURAL REPAIRS;**

21 **(III) LANDSCAPE BUFFERS AND VEGETATION UNDER AND**
22 **AROUND SOLAR PANEL STRUCTURES; AND**

23 **(IV) INTEGRITY OF SECURITY MEASURES.**

24 **(2) ACCESS TO THE FACILITY SHALL BE MAINTAINED IN A MANNER**
25 **ACCEPTABLE TO THE LOCAL FIRE DEPARTMENT.**

26 **(3) THE OWNER, OPERATOR, OR LESSEE IS RESPONSIBLE FOR THE**
27 **COST OF MAINTAINING THE FACILITY AND ANY ACCESS ROADS.**

1 **(C) (1) AN APPLICANT FOR A BUILDING PERMIT OR A PROPERTY OWNER**
2 **SHALL ESTABLISH A LAND MAINTENANCE PLAN FOR THE SOLAR FACILITY USING**
3 **BEST LONG-TERM SITE MANAGEMENT PRACTICES.**

4 **(2) THE LAND MAINTENANCE PLAN SHALL BE IMPLEMENTED DURING**
5 **THE CONSTRUCTION AND OPERATION OF THE SOLAR FACILITY.**

6 **(3) THE USE OF ANY TOXIC CHEMICAL, SUCH AS GLYPHOSATE, AS AN**
7 **HERBICIDE TO CONTROL WEEDS AND OTHER UNWANTED VEGETATION UNDER AND**
8 **AROUND SOLAR PANEL STRUCTURES IS PROHIBITED.**

9 **(D) A PARCEL WHERE A SOLAR FACILITY IS LOCATED MAY BE USED FOR**
10 **ACCESSORY AGRICULTURAL PURPOSES, INCLUDING GRAZING OF LIVESTOCK,**
11 **APICULTURE, AND SIMILAR USES.**

12 **(E) THIS SECTION SHALL BE ENFORCED IN ACCORDANCE WITH THE CODE**
13 **ENFORCEMENT PROVISIONS OF LOCAL LAW.**

14 **7-508.**

15 **(A) THE REQUIREMENTS OF THIS SECTION ARE IN ADDITION TO, AND MAY**
16 **NOT SUBSTITUTE FOR, THE ABANDONMENT PROVISIONS OF § 7-207.2 OF THE**
17 **PUBLIC UTILITIES ARTICLE.**

18 **(B) (1) A SOLAR FACILITY THAT HAS REACHED THE END OF ITS USEFUL**
19 **LIFE OR HAS BEEN ABANDONED SHALL BE REMOVED.**

20 **(2) THE PROPERTY OWNER OR OPERATOR OF THE SOLAR FACILITY**
21 **SHALL PHYSICALLY REMOVE THE INSTALLATION NOT MORE THAN 150 DAYS AFTER**
22 **THE DATE OF DISCONTINUED OPERATIONS.**

23 **(3) THE OWNER OR OPERATOR OF THE SOLAR FACILITY SHALL**
24 **NOTIFY THE LOCAL JURISDICTION BY CERTIFIED MAIL OF THE PROPOSED DATE OF**
25 **DISCONTINUED OPERATIONS AND PLANS FOR REMOVAL.**

26 **(C) THE REMOVAL OF THE SOLAR FACILITY SHALL INCLUDE:**

27 **(1) PHYSICAL REMOVAL OF ALL SOLAR ENERGY SYSTEMS,**
28 **STRUCTURES, EQUIPMENT, SECURITY BARRIERS, AND ASSOCIATED TRANSMISSION**
29 **LINES FROM THE SITE;**

30 **(2) DISPOSAL OF ALL SOLID AND HAZARDOUS WASTE IN ACCORDANCE**
31 **WITH FEDERAL, STATE, AND LOCAL WASTE DISPOSAL REGULATIONS; AND**

1 2. the entry into a binding agreement or contractual
2 obligation to purchase equipment exclusively for use in construction in the State or to
3 undertake a program of actual construction in the State which cannot be canceled or
4 modified without substantial loss to the owner or operator of the proposed generating
5 station.

6 (ii) “Construction” does not include a change that is needed for the
7 temporary use of a site or route for nonutility purposes or for use in securing geological
8 data, including any boring that is necessary to ascertain foundation conditions.

