

HOUSE BILL 320

L5
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

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 15, 2017

CHAPTER _____

1 AN ACT concerning

2 **Washington Suburban Sanitary Commission – ~~Polybutylene~~ Connection Pipe**
3 **Emergency 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 Emergency Replacement Loan Program for
7 replacement of certain pipes on certain property; requiring the Program to provide
8 for certain eligibility requirements; requiring the Program to include a requirement
9 regarding notification or certification of an active leak; requiring the Program to
10 provide for loan terms and conditions, including a certain interest rate; requiring
11 that the replacement of certain pipes be performed by a ~~licensed~~ plumber licensed
12 by the Commission; prohibiting the Commission from replacing certain pipes;
13 requiring the Program to provide loans on a first-come, first-served basis;
14 prohibiting a loan made under the Program from exceeding a certain amount;
15 prohibiting a customer from receiving more than one loan at a time under the
16 Program; requiring the Program to require certain customers to repay the loan
17 through a charge on the customer's water and sewer bill or in another method
18 determined by the Commission; prohibiting the Commission from setting a charge
19 greater than an amount that allows the Commission to cover certain costs; providing
20 that a person who acquires property subject to a certain charge assumes the
21 obligation to pay the charge; providing that each loan provided under the Program
22 is a lien against certain property and that the Commission is the sole holder of the
23 lien; requiring the Commission to record a certain lien in the land records of the
24 county where the property is located; ~~prohibiting a certain lien for a certain loan with~~

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



~~a certain principal amount from being established without a certain express consent;~~
providing that a certain lien shall secure payment of a certain loan; providing that
enforcement of a certain lien shall be in accordance with a certain act; prohibiting a
certain lien from taking priority over a certain existing lien, mortgage, deed of trust,
or other security interest; prohibiting the Program from providing more than a
certain amount in loans or having more than a certain amount of outstanding loans;
requiring the Commission to provide a certain amount of funding in the
Commission's budget for certain fiscal years; establishing a ~~Polybutylene~~ Connection
Pipe Emergency Replacement Fund; specifying the purpose of the Fund; requiring
the Commission to administer the Fund; specifying the contents of the Fund;
specifying the purpose for which the Fund may be used; defining ~~a certain term~~
terms; providing for the termination of this Act; and generally relating to the
~~Polybutylene~~ Connection Pipe Emergency Replacement Loan Program of the
Washington Suburban Sanitary Commission or the Commission's designee.

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

(2) “FUND” MEANS THE CONNECTION PIPE EMERGENCY
REPLACEMENT FUND.

(3) (I) “PIPE” MEANS A WATER SERVICE PIPE CONNECTION
LOCATED ON A COMMISSION CUSTOMER’S PROPERTY THAT CONNECTS FROM THE
COMMISSION’S SERVICE CONNECTION TO A CUSTOMER’S RESIDENCE.

(II) “PIPE” INCLUDES POLYBUTYLENE PIPES.

(4) “PROGRAM” MEANS THE CONNECTION PIPE EMERGENCY
REPLACEMENT LOAN PROGRAM.

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

1 ~~(B)~~ (C) THE PURPOSE OF THE PROGRAM IS TO PROVIDE LOANS TO
2 RESIDENTIAL CUSTOMERS TO FINANCE THE REPLACEMENT OF MALFUNCTIONING
3 ~~POLYBUTYLENE PIPES ON CUSTOMER PROPERTY LOCATED IN THE COMMISSION'S~~
4 ~~SERVICE TERRITORY THAT CONNECT FROM SERVICE CONNECTIONS TO CUSTOMER~~
5 ~~RESIDENCES.~~

6 ~~(C)~~ (D) THE PROGRAM SHALL INCLUDE:

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

9 (I) CUSTOMERS APPLYING TO RECEIVE A LOAN THROUGH THE
10 PROGRAM;

11 (II) THE TYPE OF CONNECTION PIPE THAT IS BEING INSTALLED
12 TO REPLACE THE EXISTING ~~POLYBUTYLENE~~ CONNECTION PIPE; AND

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

15 ~~(2)~~ ~~PROVIDE FOR~~

16 (III) THE TYPE OF MALFUNCTION AND PIPE REPLACEMENT
17 EMERGENCY THAT QUALIFIES FOR THE PROGRAM;

18 (2) A REQUIREMENT THAT A CUSTOMER RECEIVE NOTIFICATION OR
19 HAVE CERTIFICATION THAT THERE IS AN ACTIVE LEAK IN A PIPE;

20 (3) LOAN TERMS AND CONDITIONS, INCLUDING AN INTEREST RATE
21 ~~THAT MAY NOT EXCEED THE PRIME RATE APPLICABLE ON THE DAY THE LOAN IS~~
22 ~~MADE~~ REPAYMENT SCHEDULE AND AN ADMINISTRATIVE PROCESSING FEE;

23 ~~(3)~~ ~~REQUIRE~~

24 (4) A REQUIREMENT THAT THE REPLACEMENT OF MALFUNCTIONING
25 ~~POLYBUTYLENE~~ PIPES UNDER THE PROGRAM BE PERFORMED BY A ~~LICENSED~~
26 PLUMBER LICENSED BY THE COMMISSION; AND

27 ~~(4)~~ ~~PROHIBIT~~

28 (5) A PROHIBITION ON THE COMMISSION ~~FROM~~ REPLACING
29 MALFUNCTIONING ~~POLYBUTYLENE~~ PIPES UNDER THE PROGRAM.

30 (E) (1) THE PROGRAM SHALL PROVIDE LOANS TO CUSTOMERS ON A
31 FIRST-COME, FIRST-SERVED BASIS.

1 **(2) A LOAN MADE UNDER THE PROGRAM MAY NOT EXCEED \$5,000.**

2 **(3) A CUSTOMER MAY NOT RECEIVE MORE THAN ONE LOAN AT A TIME**
3 **UNDER THE PROGRAM.**

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

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

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

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

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

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

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

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

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

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

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

(III) ENFORCEMENT OF A LIEN ESTABLISHED UNDER THIS SUBSECTION SHALL BE IN ACCORDANCE WITH THE MARYLAND CONTRACT LIEN 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)~~ (4) 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)~~ (5) THE PROGRAM MAY NOT PROVIDE, OR AT ANY TIME HAVE OUTSTANDING, MORE THAN \$1,000,000 TOTAL IN LOANS.

(H) THE COMMISSION SHALL INCLUDE \$100,000 ANNUALLY IN THE COMMISSION'S BUDGET FOR THE PROGRAM FOR FISCAL YEARS 2019 THROUGH 2028.

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

~~(2)~~ THERE IS A ~~POLYBUTYLENE~~ CONNECTION PIPE EMERGENCY 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 OR THE COMMISSION'S DESIGNEE.

(5) THE FUND CONSISTS OF:

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

(II) ANY INVESTMENT EARNINGS OF THE FUND; AND

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

(6) THE FUND MAY BE USED ONLY FOR:

(I) PROVIDING LOANS THROUGH THE PROGRAM; AND

(II) THE ADMINISTRATION OF THE PROGRAM.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect ~~October 1, 2017~~ July 1, 2017. It shall remain effective for a period of ~~10~~ 11 years and, at the end of ~~September 30, 2027~~ June 30, 2028, with no further action required by the General Assembly, this Act shall be abrogated and of no further force and effect.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.