

Chapter 151

(House Bill 987)

AN ACT concerning

Stormwater Management – Watershed Protection and Restoration Program

FOR the purpose of requiring ~~each a county and or~~ subject to a certain municipal stormwater permit to adopt and implement certain laws or ordinances to establish a watershed protection and restoration program on or before a certain date; exempting a certain county or municipality from the requirements of this Act if the county or municipality has enacted and implemented a certain system of charges in a certain manner by a certain date; requiring a watershed protection and restoration program to include a stormwater remediation fee and a local watershed protection and restoration fund; requiring ~~each a county and or~~ maintain and or administer a local watershed protection and restoration fund in accordance with this Act; establishing the purpose of a local watershed protection and restoration fund; requiring ~~each a county and or~~ establish and collect a stormwater remediation fee in accordance with this Act; requiring ~~each a county and or~~ set the amount of a residential stormwater remediation fee in a certain manner; authorizing a county or municipality to use certain calculation methods to set a stormwater remediation fee; requiring each a county and or municipality to set the amount of a nonresidential stormwater remediation fee in a certain manner; providing that a stormwater remediation fee is separate from certain other charges; ~~authorizing~~ exempting certain property from paying the stormwater remediation fee; requiring a county or municipality to establish policies and procedures approved by the Department of the Environment to reduce a certain stormwater remediation fee in accordance with certain policies and procedures for a certain purpose; requiring the policies and procedures to include certain items; ~~authorizing a county or municipality to monitor and verify the effectiveness of certain measures in a certain manner;~~ prohibiting, with certain exception, a county from imposing a stormwater remediation fee on a property located within a municipality; ~~authorizing a municipality to authorize a county to impose a stormwater remediation fee on a property located within a municipality in place of a municipal stormwater remediation fee;~~ the assessment of a stormwater remediation fee on a property by both a county and a municipality; requiring a county to provide certain notice and a reasonable time to pass a certain ordinance before the county may impose a stormwater remediation fee on property located within a municipality; requiring a municipality to provide certain notice and a reasonable time for a county to discontinue collecting a certain stormwater remediation fee under certain circumstances; requiring ~~each a county and or~~ establish a procedure for a property owner to appeal the imposition of a stormwater

remediation fee; requiring ~~each~~ a county ~~and~~ or municipality to determine the method, frequency, and enforcement of the collection of the stormwater remediation fee and to deposit the fee into a local watershed protection and restoration fund; specifying the money to be deposited in a local watershed protection and restoration fund and the uses of the money in the fund; providing that money in a local watershed and restoration fund may not revert or be transferred to the general fund of any county or municipality; requiring each county and municipality to make publicly available a report on certain information; requiring a county or municipality to establish a certain hardship program; authorizing the Department of the Environment to adopt certain regulations; defining a certain term; and generally relating to stormwater management in the State.

BY repealing and reenacting, with amendments,
 Article – Environment
 Section 4–201.1
 Annotated Code of Maryland
 (2007 Replacement Volume and 2011 Supplement)

BY adding to
 Article – Environment
 Section 4–202.1
 Annotated Code of Maryland
 (2007 Replacement Volume and 2011 Supplement)

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

Article – Environment

4–201.1.

(a) In this subtitle the following words have the meanings indicated.

(b) “Environmental site design” means using small-scale stormwater management practices, nonstructural techniques, and better site planning to mimic natural hydrologic runoff characteristics and minimize the impact of land development on water resources.

(c) “Environmental site design” includes:

(1) Optimizing conservation of natural features, such as drainage patterns, soils, and vegetation;

(2) Minimizing use of impervious surfaces[, such as paved surfaces, concrete channels, roofs, and pipes];

(3) Slowing down runoff to maintain discharge timing and to increase infiltration and evapotranspiration; and

(4) Using other nonstructural practices or innovative stormwater management technologies approved by the Department.