9 (2) In this section, “qualified generator lead line” means an overhead
10 transmission line that is designed to carry a voltage in excess of 69,000 volts and would
11 allow an out-of-state Tier 1 or Tier 2 renewable source to interconnect with a portion of
12 the electric system in Maryland that is owned by an electric company.

13 (b) (1) (i) Unless a certificate of public convenience and necessity for the
14 construction is first obtained from the Commission, a person may not begin construction in
15 the State of:

16 1. a generating station; or

17 2. a qualified generator lead line.

18 (ii) If a person obtains Commission approval for construction under
19 § 7-207.1 of this subtitle, the Commission shall exempt a person from the requirement to
20 obtain a certificate of public convenience and necessity under this section.

21 (iii) Notwithstanding subparagraph (i) of this paragraph, a person
22 may not apply to obtain a certificate of public convenience and necessity for construction of
23 a qualified generator lead line unless:

24 1. at least 90 days before the filing of an application for a
25 certificate of public convenience and necessity, the person had in good faith offered the
26 electric company that owns that portion of the electric grid in Maryland to which the
27 qualified generator lead line would interconnect a full and fair opportunity for the electric
28 company to construct the qualified generator lead line; and

29 2. at any time at least 10 days before the filing of an
30 application for a certificate of public convenience and necessity, the electric company:

31 A. did not accept from the person a proposal or a negotiated
32 version of the proposal under which the electric company would construct the qualified
33 generator lead line; or

34 B. stated in writing that the electric company did not intend
35 to construct the qualified generator lead line.

1 (IV) NOTWITHSTANDING SUBPARAGRAPH (I) OF THIS
2 PARAGRAPH, A PERSON MAY NOT APPLY TO OBTAIN A CERTIFICATE OF PUBLIC
3 CONVENIENCE AND NECESSITY FOR CONSTRUCTION OF A SOLAR FACILITY FOR
4 COMMERCIAL USE THAT IS SUBJECT TO TITLE 7, SUBTITLE 5 OF THE LAND USE
5 ARTICLE, UNLESS THE PERSON DEMONSTRATES COMPLIANCE WITH ALL
6 APPLICABLE LOCAL REQUIREMENTS UNDER THAT LAW.

7 (2) Unless a certificate of public convenience and necessity for the
8 construction is first obtained from the Commission, and the Commission has found that the
9 capacity is necessary to ensure a sufficient supply of electricity to customers in the State, a
10 person may not exercise a right of condemnation in connection with the construction of a
11 generating station.

12 (3) (i) Except as provided in paragraph (4) of this subsection, unless a
13 certificate of public convenience and necessity for the construction is first obtained from the
14 Commission, a person may not begin construction of an overhead transmission line that is
15 designed to carry a voltage in excess of 69,000 volts or exercise a right of condemnation
16 with the construction.

17 (ii) For construction related to an existing overhead transmission
18 line, the Commission may waive the requirement in subparagraph (i) of this paragraph for
19 good cause.

20 (iii) Notwithstanding subparagraph (i) of this paragraph and subject
21 to subparagraph (iv) of this paragraph, the Commission may issue a certificate of public
22 convenience and necessity for the construction of an overhead transmission line only if the
23 applicant for the certificate of public convenience and necessity:

24 1. is an electric company; or

25 2. is or, on the start of commercial operation of the overhead
26 transmission line, will be subject to regulation as a public utility by an officer or an agency
27 of the United States.

28 (iv) The Commission may not issue a certificate of public convenience
29 and necessity for the construction of an overhead transmission line in the electric
30 distribution service territory of an electric company to an applicant other than an electric
31 company if:

32 1. the overhead transmission line is to be located solely
33 within the electric distribution service territory of that electric company; and

34 2. the cost of the overhead transmission line is to be paid
35 solely by that electric company and its ratepayers.

1 (v) 1. This subparagraph applies to the construction of an
2 overhead transmission line for which a certificate of public convenience and necessity is
3 required under this section.

4 2. On issuance of a certificate of public convenience and
5 necessity for the construction of an overhead transmission line, a person may acquire by
6 condemnation, in accordance with Title 12 of the Real Property Article, any property or
7 right necessary for the construction or maintenance of the transmission line.

