

Chapter 368

**(House Bill 322)**

AN ACT concerning

**Real Property – Restrictions on Use – Low–Impact Landscaping**

FOR the purpose of prohibiting a certain restriction on use from imposing unreasonable limitations on low–impact landscaping under certain circumstances; providing that this Act may not be construed to prohibit a certain restriction on use from including certain reasonable guidelines; exempting a certain restriction on use on certain historic property from the applicability of this Act; defining certain terms; and generally relating to restrictions on use and low–impact landscaping.

BY adding to

Article – Real Property

Section 2–124

Annotated Code of Maryland

(2015 Replacement Volume and 2020 Supplement)

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

**Article – Real Property**

**2–124.**

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

**(2) (I) “LOW–IMPACT LANDSCAPING” MEANS LANDSCAPING TECHNIQUES THAT CONSERVE WATER, LOWER MAINTENANCE COSTS, PROVIDE POLLUTION PREVENTION, AND CREATE HABITAT FOR WILDLIFE.**

**(II) “LOW–IMPACT LANDSCAPING” INCLUDES:**

**1. BIO–HABITAT GARDENS AND OTHER FEATURES DESIGNED TO ATTRACT WILDLIFE;**

**2. POLLINATOR GARDENS AND OTHER FEATURES DESIGNED TO ATTRACT POLLINATOR SPECIES;**

**3. RAIN GARDENS AND OTHER FEATURES THAT USE NATURAL BIOLOGICAL PRINCIPLES TO RETURN RAINWATER TO THE SOIL AND TO FILTER RAINWATER OF EXCESS NUTRIENTS; AND**

**4. XERISCAPING AND OTHER FORMS OF LANDSCAPING OR GARDENING THAT REDUCE OR ELIMINATE THE NEED FOR SUPPLEMENTAL WATER FROM IRRIGATION.**

**(3) “RESTRICTION ON USE” INCLUDES ANY COVENANT, RESTRICTION, OR CONDITION CONTAINED IN:**

**(I) A DEED;**

**(II) A DECLARATION;**

**(III) A CONTRACT;**

**(IV) THE BYLAWS OR RULES OF A CONDOMINIUM OR HOMEOWNERS ASSOCIATION;**

**(V) A SECURITY INSTRUMENT; OR**

**(VI) ANY OTHER INSTRUMENT AFFECTING:**

**1. THE TRANSFER OR SALE OF REAL PROPERTY; OR**

**2. ANY OTHER INTEREST IN REAL PROPERTY.**

**(B) (1) A RESTRICTION ON USE REGARDING LAND USE MAY NOT IMPOSE OR ACT TO IMPOSE UNREASONABLE LIMITATIONS ON LOW-IMPACT LANDSCAPING, PROVIDED THAT THE PROPERTY OWNER ~~OWNS~~:**

**(I) OWNS OR HAS THE RIGHT TO EXCLUSIVE USE OF THE PROPERTY; AND**

**(II) MAINTAINS AND REGULARLY TENDS TO THE LOW-IMPACT LANDSCAPING.**

**(2) FOR PURPOSES OF PARAGRAPH (1) OF THIS SUBSECTION, AN UNREASONABLE LIMITATION INCLUDES A LIMITATION THAT:**

**(I) SIGNIFICANTLY INCREASES THE COST OF LOW-IMPACT LANDSCAPING;**

**(II) SIGNIFICANTLY DECREASES THE EFFICIENCY OF LOW-IMPACT LANDSCAPING; OR**

**(III) REQUIRES CULTIVATED VEGETATION TO CONSIST IN WHOLE OR IN PART OF TURF GRASS.**

**(C) NOTHING IN THIS SECTION MAY BE CONSTRUED TO PROHIBIT A RESTRICTION ON USE FROM INCLUDING REASONABLE DESIGN AND AESTHETIC GUIDELINES REGARDING THE TYPE, NUMBER, AND LOCATION OF LOW-IMPACT LANDSCAPING FEATURES.**

**(D) THIS SECTION DOES NOT APPLY TO A RESTRICTION ON USE ON HISTORIC PROPERTY THAT IS LISTED IN, OR DETERMINED BY THE DIRECTOR OF THE MARYLAND HISTORICAL TRUST TO BE ELIGIBLE FOR INCLUSION IN, THE MARYLAND REGISTER OF HISTORIC PROPERTIES.**

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2021.

**Enacted under Article II, § 17(c) of the Maryland Constitution, May 30, 2021.**