

HOUSE BILL 320

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HB 1552/16 – ENV

7lr0832

By: **Montgomery County Delegation and Prince George's County Delegation**
Introduced and read first time: January 25, 2017
Assigned to: Environment and Transportation

A BILL ENTITLED

1 AN ACT concerning

2 **Washington Suburban Sanitary Commission – Polybutylene Connection Pipe**
3 **Replacement Loan Program**

4 **MC/PG 109–17**

5 FOR the purpose of requiring the Washington Suburban Sanitary Commission to establish
6 a Polybutylene Connection Pipe Replacement Loan Program for replacement of
7 certain pipes on certain property; requiring the Program to provide for certain
8 eligibility requirements; requiring the Program to provide for loan terms and
9 conditions, including a certain interest rate; requiring that the replacement of
10 certain pipes be performed by a licensed plumber; prohibiting the Commission from
11 replacing certain pipes; requiring the Program to require certain customers to repay
12 the loan through a charge on the customer's water and sewer bill or in another
13 method determined by the Commission; prohibiting the Commission from setting a
14 charge greater than an amount that allows the Commission to cover certain costs;
15 providing that a person who acquires property subject to a certain charge assumes
16 the obligation to pay the charge; providing that each loan provided under the
17 Program is a lien against certain property and that the Commission is the sole holder
18 of the lien; requiring the Commission to record a certain lien in the land records of
19 the county where the property is located; prohibiting a certain lien for a certain loan
20 with a certain principal amount from being established without a certain express
21 consent; providing that a certain lien shall secure payment of a certain loan;
22 providing that enforcement of a certain lien shall be in accordance with a certain act;
23 prohibiting a certain lien from taking priority over a certain existing lien, mortgage,
24 deed of trust, or other security interest; prohibiting the Program from providing more
25 than a certain amount in loans; establishing a Polybutylene Connection Pipe
26 Replacement Fund; specifying the purpose of the Fund; requiring the Commission to
27 administer the Fund; specifying the contents of the Fund; specifying the purpose for
28 which the Fund may be used; defining a certain term; providing for the termination

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



of this Act; and generally relating to the Polybutylene Connection Pipe Replacement Loan Program of the Washington Suburban Sanitary Commission.

BY adding to

Article – Public Utilities

Section 23–205

Annotated Code of Maryland

(2010 Replacement Volume and 2016 Supplement)

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

Article – Public Utilities

23–205.

(A) THE COMMISSION SHALL ESTABLISH A POLYBUTYLENE CONNECTION PIPE REPLACEMENT LOAN PROGRAM.

(B) THE PURPOSE OF THE PROGRAM IS TO PROVIDE LOANS TO RESIDENTIAL CUSTOMERS TO FINANCE THE REPLACEMENT OF MALFUNCTIONING POLYBUTYLENE PIPES ON CUSTOMER PROPERTY LOCATED IN THE COMMISSION’S SERVICE TERRITORY THAT CONNECT FROM SERVICE CONNECTIONS TO CUSTOMER RESIDENCES.

(C) THE PROGRAM SHALL:

(1) PROVIDE FOR ELIGIBILITY REQUIREMENTS FOR PARTICIPATION IN THE PROGRAM, INCLUDING ELIGIBILITY REQUIREMENTS FOR:

(I) THE TYPE OF CONNECTION PIPE THAT IS BEING INSTALLED TO REPLACE THE EXISTING POLYBUTYLENE CONNECTION PIPE; AND

(II) CUSTOMERS APPLYING FOR A LOAN THROUGH THE PROGRAM;

(2) PROVIDE FOR LOAN TERMS AND CONDITIONS, INCLUDING AN INTEREST RATE THAT MAY NOT EXCEED THE PRIME RATE APPLICABLE ON THE DAY THE LOAN IS MADE;

(3) REQUIRE THAT THE REPLACEMENT OF MALFUNCTIONING POLYBUTYLENE PIPES UNDER THE PROGRAM BE PERFORMED BY A LICENSED PLUMBER; AND

1 **(4) PROHIBIT THE COMMISSION FROM REPLACING MALFUNCTIONING**
2 **POLYBUTYLENE PIPES UNDER THE PROGRAM.**

3 **(D) (1) SUBJECT TO PARAGRAPH (3) OF THIS SUBSECTION, THE**
4 **PROGRAM SHALL REQUIRE A CUSTOMER TO REPAY A LOAN PROVIDED UNDER THE**
5 **PROGRAM:**

6 **(I) THROUGH A SEPARATE CHARGE ON THE CUSTOMER'S**
7 **WATER AND SEWER BILL; OR**

8 **(II) BY ANOTHER METHOD DETERMINED BY THE COMMISSION.**

9 **(2) THE COMMISSION MAY NOT SET A CHARGE GREATER THAN AN**
10 **AMOUNT THAT ALLOWS THE COMMISSION TO RECOVER THE COSTS ASSOCIATED**
11 **WITH:**