8 (4) (i) Except as provided in subparagraph (ii) of this paragraph, for
9 construction related to an existing overhead transmission line designed to carry a voltage
10 in excess of 69,000 volts, the Commission shall waive the requirement to obtain a certificate
11 of public convenience and necessity if the Commission finds that the construction does not:

12 1. require the person to obtain new real property or
13 additional rights-of-way through eminent domain; or

14 2. require larger or higher structures to accommodate:

15 A. increased voltage; or

16 B. larger conductors.

17 (ii) 1. For construction related to an existing overhead
18 transmission line, including repairs, that is necessary to avoid an imminent safety hazard
19 or reliability risk, a person may undertake the necessary construction.

20 2. Within 30 days after construction is completed under
21 subsubparagraph 1 of this subparagraph, a person shall file a report with the Commission
22 describing the work that was completed.

23 (c) (1) On receipt of an application for a certificate of public convenience and
24 necessity under this section, the Commission shall provide notice immediately or require
25 the applicant to provide notice immediately of the application to:

26 (i) the Department of Planning;

27 (ii) the governing body, and if applicable the executive, of each
28 county or municipal corporation in which any portion of the generating station, overhead
29 transmission line, or qualified generator lead line is proposed to be constructed;

30 (iii) the governing body, and if applicable the executive, of each
31 county or municipal corporation within 1 mile of the proposed location of the generating
32 station, overhead transmission line, or qualified generator lead line;

1 (iv) each member of the General Assembly representing any part of
2 a county in which any portion of the generating station, overhead transmission line, or
3 qualified generator lead line is proposed to be constructed;

4 (v) each member of the General Assembly representing any part of
5 each county within 1 mile of the proposed location of the generating station, overhead
6 transmission line, or qualified generator lead line; and

7 (vi) all other interested persons.

8 (2) The Commission, when sending the notice required under paragraph
9 (1) of this subsection, shall forward a copy of the application to:

10 (i) each appropriate State unit and unit of local government for
11 review, evaluation, and comment regarding the significance of the proposal to State,
12 area-wide, and local plans or programs; and

13 (ii) each member of the General Assembly included under paragraph
14 (1)(iv) and (v) of this subsection who requests a copy of the application.

15 (d) (1) The Commission shall provide an opportunity for public comment and
16 hold a public hearing on the application for a certificate of public convenience and necessity
17 in each county and municipal corporation in which any portion of the construction of a
18 generating station, an overhead transmission line designed to carry a voltage in excess of
19 69,000 volts, or a qualified generator lead line is proposed to be located.

20 (2) The Commission shall hold the public hearing jointly with the
21 governing body of the county or municipal corporation in which any portion of the
22 construction of the generating station, overhead transmission line, or qualified generator
23 lead line is proposed to be located, unless the governing body declines to participate in the
24 hearing.

25 (3) (i) Once in each of the 4 successive weeks immediately before the
26 hearing date, the Commission shall provide weekly notice of the public hearing and an
27 opportunity for public comment:

28 1. by advertisement in a newspaper of general circulation in
29 the county or municipal corporation affected by the application;

30 2. on two types of social media; and

31 3. on the Commission's Web site.

32 (ii) Before a public hearing, the Commission shall coordinate with
33 the governing body of the county or municipal corporation in which any portion of the
34 construction of the generating station, overhead transmission line, or qualified generator
35 lead line is proposed to be located to identify additional options for providing, in an efficient

1 and cost-effective manner, notice of the public hearing through other types of media that
2 are familiar to the residents of the county or municipal corporation.

3 (4) (i) On the day of a public hearing, an informational sign shall be
4 posted prominently at or near each public entrance of the building in which the public
5 hearing will be held.

6 (ii) The informational sign required under subparagraph (i) of this
7 paragraph shall:

8 1. state the time, room number, and subject of the public
9 hearing; and

10 2. be at least 17 by 22 inches in size.

11 (5) (i) The Commission shall ensure presentation and
12 recommendations from each interested State unit, and shall allow representatives of each
13 State unit to sit during hearing of all parties.

14 (ii) The Commission shall allow each State unit 15 days after the
15 conclusion of the hearing to modify the State unit's initial recommendations.