(D) (1) "IMPERVIOUS SURFACE" MEANS A SURFACE THAT DOES NOT ALLOW STORMWATER TO INFILTRATE INTO THE GROUND.

(2) "IMPERVIOUS SURFACE" INCLUDES ROOFTOPS, DRIVEWAYS, SIDEWALKS, OR PAVEMENT.

4-202.1.

~~**(A) ON OR BEFORE JULY 1, 2013, A COUNTY OR MUNICIPALITY SHALL ADOPT AND IMPLEMENT LOCAL LAWS OR ORDINANCES NECESSARY TO ESTABLISH A WATERSHED PROTECTION AND RESTORATION PROGRAM.**~~

~~**(B) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, THIS SECTION APPLIES TO A COUNTY OR MUNICIPALITY THAT IS SUBJECT TO A NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM PHASE I MUNICIPAL SEPARATE STORM SEWER SYSTEM PERMIT.**~~

(2) THIS SECTION DOES NOT APPLY TO A COUNTY OR MUNICIPALITY THAT, ON OR BEFORE JULY 1, 2012, HAS ENACTED AND IMPLEMENTED A SYSTEM OF CHARGES UNDER § 4-204 OF THIS SUBTITLE FOR THE PURPOSE OF FUNDING A WATERSHED PROTECTION AND RESTORATION PROGRAM, OR SIMILAR PROGRAM, IN A MANNER CONSISTENT WITH THE REQUIREMENTS OF THIS SECTION.

~~**(B) ON OR BEFORE JULY 1, 2013, A COUNTY OR MUNICIPALITY SHALL ADOPT AND IMPLEMENT LOCAL LAWS OR ORDINANCES NECESSARY TO ESTABLISH A WATERSHED PROTECTION AND RESTORATION PROGRAM.**~~

(C) A WATERSHED PROTECTION AND RESTORATION PROGRAM ESTABLISHED UNDER THIS SECTION SHALL INCLUDE:

(1) A STORMWATER REMEDIATION FEE; AND

(2) A LOCAL WATERSHED PROTECTION AND RESTORATION FUND.

(D) (1) ~~EACH A COUNTY AND OR~~ MUNICIPALITY SHALL MAINTAIN ~~AND OR~~ ADMINISTER A LOCAL WATERSHED PROTECTION AND RESTORATION FUND IN ACCORDANCE WITH THIS SECTION.

(2) THE PURPOSE OF A LOCAL WATERSHED PROTECTION AND RESTORATION FUND IS TO PROVIDE FINANCIAL ASSISTANCE FOR THE IMPLEMENTATION OF LOCAL STORMWATER MANAGEMENT PLANS THROUGH STORMWATER MANAGEMENT PRACTICES AND STREAM AND WETLAND RESTORATION ACTIVITIES.

(E) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION AND SUBSECTION (F) OF THIS SECTION, ~~EACH A COUNTY AND OR~~ MUNICIPALITY SHALL ESTABLISH AND ANNUALLY COLLECT A STORMWATER REMEDIATION FEE FROM ~~PROPERTY~~ OWNERS OF PROPERTY LOCATED WITHIN THE COUNTY OR MUNICIPALITY IN ACCORDANCE WITH THIS SECTION.

(2) PROPERTY OWNED BY THE STATE, A UNIT OF STATE GOVERNMENT, A COUNTY, A MUNICIPALITY, OR A REGULARLY ORGANIZED VOLUNTEER FIRE DEPARTMENT THAT IS USED FOR PUBLIC PURPOSES MAY NOT BE CHARGED A STORMWATER REMEDIATION FEE UNDER THIS SECTION.

(3) (I) ~~EACH A COUNTY AND OR~~ MUNICIPALITY SHALL SET A ~~RESIDENTIAL~~ STORMWATER REMEDIATION FEE FOR PROPERTY IN AN AMOUNT THAT ~~IS~~ IS BASED ON THE SHARE OF STORMWATER MANAGEMENT SERVICES RELATED TO THE PROPERTY AND PROVIDED BY THE COUNTY OR MUNICIPALITY.

