

HOUSE BILL 706

M1

3lr0103

By: **Chair, Environmental Matters Committee (By Request – Departmental – Natural Resources)**

Introduced and read first time: February 4, 2013

Assigned to: Environmental Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Natural Resources – Forest Preservation Act of 2013**

3 FOR the purpose of requiring the Department of Natural Resources to provide a
4 statewide forest resource inventory to local jurisdictions at certain intervals;
5 declaring certain policies of the State with respect to forests; altering the
6 defined term “construction activity” as it applies to reforestation requirements
7 to include associated mitigation requirements; expanding the purpose and
8 authorized uses of the Reforestation Fund to include financing tree planting on
9 private land and financing the prevention of and response to forest health
10 emergencies; extending the time frame within which the Department must
11 accomplish certain reforestation requirements and for which certain funds are
12 required to remain in the Reforestation Fund; repealing the requirements that
13 the Department determine the meaning of “no net loss of forest”, develop related
14 policies, and submit a certain report describing certain findings; defining the
15 term “no net loss of forest”; altering the defined term “timber stand
16 improvement” to include certain activities that improve forest health; altering
17 the range of acres of land that a person is required to own or lease to be eligible
18 for certification for a certain income tax subtraction or modification; altering
19 certain prohibitions against setting certain fires; altering a certain minimum
20 penalty for violating a certain prohibition against setting certain fires;
21 exempting certain stream restoration projects and certain maintenance or
22 retrofitting of a stormwater management structure from the requirements of
23 the Forest Conservation Act; authorizing a local jurisdiction to waive the
24 requirements of the Forest Conservation Act for certain previously developed
25 areas; authorizing the Department to take certain action against a local
26 jurisdiction for failure to comply with the Forest Conservation Act; requiring
27 the Department of Planning, in consultation with the Department and the
28 Sustainable Forestry Council, to provide certain technical assistance to local
29 jurisdictions by a certain date; clarifying the intent of this Act with respect to
30 the authority of the Department of Agriculture to establish forest policy; making

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 certain stylistic changes; defining certain terms; and generally relating to forest
2 conservation and sustainability.

3 BY renumbering

4 Article – Natural Resources
5 Section 5–101(i), (j), (k), (l), and (m), respectively
6 to be Section 5–101(j), (k), (l), (m), and (n), respectively
7 Annotated Code of Maryland
8 (2012 Replacement Volume)

9 BY renumbering

10 Article – Natural Resources
11 Section 5–1601(ff), (gg), (hh), (ii), (jj), (kk), (ll), (mm), and (nn), respectively
12 to be Section 5–1601(gg), (hh), (ii), (jj), (kk), (mm), (nn), (oo), and (pp),
13 respectively
14 Annotated Code of Maryland
15 (2012 Replacement Volume)

16 BY repealing and reenacting, without amendments,

17 Article – Land Use
18 Section 1–101(o)
19 Annotated Code of Maryland
20 (2012 Volume)

21 BY repealing and reenacting, with amendments,

22 Article – Land Use
23 Section 1–408 and 3–104
24 Annotated Code of Maryland
25 (2012 Volume)

26 BY repealing and reenacting, without amendments,

27 Article – Natural Resources
28 Section 5–101(e), 5–103(a)(1) and (3), 5–1601(a), and 5–1602(a)
29 Annotated Code of Maryland
30 (2012 Replacement Volume)

31 BY adding to

32 Article – Natural Resources
33 Section 5–101(i), 5–103(j), 5–1601(ff) and (ll), and 5–1602(b)(12) and (13)
34 Annotated Code of Maryland
35 (2012 Replacement Volume)

36 BY repealing and reenacting, with amendments,

37 Article – Natural Resources
38 Section 5–102, 5–103(a)(2) and (e), 5–219, 5–704, 5–1602(b)(10) and (11), and
39 5–1603(c)(3)(ii) and (e)
40 Annotated Code of Maryland

1 (2012 Replacement Volume)