16 (e) The Commission shall take final action on an application for a certificate of
17 public convenience and necessity only after due consideration of:

18 (1) the recommendation of the governing body of each county or municipal
19 corporation in which any portion of the construction of the generating station, overhead
20 transmission line, or qualified generator lead line is proposed to be located;

21 (2) the effect of the generating station, overhead transmission line, or
22 qualified generator lead line on:

23 (i) the stability and reliability of the electric system;

24 (ii) economics;

25 (iii) esthetics;

26 (iv) historic sites;

27 (v) aviation safety as determined by the Maryland Aviation
28 Administration and the administrator of the Federal Aviation Administration;

29 (vi) when applicable, air and water pollution; and

30 (vii) the availability of means for the required timely disposal of
31 wastes produced by any generating station; and

1 (3) for a generating station:

2 (i) the consistency of the application with the comprehensive plan
3 and zoning of each county or municipal corporation where any portion of the generating
4 station is proposed to be located, **INCLUDING, FOR A SOLAR FACILITY FOR**
5 **COMMERCIAL USE, COMPLIANCE WITH ALL APPLICABLE LOCAL REQUIREMENTS**
6 **UNDER TITLE 7, SUBTITLE 5 OF THE LAND USE ARTICLE;** and

7 (ii) the efforts to resolve any issues presented by a county or
8 municipal corporation where any portion of the generating station is proposed to be located.

9 (f) For the construction of an overhead transmission line, in addition to the
10 considerations listed in subsection (e) of this section, the Commission shall:

11 (1) take final action on an application for a certificate of public convenience
12 and necessity only after due consideration of the need to meet existing and future demand
13 for electric service; and

14 (2) require as an ongoing condition of the certificate of public convenience
15 and necessity that an applicant complies with:

16 (i) all relevant agreements with PJM Interconnection, L.L.C., or its
17 successors, related to the ongoing operation and maintenance of the overhead transmission
18 line; and

19 (ii) all obligations imposed by the North America Electric Reliability
20 Council and the Federal Energy Regulatory Commission related to the ongoing operation
21 and maintenance of the overhead transmission line.

22 (g) (1) The Commission may not authorize, and a person may not undertake,
23 the construction of an overhead transmission line that is aligned with and within 1 mile of
24 either end of a public airport runway, unless:

25 (i) the Federal Aviation Administration determines that the
26 construction of an overhead transmission line will not constitute a hazard to air navigation;
27 and

28 (ii) the Maryland Aviation Administration concurs in that
29 determination.

30 (2) A privately owned airport runway shall qualify as a public airport
31 runway under this subsection only if the runway has been on file with the Federal Aviation
32 Administration for at least 2 years as being open to the public without restriction.

33 7-207.1.

- 1 (a) This section applies to a person who:
- 2 (1) constructs a generating station:
- 3 (i) designed to provide on-site generated electricity if:
- 4 1. the capacity of the generating station does not exceed 70
5 megawatts; and
- 6 2. the electricity that may be exported for sale from the
7 generating station to the electric system is sold only on the wholesale market pursuant to
8 an interconnection, operation, and maintenance agreement with the local electric company;
9 or
- 10 (ii) that produces electricity from wind if:
- 11 1. the generating station is land-based;
- 12 2. the capacity of the generating station does not exceed 70
13 megawatts;
- 14 3. the electricity that may be exported for sale from the
15 generating station to the electric system is sold only on the wholesale market pursuant to
16 an interconnection, operation, and maintenance agreement with the local electric company;
- 17 4. the Commission provides an opportunity for public
18 comment at a public hearing as provided in subsection (f) of this section; and
- 19 5. the generating station's wind turbines are not located
20 within a distance from the Patuxent River Naval Air Station that is determined by
21 regulations adopted by the Commission in coordination with the Commander, Naval Air
22 Warfare Center Aircraft Division, provided that the distance requirement under the
23 regulation is:
- 24 A. not greater than is necessary to encompass an area in
25 which utility scale wind turbines could create Doppler radar interference for missions at
26 the Patuxent River Naval Air Station;
- 27 B. not greater than 46 miles, measured from location
28 38.29667N, 76.37668W; and
- 29 C. subject to modification if necessary to reflect changes in
30 missions or technology at the Patuxent River Naval Air Station or changes in wind energy
31 technology; or
- 32 (2) constructs a generating station if:

1 (i) the capacity of the generating station does not exceed 25
2 megawatts;

3 (ii) the electricity that may be exported for sale from the generating
4 station to the electric system is sold only on the wholesale market pursuant to an
5 interconnection, operation, and maintenance agreement with the local electric company;
6 and

7 (iii) at least 10% of the electricity generated at the generating station
8 each year is consumed on-site.

9 (b) (1) The Commission shall require a person that is exempted from the
10 requirement to obtain a certificate of public convenience and necessity to obtain approval
11 from the Commission under this section before the person may construct a generating
12 station described in subsection (a) of this section.

