

FOR the purpose of providing for the purchase of certain easements in the portion of the Youghiogheny River within the Scenic and Wild Rivers Program.

BY repealing and reenacting, with amendments,

Article - Natural Resources
Section 8-410
Annotated Code of Maryland
(1974 Volume and 1976 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That Section 8-410 of Article - Natural Resources, of the Annotated Code of Maryland (1974 Volume and 1976 Supplement) be and it is hereby repealed and reenacted, with amendments, to read as follows:

Article - Natural Resources

8-410.

(A) If the prohibitions of § 8-408 or of any rule or regulation the Department adopts for the Scenic and Wild Rivers Program would constitute a taking of a property right without just compensation in violation of the Constitution of the United States or the Constitution of Maryland, funds under Program Open Space may be used to purchase or otherwise pay for any property taken, providing the acquisition has been previously approved by the General Assembly.

(B) AS TO ANY WATER OR LAND AREAS WITHIN THAT PORTION OF THE YOUGHIOGHENY RIVER DESIGNATED BY § 8-408(A) AS A WILD RIVER, FUNDS UNDER THE OPEN SPACE PROGRAM MAY BE USED TO PURCHASE ANY RESTRICTION, WHETHER DRAFTED IN THE FORM OF AN EASEMENT, COVENANT, OR CONDITION, PROHIBITING OR LIMITING THE USE OF ANY OF THE WATER OR LAND AREAS OR ANY IMPROVEMENT OR APPURTENANCE THERETO FOR ANY OF THE PURPOSES LISTED IN § 2-118(B) OF THE REAL PROPERTY ARTICLE. THE RESTRICTION CREATES AN INCORPOREAL PROPERTY INTEREST IN THE WATER OR LAND AREAS OR THE IMPROVEMENT OR APPURTENANCE THERETO, SO RESTRICTED, WHICH IS ENFORCEABLE IN BOTH LAW AND EQUITY IN THE SAME MANNER AS AN EASEMENT OR SERVITUDE WITH RESPECT TO THE WATER OR LAND AREAS OR THE IMPROVEMENT OR APPURTENANCE THERETO, IF THE RESTRICTION IS EXECUTED IN COMPLIANCE WITH THE REQUIREMENTS OF THE REAL PROPERTY ARTICLE FOR THE EXECUTION OF DEEDS OR THE ESTATES AND TRUSTS ARTICLE FOR THE EXECUTION OF WILLS.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 1977.

Approved May 26, 1977.