12 **(I) FINANCING THE LOAN; AND**

13 **(II) ADMINISTERING THE PROGRAM.**

14 **(3) A PERSON WHO ACQUIRES PROPERTY SUBJECT TO A CHARGE**
15 **UNDER THIS SECTION ASSUMES THE OBLIGATION TO PAY THE CHARGE.**

16 **(E) (1) SUBJECT TO PARAGRAPHS (4) AND (5) OF THIS SUBSECTION, A**
17 **LOAN PROVIDED UNDER THE PROGRAM SHALL BE A LIEN AGAINST THE PROPERTY**
18 **ON WHICH THE MALFUNCTIONING POLYBUTYLENE PIPE HAS BEEN REPLACED THAT**
19 **CONTINUES UNTIL THE LOAN IS PAID IN FULL TO THE COMMISSION.**

20 **(2) THE COMMISSION SHALL BE A SOLE HOLDER OF THE LIEN**
21 **ESTABLISHED UNDER PARAGRAPH (1) OF THIS SUBSECTION.**

22 **(3) (I) THE COMMISSION SHALL RECORD A LIEN ESTABLISHED**
23 **UNDER THIS SUBSECTION IN THE LAND RECORDS OF THE COUNTY WHERE THE**
24 **PROPERTY IS LOCATED.**

25 **(II) A LIEN ESTABLISHED UNDER THIS SUBSECTION SHALL**
26 **SECURE PAYMENT OF A LOAN, INCLUDING THE PRINCIPAL, INTEREST, LATE**
27 **CHARGES, COST OF COLLECTION, AND REASONABLE ATTORNEY'S FEES.**

28 **(III) ENFORCEMENT OF A LIEN ESTABLISHED UNDER THIS**
29 **SUBSECTION SHALL BE IN ACCORDANCE WITH THE MARYLAND CONTRACT LIEN**
30 **ACT.**

(4) IF A LOAN PROVIDED UNDER THIS SECTION WILL BE IN THE PRINCIPAL AMOUNT OF \$15,000 OR GREATER, A LIEN MAY NOT BE ESTABLISHED UNDER THIS SUBSECTION WITHOUT THE EXPRESS PRIOR CONSENT OF ANY HOLDER OF A MORTGAGE OR DEED OF TRUST ON A PROPERTY ON WHICH THE MALFUNCTIONING POLYBUTYLENE PIPE IS EXPECTED TO BE REPLACED THROUGH A LOAN PROVIDED UNDER THE PROGRAM.

(5) A LIEN ESTABLISHED UNDER THIS SUBSECTION MAY NOT TAKE PRIORITY OVER A LIEN, MORTGAGE, DEED OF TRUST, OR OTHER SECURITY INTEREST THAT IS:

(I) ALREADY ATTACHED TO THE PROPERTY AT THE TIME THE LIEN ESTABLISHED UNDER THIS SUBSECTION IS RECORDED; OR

(II) GIVEN TO SECURE A LOAN TO:

1. PURCHASE THE PROPERTY SUBJECT TO THE LIEN ESTABLISHED UNDER THIS SUBSECTION; OR

2. REFINANCE A LOAN THAT IS ALREADY ATTACHED TO THE PROPERTY AT THE TIME THE LIEN ESTABLISHED UNDER THIS SUBSECTION IS RECORDED.

(6) THE PROGRAM MAY NOT PROVIDE MORE THAN \$1,000,000 TOTAL IN LOANS.

(F) (1) IN THIS SUBSECTION, "FUND" MEANS THE POLYBUTYLENE CONNECTION PIPE REPLACEMENT FUND.

(2) THERE IS A POLYBUTYLENE CONNECTION PIPE REPLACEMENT FUND.

(3) THE PURPOSE OF THE FUND IS TO PROVIDE FUNDING FOR THE POLYBUTYLENE CONNECTION PIPE REPLACEMENT LOAN PROGRAM.

(4) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, THE FUND SHALL BE ADMINISTERED SOLELY BY THE COMMISSION.

(5) THE FUND CONSISTS OF:

(I) MONEY APPROPRIATED BY THE COMMISSION FROM RATEPAYER FUNDS ONLY;

(II) ANY INVESTMENT EARNINGS OF THE FUND; AND

1 **(III) ANY OTHER MONEY FROM ANY OTHER SOURCE ACCEPTED**
2 **FOR THE BENEFIT OF THE FUND.**

3 **(6) THE FUND MAY BE USED ONLY FOR PROVIDING LOANS THROUGH**
4 **THE PROGRAM.**

5 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
6 October 1, 2017. It shall remain effective for a period of 10 years and, at the end of
7 September 30, 2027, with no further action required by the General Assembly, this Act
8 shall be abrogated and of no further force and effect.