~~(II) A COUNTY OR MUNICIPALITY MAY SET A STORMWATER REMEDIATION FEE UNDER THIS PARAGRAPH IN AN AMOUNT THAT IS GRADUATED, BASED ON THE AMOUNT OF IMPERVIOUS SURFACE ON EACH PROPERTY.~~

(II) A COUNTY OR MUNICIPALITY MAY SET A STORMWATER REMEDIATION FEE UNDER THIS PARAGRAPH BASED ON:

1. A FLAT RATE;
2. AN AMOUNT THAT IS GRADUATED, BASED ON THE AMOUNT OF IMPERVIOUS SURFACE ON EACH PROPERTY; OR
3. ANOTHER METHOD OF CALCULATION SELECTED BY THE COUNTY OR MUNICIPALITY.

~~(I) IS THE SAME FOR ALL RESIDENTIAL PROPERTY OWNERS WITHIN THE COUNTY OR MUNICIPALITY;~~

~~(II) VARIES BASED ON THE TYPE OF RESIDENTIAL PROPERTY, INCLUDING SINGLE FAMILY OR MULTIPLE OCCUPANCY PROPERTIES; OR~~

~~(III) IS GRADUATED, BASED ON THE AMOUNT OF IMPERVIOUS SURFACE ON EACH RESIDENTIAL PROPERTY.~~

~~(3) EACH A COUNTY AND OR MUNICIPALITY SHALL SET A NONRESIDENTIAL STORMWATER REMEDIATION FEE IN AN AMOUNT THAT:~~

~~(I) IS GREATER THAN OR EQUAL TO THE RESIDENTIAL STORMWATER REMEDIATION FEE SET UNDER PARAGRAPH (2) OF THIS SUBSECTION; AND~~

~~(II) CONSISTS OF:~~

~~1. A BASE AMOUNT THAT IS THE SAME FOR ALL NONRESIDENTIAL PROPERTY OWNERS WITHIN THE COUNTY OR MUNICIPALITY; AND~~

~~2. AN AMOUNT THAT IS GRADUATED BASED ON THE AMOUNT OF IMPERVIOUS SURFACE ON EACH NONRESIDENTIAL PROPERTY.~~

~~(4) (3) (4)~~ A STORMWATER REMEDIATION FEE ESTABLISHED UNDER THIS SECTION IS SEPARATE FROM ANY CHARGES THAT A COUNTY OR MUNICIPALITY ESTABLISHES RELATED TO STORMWATER MANAGEMENT FOR NEW DEVELOPMENTS UNDER § 4-204 OF THIS SUBTITLE, INCLUDING FEES FOR PERMITTING, REVIEW OF STORMWATER MANAGEMENT PLANS, INSPECTIONS, OR MONITORING.

(F) (1) ~~IN ACCORDANCE WITH A COUNTY OR MUNICIPALITY MAY~~ SHALL ESTABLISH POLICIES AND PROCEDURES ~~ESTABLISHED BY A COUNTY OR MUNICIPALITY AND,~~ APPROVED BY THE DEPARTMENT, ~~A COUNTY OR MUNICIPALITY MAY~~ TO REDUCE ANY PORTION OF A STORMWATER REMEDIATION FEE ESTABLISHED UNDER SUBSECTION (E) OF THIS SECTION ~~THAT IS BASED ON THE AMOUNT OF IMPERVIOUS SURFACE ON A PROPERTY~~ TO ACCOUNT FOR ON-SITE AND OFF-SITE SYSTEMS, FACILITIES, SERVICES, OR ACTIVITIES THAT REDUCE THE QUANTITY OR IMPROVE THE QUALITY OF STORMWATER DISCHARGED FROM THE PROPERTY.

