

CHAPTER 420
FORMERLY
SENATE BILL NO. 75
AS AMENDED BY
SENATE AMENDMENT NO. 1

AN ACT TO AMEND TITLE 29 AND TITLE 30 RELATING TO THE INVESTMENT OF THE PARKS ENDOWMENT ACCOUNT AND THE DELAWARE LAND AND WATER CONSERVATION TRUST FUND ENDOWMENT IN THE DEPARTMENT OF NATURAL RESOURCES AND ENVIRONMENTAL CONTROL.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend Title 29, Chapter 61 of the Delaware Code as follows:

§ 6102A Twenty-First Century Fund Investments Act.

(c) *Open space.* —

(1) Investment income from the Land and Water Conservation Trust Fund Endowment Account shall generate funds for local outdoor recreation, park, and trail projects administered under § 5423 of Title 30 and §8017A of this title and state stewardship projects administered under § 5423 of Title 30.

(2) For purposes of match, State funds appropriated for the "Community Transportation Fund" shall qualify as matching contributions for outdoor recreation, park, and trail projects as described in § 5423 of Title 30 and § 8017A of this title.

(3) Notwithstanding any other provision of the Delaware Code, a portion of the investment income generated from the the Land and Water Conservation Trust Fund Endowment for outdoor recreation, park, and trail projects as described in § 5423 of Title 30, and § 8017A of this title may be used to fund administrative costs that are necessary to administer this chapter.

(e) *Parks endowment.* —

A special fund appropriation account is hereby created in the Department of Natural Resources and Environmental Control, Division of Parks and Recreation, to be known as the "Parks Endowment Account." It is the intent of the General Assembly that the sum appropriated from the Twenty-First Century Fund for the Parks Endowment Account shall be known as the "principal" and shall remain intact. The Parks Endowment Account shall be invested in a manner consistent with endowment investment guidelines as approved by the Cash Management Policy Board. The Department of Natural Resources and Environmental Control may expend up to 5% annually, on a five-year rolling average, of the value of the Parks Endowment Account for capital-related purposes, including minor capital improvements, to preserve the quality of the State's parks system and enhance recreational opportunities.

Section 2. Amend Title 30, Chapter 54, of the Delaware Code as follows:

§ 5421 Definitions.

The following words, terms and phrases, when used in this subchapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

(1) "Conservation Trust Fund" means the Delaware Land and Water Conservation Trust Fund established and maintained pursuant to this subchapter.

(2) "Department" means the Department of Natural Resources and Environmental Control.

(3) "Endowment Account" means the account by that name created within the Conservation Trust Fund pursuant to § 5423 of this title.

(4) "Infrastructure Account" means the account by that name created within the Conservation Trust Fund pursuant to § 5423 of this title.

(5) "Project" means the planning for, and the acquisition and development of property, undertaken to achieve the purposes of this chapter.

(6) "Outdoor Recreation, Park and Trails Program" means a local government matching grants program to support the expansion of access to outdoor recreational facilities across the state.

(7) "Secretary" means the Secretary of the Department.

(8) "State agency" means the following units of state government which manage natural and cultural resources: Department of Natural Resources and Environmental Control (Division of Parks and Recreation and Fish and Wildlife), Department of State (Division of Historical and Cultural Affairs) and the Department of Agriculture (Division of Resource Management).

(9) "Stewardship Program" means the program by that name created within the Conservation Trust Fund pursuant to § 5423 of this title. Generally, this program shall be used in the planning for and implementation of management projects on public lands that promote cultural preservation and conservation activities related to plants and animals and their habitat.

(10) "Open Space Program" means the program to carry out the purpose of Title 7, Chapter 75 Delaware Land Protection Act.

§ 5422 General.

The purpose of this subchapter is to provide funding to implement the conservation program described in Volume 65, Chapter 212 of the Laws of Delaware and safeguard this funding in perpetuity. Funding to achieve the purposes of this subchapter shall be provided from appropriations by the State, grants from the federal government, funds in the Conservation Trust Fund and the earnings thereon, private donations and any other sources which may be available from time to time. The Department is authorized and directed to encourage and seek funding from any available private and public sources.

§ 5423 Delaware Land and Water Conservation Trust Fund.

(a) There is created and established under the jurisdiction and control of the Department a trust fund to be known as the Delaware Land and Water Conservation Trust Fund to implement the conservation program described in Volume 65, Chapter 212 of the Laws of Delaware. Within the Conservation Trust Fund there is established an "Endowment Account," and an "Infrastructure Account." The Endowment Account shall be invested in a manner consistent with endowment investment guidelines as approved by the Cash Management Policy Board. Funds in the Conservation Trust Fund shall be applied for the purposes of this subchapter as hereinafter provided.