2 BY repealing

3 Article – Natural Resources

4 Section 5–104

5 Annotated Code of Maryland

6 (2012 Replacement Volume)

7 BY repealing and reenacting, without amendments,

8 Article – Tax – General

9 Section 10–208(a)

10 Annotated Code of Maryland

11 (2010 Replacement Volume and 2012 Supplement)

12 BY repealing and reenacting, with amendments,

13 Article – Tax – General

14 Section 10–208(i)

15 Annotated Code of Maryland

16 (2010 Replacement Volume and 2012 Supplement)

17 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
18 MARYLAND, That Section(s) 5–101(i), (j), (k), (l), and (m), respectively, of
19 Article – Natural Resources of the Annotated Code of Maryland be renumbered to be
20 Section(s) 5–101(j), (k), (l), (m), and (n), respectively.

21 SECTION 2. AND BE IT FURTHER ENACTED, That Section(s) 5–1601(ff),
22 (gg), (hh), (ii), (jj), (kk), (ll), (mm), and (nn), respectively, of Article – Natural Resources
23 of the Annotated Code of Maryland be renumbered to be Section(s) 5–1601(gg), (hh),
24 (ii), (jj), (kk), (mm), (nn), (oo), and (pp), respectively.

25 SECTION 3. AND BE IT FURTHER ENACTED, That the Laws of Maryland
26 read as follows:

27 **Article – Land Use**

28 1–101.

29 (o) “Sensitive area” includes:

30 (1) a stream or wetland, and its buffers;

31 (2) a 100–year flood plain;

32 (3) a habitat of a threatened or endangered species;

33 (4) a steep slope;

1 (5) agricultural or forest land intended for resource protection or
2 conservation; and

3 (6) any other area in need of special protection, as determined in a
4 plan.

5 1–408.

6 (a) A sensitive areas element shall include the goals, objectives, principles,
7 policies, and standards designed to protect sensitive areas from the adverse effects of
8 development.

9 (b) **BEGINNING OCTOBER 1, 2013, THE DEPARTMENT OF NATURAL**
10 **RESOURCES SHALL PROVIDE A STATEWIDE FOREST RESOURCE INVENTORY TO**
11 **LOCAL JURISDICTIONS AT LEAST EVERY 5 YEARS, TO BE AVAILABLE FOR THE**
12 **6–YEAR LOCAL COMPREHENSIVE PLAN REVIEW BY LOCAL JURISDICTIONS**
13 **REQUIRED UNDER §§ 1–416(A) AND 3–301(A) OF THIS ARTICLE.**

14 (c) Before the plan is adopted, the Department of the Environment and the
15 Department of Natural Resources shall review the sensitive areas element to
16 determine whether the proposed plan is consistent with the programs and goals of the
17 departments.

18 3–104.

19 (a) A sensitive areas element shall include the goals, objectives, principles,
20 policies, and standards designed to protect sensitive areas from the adverse effects of
21 development.

22 (b) **BEGINNING OCTOBER 1, 2013, THE DEPARTMENT OF NATURAL**
23 **RESOURCES SHALL PROVIDE A STATEWIDE FOREST RESOURCE INVENTORY TO**
24 **LOCAL JURISDICTIONS AT LEAST EVERY 5 YEARS, TO BE AVAILABLE FOR THE**
25 **6–YEAR LOCAL COMPREHENSIVE PLAN REVIEW BY LOCAL JURISDICTIONS**
26 **REQUIRED UNDER §§ 1–416(A) AND 3–301(A) OF THIS ARTICLE.**

27 (c) Before the plan is adopted, the Department of the Environment and the
28 Department of Natural Resources shall review the sensitive areas element to
29 determine whether the proposed plan is consistent with the programs and goals of the
30 departments.

31 **Article – Natural Resources**

32 5–101.

33 (e) (1) “Forest land” means a biological community dominated by trees
34 and other woody plants that are capable of producing timber or other wood products

1 with a stocking of at least 100 trees per acre with at least 50% of those trees having a
2 2-inch or greater diameter at 4.5 feet above the ground.