(2) THE POLICIES AND PROCEDURES ESTABLISHED BY A COUNTY OR MUNICIPALITY UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL INCLUDE:

(I) GUIDELINES FOR DETERMINING WHICH ON-SITE SYSTEMS, FACILITIES, SERVICES, OR ACTIVITIES MAY BE THE BASIS FOR A FEE REDUCTION, INCLUDING GUIDELINES:

1. RELATING TO PROPERTIES WITH EXISTING ADVANCED STORMWATER BEST MANAGEMENT PRACTICES;

2. RELATING TO AGRICULTURAL ACTIVITIES OR FACILITIES THAT ARE OTHERWISE EXEMPTED FROM STORMWATER MANAGEMENT REQUIREMENTS BY THE COUNTY OR MUNICIPALITY; AND

3. THAT ACCOUNT FOR THE COSTS OF, AND THE LEVEL OF TREATMENT PROVIDED BY, STORMWATER MANAGEMENT FACILITIES THAT ARE FUNDED AND MAINTAINED BY A PROPERTY OWNER;

(II) THE METHOD FOR CALCULATING THE AMOUNT OF A FEE REDUCTION; AND

(III) PROCEDURES FOR MONITORING AND ~~ANNUALLY~~ VERIFYING THE EFFECTIVENESS OF THE ON-SITE SYSTEMS, FACILITIES, SERVICES, OR ACTIVITIES IN REDUCING THE QUANTITY OR IMPROVING THE QUALITY OF STORMWATER DISCHARGED FROM THE PROPERTY.

(3) FOR THE PURPOSE OF MONITORING AND VERIFYING THE EFFECTIVENESS OF ON-SITE SYSTEMS, FACILITIES, SERVICES, OR ACTIVITIES UNDER PARAGRAPH (2)(III) OF THIS SUBSECTION, A COUNTY OR MUNICIPALITY MAY:

(I) CONDUCT ON-SITE INSPECTIONS;

(II) AUTHORIZE A THIRD PARTY, CERTIFIED BY THE DEPARTMENT, TO CONDUCT ON-SITE INSPECTIONS ON BEHALF OF THE COUNTY OR MUNICIPALITY; OR

(III) REQUIRE A PROPERTY OWNER TO HIRE A THIRD PARTY, CERTIFIED BY THE DEPARTMENT, TO CONDUCT AN ON-SITE INSPECTION AND PROVIDE TO THE COUNTY OR MUNICIPALITY THE RESULTS OF THE INSPECTION AND ANY OTHER INFORMATION REQUIRED BY THE COUNTY OR MUNICIPALITY.

(G) (1) A PROPERTY MAY NOT BE ASSESSED A STORMWATER REMEDIATION FEE BY BOTH A COUNTY AND A MUNICIPALITY.

~~(2) (I) EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH, A COUNTY MAY NOT IMPOSE A COUNTY STORMWATER REMEDIATION FEE ON A PROPERTY LOCATED WITHIN A MUNICIPALITY.~~

~~(II) A MUNICIPALITY MAY AUTHORIZE A COUNTY TO IMPOSE A COUNTY STORMWATER REMEDIATION FEE ON A PROPERTY LOCATED WITHIN THE MUNICIPALITY IN PLACE OF A MUNICIPAL STORMWATER REMEDIATION FEE.~~

(2) (I) BEFORE A COUNTY MAY IMPOSE A STORMWATER REMEDIATION FEE ON A PROPERTY LOCATED WITHIN A MUNICIPALITY, THE COUNTY SHALL:

1. NOTIFY THE MUNICIPALITY OF THE COUNTY'S INTENT TO IMPOSE A STORMWATER REMEDIATION FEE ON PROPERTY LOCATED WITHIN THE MUNICIPALITY; AND

2. PROVIDE THE MUNICIPALITY REASONABLE TIME TO PASS AN ORDINANCE AUTHORIZING THE IMPOSITION OF A MUNICIPAL STORMWATER REMEDIATION FEE INSTEAD OF A COUNTY STORMWATER REMEDIATION FEE.

