

SENATE BILL 1082

M3

EMERGENCY BILL

0lr3494

By: **Senator DeGrange**

Introduced and read first time: March 3, 2010

Assigned to: Rules

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 and begins construction within
12 a certain period of time; authorizing a person to use certain structures for
13 quantity and quality control under certain circumstances; prohibiting a person
14 from being required to use a certain site design, with a certain exception, under
15 certain circumstances; defining certain terms; making this Act an emergency
16 measure; and generally relating to stormwater management.

17 BY repealing and reenacting, with amendments,
18 Article – Environment
19 Section 4–203(b) and 4–204
20 Annotated Code of Maryland
21 (2007 Replacement Volume and 2009 Supplement)

22 BY adding to
23 Article – Environment
24 Section 4–203(e)
25 Annotated Code of Maryland
26 (2007 Replacement Volume and 2009 Supplement)

27 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
28 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;

1 (7) Specify the minimum requirements for inspection and
2 maintenance of stormwater practices;

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

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

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

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

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

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

13 2. Protect public health;

14 3. Safeguard fish and aquatic life and scenic and
15 ecological values; and

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

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

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

22 (vii) Capture and treat stormwater runoff to remove pollutants
23 and enhance water quality;

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

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

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

1 (ii) Specify that the comprehensive process established under
2 subparagraph (i) of this paragraph takes into account the cumulative impacts of both
3 plans.

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

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

9 (II) 1. THE EXISTING SITE IMPERVIOUS AREA EXCEEDS
10 30%; OR

11 2. THE PROPOSED DEVELOPMENT IS FOR AN
12 AFFORDABLE HOUSING OR A TRANSIT-ORIENTED DEVELOPMENT.

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

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

19 1. THE TOTAL SQUARE FOOTAGE OF THE PROPOSED
20 DEVELOPMENT PROJECT; AND

21 2. THE COST AND FEASIBILITY OF THE PROPOSED
22 REDUCTION;

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

29 1. THE TOTAL SQUARE FOOTAGE OF THE PROPOSED
30 DEVELOPMENT PROJECT; AND

31 2. THE COST AND FEASIBILITY OF THE PROPOSED
32 REDUCTION; OR

1 **(III) USE A COMBINATION OF THE STORMWATER**
2 **MANAGEMENT STRATEGIES UNDER ITEMS (I) AND (II) OF THIS PARAGRAPH.**

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

6 **(II) A FEE-IN-LIEU PAYMENT COLLECTED UNDER THIS**
7 **PARAGRAPH SHALL BE:**

8 **1. IN AN AMOUNT DETERMINED BY A LOCAL**
9 **GOVERNMENT; AND**

10 **2. USED BY A LOCAL GOVERNMENT TO CREATE OR**
11 **ENHANCE STORMWATER MANAGEMENT PROJECTS.**

12 4-204.

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

17 **(I) SUBMITTING a stormwater management plan to the county**
18 **or municipality that has jurisdiction[, and obtaining]; AND**

19 **(II) OBTAINING approval of the plan from the county or**
20 **municipality.**

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

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

26 **(II) “DEVELOPMENT PROJECT” INCLUDES:**

27 **1. A DEVELOPMENT OR REDEVELOPMENT PROJECT;**
28 **OR**

29 **2. ANY PHASE OF A DEVELOPMENT OR**
30 **REDEVELOPMENT PROJECT.**

31 **(III) “PRELIMINARY PLAN APPROVAL” INCLUDES:**

- 1 1. **AN APPROVAL OF:**
- 2 A. **A DEVELOPMENT PLAN;**
- 3 B. **A PROJECT PLAN;**
- 4 C. **A SKETCH PLAN;**
- 5 D. **A CONCEPT PLAN; OR**
- 6 E. **A SITE PLAN; OR**
- 7 2. **AN ADEQUATE PUBLIC FACILITIES APPROVAL; OR**
- 8 3. **ANY OTHER EQUIVALENT APPROVAL UNDER THE**
- 9 **LOCAL LAWS OR REGULATIONS OF THE JURISDICTION IN WHICH THE**
- 10 **DEVELOPMENT PROJECT IS SITUATED.**

11 **(2) IF A DEVELOPMENT PROJECT RECEIVES PRELIMINARY PLAN**

12 **APPROVAL BEFORE MAY 4, 2010, AND BEGINS CONSTRUCTION WITHIN 5 YEARS**

13 **OF THE APPROVAL, A PERSON MAY SUBMIT A STORMWATER MANAGEMENT**

14 **PLAN, IN ACCORDANCE WITH SUBSECTION (A) OF THIS SECTION, THAT**

15 **COMPLIES WITH THE LAWS AND REGULATIONS IN EFFECT AT THE TIME THE**

16 **PERSON RECEIVED PRELIMINARY PLAN APPROVAL FOR THE DEVELOPMENT**

17 **PROJECT.**

18 **(3) IF A DEVELOPMENT PROJECT CONSTRUCTED STORMWATER**

19 **MANAGEMENT STRUCTURES BEFORE MAY 4, 2010, A PERSON:**

20 **(I) MAY USE THOSE STRUCTURES FOR STORMWATER**

21 **QUANTITY AND QUALITY CONTROL; AND**

22 **(II) MAY NOT BE REQUIRED TO USE ENVIRONMENTAL SITE**

23 **DESIGN EXCEPT AS A SUPPLEMENT TO THOSE STRUCTURES.**

24 **[(b)] (C)** The developer shall certify that all land clearing, construction,

25 development, and drainage will be done according to the plan.

26 **[(c)] (D)** Each county or municipality may provide by ordinance for the

27 review and approval of stormwater management plans by the local soil conservation

28 district.

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

4 (i) Reviewing stormwater management plans;

5 (ii) Inspection and enforcement activities;

6 (iii) Watershed planning;

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

9 (v) Retrofitting developed areas for pollution control;

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

11 (vii) Operation and maintenance of facilities; and

12 (viii) Program development of these activities.

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

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

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