3 (2) "Forest land" includes forested areas that have been cut but not
4 converted to other land uses.

5 (I) "NO NET LOSS OF FOREST" MEANS 40% OF ALL LAND IN MARYLAND
6 IS COVERED BY TREE CANOPY.

7 5-102.

8 (a) The General Assembly finds that:

9 (1) Forests, streams, valleys, wetlands, parks, and scenic, historic, and
10 recreation areas of the State are basic assets and their proper use, development, and
11 preservation are necessary to protect and promote the health, safety, economy, and
12 general welfare of the people of the State;

13 (2) Enhancing the extent and condition of tree and forest cover in the
14 Chesapeake Bay watershed is critical to the success in restoring the Chesapeake Bay
15 because forests are the most beneficial use of protecting water quality due to their
16 ability to capture, filter, and retain water, as well as absorb pollution from the air;

17 (3) Forests and trees are key indicators of climate change and can
18 mitigate greenhouse gas emissions by carbon sequestration;

19 (4) Forests provide habitat for hundreds of wildlife species, including
20 habitat needed for rare, threatened, and endangered species;

21 (5) Forests are susceptible to environmental degradation caused by
22 natural threats;

23 (6) Forests, like other open space areas, are under intense
24 development-related pressures for residential, commercial, and industrial conversion
25 due to the demands of a growing population;

26 (7) Trees and forests in urban areas provide multiple benefits,
27 including:

28 (i) Mitigation of urban stormwater runoff into the Chesapeake
29 Bay;

30 (ii) Sequestration of carbon;

31 (iii) Avoidance of energy-related emissions;

1 (iv) Mitigation of air pollutants, such as ozone and particulate
2 matter;

3 (v) Reduction of the urban heat island effect; and

4 (vi) Contributions to community livability;

5 (8) Forest land owners, including local government officials
6 responsible for overseeing the management of publicly owned forest lands, could
7 benefit from research-based education outreach programs in order to help facilitate an
8 understanding of sustainable forestry management that is consistent with forest
9 stewardship principles;

10 (9) Forests are a renewable resource that help the State meet its
11 renewable energy goals that are consistent with the State's:

12 (i) Green power goal for State facilities;

13 (ii) Renewable Energy Portfolio Standard;

14 (iii) Healthy Air Act; and

15 (iv) Maryland Clean Energy Incentive Act of 2006; and

16 (10) This title sets forth Maryland's vision for sustaining Maryland's
17 coveted forest lands into the 21st century that is consistent with the Chesapeake 2000
18 Agreement and the 2007 Forestry Conservation Initiative.

19 (b) It is the policy of the State to encourage the retention and sustainable
20 management of [the State's privately owned] forest lands by:

21 **(1) ACHIEVING NO NET LOSS OF FOREST BY 2020;**

22 [(1)] (2) Affording due consideration to the protection and retention
23 of forests in the State through existing land conservation programs where they have
24 the highest value in terms of promoting the State's compliance with its clean water
25 goals under the Chesapeake 2000 Agreement and the 2007 Forest Conservation
26 Initiative;

27 [(2)] (3) Enhancing the retention of privately owned forest lands
28 through research-based educational outreach efforts to landowners by the State's
29 forest conservancy district boards;

30 [(3)] (4) Developing financial incentives to encourage landowners to
31 retain and manage their forests sustainably and in a manner that is consistent with a
32 forest stewardship plan;

1 **[(4)] (5)** Promoting renewable energy policies and markets with
 2 increased emphasis on the use of in-State produced woody biomass;

3 **(6) ENSURING DUAL CERTIFICATION OF THE STATE'S FORESTS**
 4 **BY THE FOREST STEWARDSHIP COUNCIL AND THE SUSTAINABLE FORESTRY**
 5 **INITIATIVE;**

6 **[(5)] (7)** Recognizing the importance of:

7 (i) A viable forest products industry to the economies of rural
 8 Maryland;

9 (ii) Continued development of fiber products; and

10 (iii) Maryland's green infrastructure; and

11 **[(6)] (8)** Developing and enhancing programs with a sustainable
 12 forestry component, including a forest mitigation banking system, a carbon credit or
 13 carbon sequestration program, a clean water credit trading system, an environmental
 14 services credit trading program, and a renewable energy credit trading system.