(II) IF A COUNTY CURRENTLY IMPOSES A STORMWATER REMEDIATION FEE ON PROPERTY LOCATED WITHIN A MUNICIPALITY AND THE MUNICIPALITY DECIDES TO IMPLEMENT ITS OWN STORMWATER REMEDIATION FEE UNDER THIS SECTION OR § 4-204 OF THIS SUBTITLE, THE MUNICIPALITY SHALL:

1. NOTIFY THE COUNTY OF THE MUNICIPALITY'S INTENT TO IMPOSE ITS OWN STORMWATER REMEDIATION FEE; AND

2. PROVIDE THE COUNTY REASONABLE TIME TO DISCONTINUE THE COLLECTION OF THE COUNTY STORMWATER REMEDIATION FEE WITHIN THE MUNICIPALITY BEFORE THE MUNICIPALITY'S STORMWATER REMEDIATION FEE BECOMES EFFECTIVE.

(3) ~~EACH~~ A COUNTY ~~AND OR~~ MUNICIPALITY SHALL ESTABLISH A PROCEDURE FOR A PROPERTY OWNER TO APPEAL A STORMWATER REMEDIATION FEE IMPOSED UNDER THIS SECTION.

(H) (1) ~~EACH A~~ COUNTY ~~AND~~ OR MUNICIPALITY SHALL DETERMINE THE METHOD, FREQUENCY, AND ENFORCEMENT OF THE COLLECTION OF THE STORMWATER REMEDIATION FEE.

(2) ~~EACH A~~ COUNTY ~~AND~~ OR MUNICIPALITY SHALL DEPOSIT THE STORMWATER REMEDIATION FEES IT COLLECTS INTO ITS LOCAL WATERSHED PROTECTION AND RESTORATION FUND.

(3) THERE SHALL BE DEPOSITED IN A LOCAL WATERSHED PROTECTION AND RESTORATION FUND:

(I) FUNDS RECEIVED FROM THE STORMWATER REMEDIATION FEE;

(II) INTEREST OR OTHER INCOME EARNED ON THE INVESTMENT OF MONEY IN THE LOCAL WATERSHED PROTECTION AND RESTORATION FUND; AND

(III) ANY ADDITIONAL MONEY MADE AVAILABLE FROM ANY SOURCES FOR THE PURPOSES FOR WHICH THE LOCAL WATERSHED PROTECTION AND RESTORATION FUND HAS BEEN ESTABLISHED.

(4) ~~EACH A~~ SUBJECT TO PARAGRAPH (5) OF THIS SUBSECTION, A COUNTY ~~AND~~ OR MUNICIPALITY SHALL USE THE MONEY IN ITS LOCAL WATERSHED PROTECTION AND RESTORATION FUND FOR THE FOLLOWING PURPOSES ONLY:

(I) CAPITAL IMPROVEMENTS FOR STORMWATER MANAGEMENT, INCLUDING STREAM AND WETLAND RESTORATION PROJECTS;

(II) OPERATION AND MAINTENANCE OF STORMWATER MANAGEMENT SYSTEMS AND FACILITIES;

(III) PUBLIC EDUCATION AND OUTREACH RELATING TO STORMWATER MANAGEMENT OR STREAM AND WETLAND RESTORATION;

(IV) STORMWATER MANAGEMENT PLANNING, INCLUDING:
1. MAPPING AND ASSESSMENT OF IMPERVIOUS SURFACES; AND

2. MONITORING, INSPECTION, AND ENFORCEMENT ACTIVITIES TO CARRY OUT THE PURPOSES OF THE WATERSHED PROTECTION AND RESTORATION FUND;

