

HOUSE BILL 1080

M1, M3, R1

0lr1844

By: **Delegates Lehman, Acevero, Boyce, Feldmark, Fraser-Hidalgo, Moon, Stein, Stewart, and Terrasa**

Introduced and read first time: February 6, 2020

Assigned to: Environment and Transportation

A BILL ENTITLED

1 AN ACT concerning

2 **Coast Smart Siting and Design Criteria – Private Construction or**
3 **Reconstruction Projects – Application**

4 FOR the purpose of applying Coast Smart siting and design criteria to certain private
5 construction or reconstruction projects beginning on a certain date; exempting
6 certain private construction or reconstruction projects from the application of this
7 Act; providing for the application of this Act; making conforming changes; and
8 generally relating to Coast Smart siting and design criteria.

9 BY repealing and reenacting, with amendments,
10 Article – Natural Resources
11 Section 3–1009
12 Annotated Code of Maryland
13 (2018 Replacement Volume and 2019 Supplement)

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

16 **Article – Natural Resources**

17 3–1009.

18 (a) (1) This section applies to:

19 **(I)** State and local capital projects for which at least 50% of the
20 project costs are funded with State funds; **AND**

21 **(II) PRIVATE CONSTRUCTION OR RECONSTRUCTION PROJECTS**

22 **THAT:**

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 1. **DISTURB 1 ACRE OR MORE OF LAND;**

2 2. **ARE LOCATED IN AN AREA DESIGNATED AS A SPECIAL**
3 **FLOOD HAZARD AREA BY THE FEDERAL EMERGENCY MANAGEMENT AGENCY;**

4 3. **ARE LOCATED IN AN AREA DESIGNATED AS BEING**
5 **SUBJECT TO INUNDATION BY A CATEGORY 2 HURRICANE AS DEPICTED ON THE**
6 **NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION'S NATIONAL STORM**
7 **SURGE HAZARD MAPS;**

8 4. **ACCORDING TO THE NATIONAL OCEANIC AND**
9 **ATMOSPHERIC ADMINISTRATION'S OFFICE FOR COASTAL MANAGEMENT'S SEA**
10 **LEVEL RISE INUNDATION DATA, ARE SUBJECT TO INUNDATION BY 2 FEET OR LESS**
11 **OF SEA LEVEL RISE; OR**

12 5. **ARE LOCATED IN AN AREA:**

13 A. **THAT, AS OF 2019, IS SUBJECT TO RECURRING**
14 **HIGH-TIDE FLOODING; OR**

15 B. **WHERE, ACCORDING TO THE NATIONAL OCEANIC**
16 **AND ATMOSPHERIC ADMINISTRATION'S SEA LEVEL RISE VIEWER,**
17 **HIGH-TIDE FLOODING WILL OCCUR IF THE SEA LEVEL RISES 2 FEET.**

18 (2) This section does not apply to [a]:

19 (I) **A capital project that costs less than \$500,000; OR**

20 (II) **A PRIVATE CONSTRUCTION OR RECONSTRUCTION PROJECT**
21 **THAT COSTS LESS THAN \$100,000.**

22 (b) (1) (I) Beginning July 1, 2020, if a State or local capital project includes
23 the construction of a structure or highway facility, the structure or highway facility shall
24 be constructed in compliance with siting and design criteria established under subsection
25 (c) of this section.

26 (II) **BEGINNING JULY 1, 2021, IF A PRIVATE PROJECT INCLUDES**
27 **THE CONSTRUCTION OF A STRUCTURE OR HIGHWAY FACILITY, THE STRUCTURE OR**
28 **HIGHWAY FACILITY SHALL BE CONSTRUCTED IN COMPLIANCE WITH SITING AND**
29 **DESIGN CRITERIA ESTABLISHED UNDER SUBSECTION (C) OF THIS SECTION.**

30 (2) (I) Beginning July 1, 2020, if a State or local capital project includes
31 the reconstruction of a structure with substantial damage, the structure shall be

reconstructed in compliance with siting and design criteria established under subsection (c) of this section.

(II) BEGINNING JULY 1, 2021, IF A PRIVATE PROJECT INCLUDES THE RECONSTRUCTION OF A STRUCTURE WITH SUBSTANTIAL DAMAGE, THE STRUCTURE SHALL BE RECONSTRUCTED IN COMPLIANCE WITH SITING AND DESIGN CRITERIA ESTABLISHED UNDER SUBSECTION (C) OF THIS SECTION.

(c) (1) The Council, in consultation with the Department and the Department of Transportation, shall establish Coast Smart siting and design criteria to address sea level rise inundation and coastal flood impacts on State and local capital projects **AND PRIVATE CONSTRUCTION OR RECONSTRUCTION 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;

(ii) A requirement that a structure be designed and constructed or reconstructed in a manner to withstand the storm surge from a storm that registers as a category 2 on the Saffir–Simpson hurricane wind scale, including a requirement for structures to be constructed or reconstructed at a minimum elevation above the projected storm surge; and

(iii) Provisions establishing a process to allow a unit of State or local government **OR A PRIVATE DEVELOPER** to obtain a waiver from complying with the requirements of subsection (b) of this section.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall apply only to private construction or reconstruction projects for which, in accordance with Title 9, Subtitle 3 of the Environment Article, a general or individual permit for stormwater associated with a construction activity was issued after July 1, 2021, by the Department of the Environment.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2020.