15 5-103.

16 (a) (1) In this section the following words have the meanings indicated.

17 (2) "Construction activity" means [construction of a highway by a
 18 constructing agency] **WORK BY A CONSTRUCTING AGENCY RELATED TO:**

19 **(I) CONSTRUCTION OF OR IMPROVEMENTS TO A HIGHWAY;**
 20 **OR**

21 **(II) OFF-SITE ENVIRONMENTAL MITIGATION RELATED TO**
 22 **HIGHWAY CONSTRUCTION.**

23 (3) "Constructing agency" means:

24 (i) A unit of State or local government; or

25 (ii) Any other person who uses State funding and performs any
 26 construction activity with the State funding.

27 (e) (1) In this subsection, "Fund" means the Reforestation Fund.

28 (2) There is a Reforestation Fund in the Department.

29 (3) The purpose of the Fund is to [finance]:

1 (I) FINANCE the planting of trees on:

2 [(i)] 1. [State or other publicly owned lands] LAND located in
3 the county and watershed in which construction projects giving rise to Fund
4 contributions are located; and

5 [(ii)] 2. Private property on which trees were destroyed by a
6 treatment to destroy plant pests that was applied by the Department of Agriculture;
7 AND

8 (II) FINANCE THE PREVENTION OF AND RESPONSE TO
9 FOREST HEALTH EMERGENCIES.

10 (4) The Department shall administer the Fund.

11 (5) (i) The Fund is a special, nonlapsing fund that is not subject to
12 § 7–302 of the State Finance and Procurement Article.

13 (ii) The Treasurer shall hold the Fund separately and the
14 Comptroller shall account for the Fund.

15 (6) The Fund consists of any money received from contributions by a
16 constructing agency under subsection (d) of this section.

17 (7) (i) Subject to subparagraph (ii) of this paragraph, the Fund
18 may be used only to:

19 1. Plant trees on [State or other publicly owned lands]
20 LAND located in the county and watershed in which construction projects giving rise to
21 Fund contributions are located;

22 2. If reforestation cannot be reasonably accomplished in
23 the county and watershed in which the construction activity is located:

24 A. Plant trees on State or other publicly owned lands
25 located in the county or in the watershed in the State in which the construction
26 activity is located; or

27 B. Purchase credits in, establish, or maintain a forest
28 mitigation bank in the county or watershed in which the construction activity is
29 located in accordance with Department regulations; [or]

30 3. Replace trees, except nursery stock that has not been
31 replanted, that were destroyed by the application of a treatment applied to destroy
32 plant pests under a quarantine imposed by the Secretary of Agriculture, whether or

1 not the quarantine is in effect in the county or watershed where the construction
2 activity occurred; OR

3 **4. FINANCE THE PREVENTION OF AND RESPONSE TO**
4 **FOREST HEALTH EMERGENCIES BY:**

5 **A. MAINTAINING THE HEALTH AND VITALITY OF**
6 **FOREST LAND AND URBAN TREE CANOPY; AND**

7 **B. PREVENTING OR CONTROLLING SIGNIFICANT**
8 **FOREST LAND AND URBAN TREE CANOPY DEGRADATION CAUSED BY ACTS OF**
9 **NATURE.**

10 (ii) 1. Except as provided in subsubparagraph 2 of this
11 subparagraph, moneys in the Fund may be used for administrative costs calculated in
12 accordance with § 1-103(b)(2) of this article.

13 2. The Fund may not be used to finance administrative
14 activities associated with a mitigation bank.

15 3. Any credits created by the Fund may not be sold to
16 compensate for additional forest impacts.