(b) (1) The corpus of funds remaining on deposit in the Delaware Land and Water Conservation Trust Fund maintained under § 4733 [repealed] of Title 7 on July 13, 1990, shall be deposited in the Endowment Account. Up to 5% of the value across a five-year rolling average of the value of the Endowment Account shall be distributed annually as follows: 2/3 to the Outdoor Recreation, Parks and Trails Program and 1/3 to the Stewardship Program. Additional deposits shall be made to the Endowment Account from realty transfer taxes as hereinafter provided, from other state funds as the General Assembly may from time to time determine, and from any other public and private sources which may from time to time be made available. The Endowment Account is intended to provide a permanent endowment to accomplish the purposes of this subchapter. The corpus of the Endowment Account shall not be invaded unless for a purpose identified in this section.

(2) On or before December 15 of each fiscal year the State shall transfer \$1,000,000 of realty transfer taxes to the Infrastructure Account annually.

(c) (1) Funds for the Open Space Program, and the earnings thereon to be retained therein, shall be applied by the Department to pay the costs of planning, and acquisition and development of property, to achieve the purposes of this subchapter. The program shall be funded by a transfer of \$9,000,000 of realty transfer taxes into the Endowment Account on or before December 15 of each fiscal year. The annual appropriations to the Endowment Account are intended to provide funds for current expenditure to achieve the purposes of this subchapter although the Department may, in its discretion, accumulate funds for particular project purposes.

(2) It is intended that property acquired with funds from the Endowment Account shall remain in public outdoor recreation and conservation use in perpetuity. Said property may not be converted to other uses without a subsequent act of the General Assembly. If the General Assembly approved the sale of any project or portion thereof, the State shall receive its pro rata share of net sale income. Said funds shall be deposited in the Endowment Account to be immediately available for other projects.

(d) (1) Funds in the Endowment Account, and the earnings thereon, which are to be retained therein, shall be disbursed, upon application, to state agencies, counties, municipal governments and local park districts, to pay the

costs of planning, acquisition and outdoor recreation infrastructure development of property, to achieve the purposes of this subchapter. Not more than 75% of a total project cost may be paid from the Conservation Trust Fund. In any given year, state agencies shall only be eligible to receive funds as defined in this section where the Secretary determines that available funds exceed the eligible project requests from nonstate applicants. Private entities, including nonprofit entities, and school districts shall not be eligible for a grant through this program. Funds in the Endowment Account shall be eligible to fund outdoor recreation, park, and trail projects in accordance with the provisions of § 6102A(c)(1) of Title 29 and the provisions of § 8017A of Title 29. Administrative costs associated with the administration of this section and development of the statewide outdoor recreation plan shall be eligible for funding under this section.

(2) The applicant requesting funds for outdoor recreation, park, and trail projects must provide evidence satisfactory to the Department that the required matching funds have been committed or will be expended for the proposed project. Any property previously held or expenditures already made by the applicant may not be counted as part of an applicant's matching contribution. Land donations, in-kind services and/or materials provided by the applicant or received by the applicant from other sources may be used by the applicant under certain conditions to satisfy its matching requirement.

(3) All expenses of operation and maintenance for property acquired with funds from the Endowment Account shall be borne perpetually by the applicant.

(4) It is intended that property acquired or improved with funds from the Endowment Account shall remain in public outdoor recreation and conservation use in perpetuity. Said property may not be converted to other uses without a subsequent act of the General Assembly. If the General Assembly approved the sale or lease of any project or a portion thereof, the pro rata share of net sale and/or lease income shall be deposited into the Endowment Account. Said funds shall be deposited in the Endowment Account to be immediately available for other projects.

(e) Funds dedicated for the Stewardship program, and the earnings thereon, which are to be retained therein, shall be disbursed proportionately by the Secretary according to the following formula: 35% to the Division of Parks and Recreation, 35% to the Division of Fish and Wildlife, 10% to the Division of Historical and Cultural Affairs, and 20% to the Department of Agriculture Forest Service. The Stewardship program is intended to provide funds for current expenditure, although the state agencies may, in their discretion, accumulate funds for Stewardship programs for particular project purposes.

It is the intent of the General Assembly that funds in the Stewardship program shall be used by the state agencies for management, preservation and interpretation of biological, recreational and cultural resources in addition to any other funds which have been previously appropriated for this purpose or which may be so appropriated in the future.

(f) Funds in the Infrastructure Account, and the earnings thereon, which are to be retained therein, shall be disbursed by the Secretary to meet critical infrastructure needs of the Division of Parks and Recreation, the Division of Fish and Wildlife, and other Department outdoor recreational facilities. The Infrastructure Account is intended to provide funds for reinvestment in key open space infrastructure such as campgrounds, trails, visitor centers, recreational amenities, hunting, fishing and wildlife viewing areas.

(g) The Secretary shall maintain an annual accounting of all Land and Water Trust fund expenditures and report to the General Assembly.

Approved August 27, 2014