(v) TO THE EXTENT THAT FEES IMPOSED UNDER § 4-204 OF THIS SUBTITLE ARE DEPOSITED INTO THE LOCAL WATERSHED PROTECTION AND RESTORATION FUND, REVIEW OF STORMWATER MANAGEMENT PLANS AND PERMIT APPLICATIONS FOR NEW DEVELOPMENT;

(vi) GRANTS TO NONPROFIT ORGANIZATIONS FOR UP TO 100% OF A PROJECT'S COSTS FOR WATERSHED RESTORATION AND REHABILITATION PROJECTS RELATING TO:

1. PLANNING, DESIGN, AND CONSTRUCTION OF STORMWATER MANAGEMENT PRACTICES;

2. STREAM AND WETLAND RESTORATION; AND

3. PUBLIC EDUCATION AND OUTREACH RELATED TO STORMWATER MANAGEMENT OR STREAM AND WETLAND RESTORATION; AND

(vii) REASONABLE COSTS NECESSARY TO ADMINISTER THE LOCAL WATERSHED PROTECTION AND RESTORATION FUND.

(5) A COUNTY OR MUNICIPALITY MAY USE ITS LOCAL WATERSHED PROTECTION AND RESTORATION FUND AS AN ENVIRONMENTAL FUND, AND MAY DEPOSIT TO AND EXPEND FROM THE FUND ADDITIONAL MONEY MADE AVAILABLE FROM OTHER SOURCES AND DEDICATED TO ENVIRONMENTAL USES, PROVIDED THAT THE FUNDS RECEIVED FROM THE STORMWATER REMEDIATION FEE ARE EXPENDED ONLY FOR THE PURPOSES AUTHORIZED UNDER PARAGRAPH (4) OF THIS SUBSECTION.

~~(5)~~ (6) THE FUNDS DISBURSED UNDER THIS SUBSECTION ARE INTENDED TO BE IN ADDITION TO ANY EXISTING STATE OR LOCAL EXPENDITURES FOR STORMWATER MANAGEMENT.

~~(6)~~ (7) MONEY IN A LOCAL WATERSHED PROTECTION AND RESTORATION FUND MAY NOT REVERT OR BE TRANSFERRED TO THE GENERAL FUND OF ANY COUNTY OR MUNICIPALITY.

(i) BEGINNING JULY 1, 2014, AND EVERY 2 YEARS THEREAFTER, A COUNTY OR MUNICIPALITY SHALL MAKE PUBLICLY AVAILABLE A REPORT ON:

(1) THE NUMBER OF PROPERTIES SUBJECT TO A STORMWATER REMEDIATION FEE;

(2) THE AMOUNT OF MONEY DEPOSITED INTO THE WATERSHED PROTECTION AND RESTORATION FUND OVER THE PREVIOUS 2 FISCAL YEARS; AND

(3) THE PERCENTAGE OF FUNDS IN THE LOCAL WATERSHED PROTECTION AND RESTORATION FUND SPENT ON EACH OF THE PURPOSES PROVIDED IN SUBSECTION (H)(4) OF THIS SECTION.

(J) (1) A COUNTY OR MUNICIPALITY SHALL ESTABLISH A PROGRAM TO EXEMPT FROM THE REQUIREMENTS OF THIS SECTION A PROPERTY ABLE TO DEMONSTRATE SUBSTANTIAL FINANCIAL HARDSHIP AS A RESULT OF THE STORMWATER REMEDIATION FEE.

(2) A COUNTY OR MUNICIPALITY MAY ESTABLISH A SEPARATE HARDSHIP EXEMPTION PROGRAM OR INCLUDE A HARDSHIP EXEMPTION AS PART OF A SYSTEM OF OFFSETS ESTABLISHED UNDER SUBSECTION (F)(1) OF THIS SECTION.

~~(J)~~ (K) THE DEPARTMENT MAY ADOPT REGULATIONS TO IMPLEMENT AND ENFORCE THIS SECTION.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2012.

Approved by the Governor, May 2, 2012.