17 (iii) 1. The Department shall accomplish the reforestation for
18 which money is deposited in the Fund within [1 year or two] **2 YEARS OR THREE**
19 growing seasons after project completion, as appropriate.

20 2. Money deposited in the Fund under subsection (d) of
21 this section shall remain in the Fund for a period of [1 year or two] **2 YEARS OR**
22 **THREE** growing seasons, and at the end of that time period, any portion that is not
23 used to meet the reforestation requirements shall be returned to the constructing
24 agency.

25 (8) (i) The Treasurer shall invest the money of the Fund in the
26 same manner as other State money may be invested.

27 (ii) Any investment earnings of the Fund shall be credited to the
28 General Fund of the State.

29 (9) Expenditures from the Fund may be made only in accordance with
30 the State budget.

31 [(10) The Department may adopt regulations to implement this
32 subsection.]

1 **(J) THE DEPARTMENT MAY ADOPT REGULATIONS TO IMPLEMENT THIS**
2 **SECTION.**

3 [5–104.

4 (a) The Department shall cooperate with forestry–related stakeholder groups
5 to:

6 (1) Determine the meaning of no net loss of forest for the purposes of
7 any State policy; and

8 (2) Develop proposals for the creation of a policy of no net loss of forest
9 in the State.

10 (b) On or before December 1, 2011, the Department, in consultation with the
11 forestry–related stakeholder groups, shall report to the Senate Education, Health, and
12 Environmental Affairs Committee and the House Environmental Matters Committee,
13 in accordance with § 2–1246 of the State Government Article, on proposals for the
14 development of statutory, budgetary, and regulatory policies to achieve no net loss of
15 forest in the State.]

16 5–219.

17 (a) (1) In this section the following words have the meanings indicated.

18 (2) (i) “Reforestation” means the stocking or restocking of an area
19 with forest tree species.

20 (ii) “Reforestation” includes:

21 1. Site preparation by mechanical operation, application
22 of herbicides, or prescribed burning;

23 2. Tree planting;

24 3. Release of seedlings from competing vegetation;

25 4. Animal damage control of seedlings; and

26 5. Other activities that the Secretary requires.

27 (iii) “Reforestation” does not include the growing of Christmas or
28 ornamental trees.

29 (3) (i) “Timber stand improvement” means any [precommercial]
30 cultural operation made to improve the composition, constitution, condition, [and] **OR**

1 increment of a timber stand **THAT DOES NOT RESULT IN IMMEDIATELY SALABLE**
2 **FOREST PRODUCTS.**

3 (ii) “Timber stand improvement” includes [tree]:

4 1. **TREE** removal, girdling, poisoning, and pruning
5 activities; **AND** [that:

6 1. Are not done only to help regeneration; and

7 2. Do not result in immediately salable forest products.]

8 2. **ACTIVITIES THAT IMPROVE FOREST HEALTH,**
9 **INCLUDING:**

10 **A. EFFORTS TO CONTROL INVASIVE SPECIES;**

11 **B. CREATION OR MAINTENANCE OF FORESTED**
12 **RIPARIAN BUFFERS;**

13 **C. INSTALLATION OF WATER QUALITY PROTECTION**
14 **DEVICES;**

15 **D. REDUCTION, REMOVAL, OR OTHER MANAGEMENT**
16 **OF THE RESIDUAL MATERIALS GENERATED DURING TIMBER HARVEST;**

17 **E. RESTORATION OF FOREST HABITAT AFFECTED BY**
18 **LOGGING ACCESS ROADS AND TRAILS; AND**

19 **F. OTHER HABITAT IMPROVEMENT OR BEST**
20 **MANAGEMENT PRACTICES AS DETERMINED BY THE DEPARTMENT.**

21 (b) A person who owns or leases [10 to 500] **3 TO 1,000** acres of land may
22 apply for reforestation or timber stand improvement certification under this section if
23 the land is:

24 (1) Capable of growing more than 20 cubic feet of wood per acre per
25 year; and

26 (2) Available for the application of scientific forest management
27 practices for the primary purpose of growing and harvesting forest tree species.