13 (2) An application for approval under this section shall:

14 (i) be made to the Commission in writing on a form adopted by the
15 Commission;

16 (ii) be verified by oath or affirmation; and

17 (iii) contain information that the Commission requires, including:

18 1. proof of compliance with all applicable requirements of the
19 independent system operator; [and]

20 2. a copy of an interconnection, operation, and maintenance
21 agreement between the generating station and the local electric company; AND

22 **3. IN THE CASE OF A SOLAR FACILITY FOR COMMERCIAL**
23 **USE SUBJECT TO TITLE 7, SUBTITLE 5 OF THE LAND USE ARTICLE, PROOF OF**
24 **COMPLIANCE WITH ALL APPLICABLE LOCAL REQUIREMENTS UNDER THAT**
25 **SUBTITLE.**

26 (c) On receipt of an application for approval under this section, the Commission
27 shall provide notice immediately or require the applicant to provide notice immediately of
28 the application to:

29 (1) the governing body of each county or municipal corporation in which
30 any portion of the generating station is proposed to be constructed;

31 (2) the governing body of each county or municipal corporation within 1
32 mile of the proposed location of the generating station;

1 (3) each member of the General Assembly representing any part of a county
2 in which any portion of the generating station is proposed to be constructed; and

3 (4) each member of the General Assembly representing any part of each
4 county within 1 mile of the proposed location of the generating station.

5 (d) When reviewing an application for approval under this section, the
6 Commission shall:

7 (1) ensure the safety and reliability of the electric system;

8 (2) require the person constructing the generating station to notify the
9 Commission 2 weeks before the first export of electricity from a generating station approved
10 under this section; and

11 (3) conduct its review and approval in an expeditious manner.

12 (e) Except for the notice required under subsection (c) of this section, the
13 Commission may waive an element of the approval process under this section if the
14 Commission determines that the waiver is in the public interest.

15 (f) (1) The Commission shall provide an opportunity for public comment and
16 hold a public hearing as provided under this subsection on an application for approval made
17 under subsection (a)(1)(ii) of this section in each county and municipal corporation in which
18 any portion of the construction of a generating station is proposed to be located.

19 (2) Upon the request of the governing body of a county or municipal
20 corporation in which any portion of the construction of a generating station is proposed to
21 be located, the Commission shall hold the public hearing jointly with the governing body.

22 (3) Once in each of 2 successive weeks immediately before the hearing date,
23 the Commission, at the expense of the applicant, shall provide weekly notice of the public
24 hearing and opportunity for public comment by advertisement in a newspaper of general
25 circulation in the county or municipal corporation affected by the application.

26 7-207.2.

27 (a) This section applies to a person who constructs a generating station that:

28 (1) has the capacity to produce at least 2 megawatts of electricity from a
29 solar photovoltaic system; and

30 (2) is exempted under § 7-207.1 of this subtitle from the requirement to
31 obtain a certificate of public convenience and necessity.

32 (b) (1) A person shall file an application for approval to construct a generating
33 station under § 7-207.1 of this subtitle at least 6 months before construction commences.

1 (2) The Commission shall require a person who files an application for
2 approval to construct a generating station to pay a deposit of 1% of total installed costs.

3 **(3) THE APPLICATION SHALL INCLUDE PROOF OF COMPLIANCE WITH**
4 **ALL APPLICABLE LOCAL REQUIREMENTS UNDER TITLE 7, SUBTITLE 5 OF THE LAND**
5 **USE ARTICLE.**

6 (c) (1) The Commission shall place any deposits collected under subsection (b)
7 of this section into an escrow account.

8 (2) If a person demonstrates to the Commission that the person is fully
9 authorized to commence construction within 18 months after filing an application for
10 approval, the Commission shall refund the deposit, less reasonable administrative costs.

11 (3) (i) Subject to subparagraph (ii) of this paragraph, if a person does
12 not commence construction within 18 months after filing an application for approval, the
13 money held in the escrow account shall be:

14 1. deemed to be abandoned; and

15 2. transferred to the Maryland Strategic Energy Investment
16 Fund under § 9–20B–05 of the State Government Article, less reasonable administrative
17 costs.

18 (ii) 1. A person may request an extension for a project that does
19 not commence construction within 18 months after the filing of an application for approval.

20 2. The Commission may grant the request based on factors
21 the Commission considers compelling, including the occurrence of events outside the
22 person's control.

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