28 (c) The Department shall issue an initial certification of reforestation or
29 timber stand improvement to an applicant who owns or leases [10 to 500] **3 TO 1,000**

1 acres of land that is used as commercial forest land or that is being restored and is
2 capable of growing a commercial forest, if there is:

3 (1) A successful planting of the required minimum number of
4 seedlings with acceptable species; or

5 (2) Timber stand improvement activities in accordance with a forest
6 management plan developed by a licensed forester.

7 (d) (1) Within 2 years after the date of initial certification, the
8 Department shall issue a final certification of reforestation or timber stand
9 improvement to an applicant who received an initial certification if:

10 (i) Seedlings are living without other vegetation growing
11 around or over the seedling; or

12 (ii) Successful timber stand improvements have been made in
13 accordance with regulations of the Secretary.

14 (2) If the reforestation or timber stand improvement activities do not
15 meet the requirements for final certification when the application is made, the
16 applicant may replant or conduct additional timber stand improvement activities.

17 (e) If an application for final certification is not filed within 2 years after the
18 date of initial certification, the applicant shall submit a plan to continue the
19 reforestation or timber stand improvement project to the Department.

20 (f) The Department shall decertify land if:

21 (1) Reforestation or timber stand improvement activity on the land is
22 discontinued before issuance of a final certificate;

23 (2) A final certificate application or a plan of continuation is not filed
24 within 2 years after the date on which the initial certificate is issued; or

25 (3) The land does not continue to be used as commercial forest land for
26 15 years after final certification is issued.

27 (g) The Secretary shall:

28 (1) Adopt regulations to carry out this section;

29 (2) Provide to a certified person notice of initial and final certification
30 that the person may file with the Comptroller as evidence of the eligibility of the
31 person for the income tax subtraction modification for reforestation and timberland
32 expense allowed under §§ 10–208 and 10–308 of the Tax – General Article; and

1 (3) Send a copy of a decertification notice to the Comptroller for
2 purposes of the income tax addition modification for reforestation and timberland
3 expense required under §§ 10–205 and 10–306 of the Tax – General Article.

4 5–704.

5 (a) Any individual or corporation that willfully, maliciously, or with intent,
6 sets on fire, or causes to be set on fire, any woods, brush, grass, grain, or stubble[, on
7 land not his own,] is guilty of a misdemeanor and upon conviction is subject to a fine
8 not less than [\$25] **\$250** nor exceeding \$2,000, or imprisonment for not less than 30
9 days nor exceeding five years, or both with costs imposed in the discretion of the court.

10 (b) An individual or corporation may not carelessly or negligently set on fire,
11 or cause to be set on fire any woods, brush, grass, grain, or stubble [resulting in
12 damage to the property of another]. Setting a fire contrary to the provisions of this
13 subsection[, or allowing it to escape to the injury of adjoining lands,] is prima facie
14 proof of carelessness or neglect within the meaning of this subsection. The landowner
15 from whose land the fire originated also is liable in a civil action for damages for injury
16 resulting from the fire, and for the cost of fighting and extinguishing the fire, unless
17 [he] **THE LANDOWNER** can prove to the satisfaction of the court before which the case
18 is tried that the injury complained of was suffered without any negligence on the part
19 of the owner or [his] **THE OWNER’S** agents.

20 (c) Any person who discovers a forest or brush fire not under the control of
21 some person shall extinguish it or report it to the local fire warden.

22 (d) The provisions of this section do not contravene other provisions of law
23 relating to the liability for fires of railroad companies.

24 5–1601.

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

26 **(FF) “PRIORITY FUNDING AREA” MEANS AN AREA DESIGNATED AS A**
27 **PRIORITY FUNDING AREA UNDER § 5–7B–02 OF THE STATE FINANCE AND**
28 **PROCUREMENT ARTICLE.**

29 **(LL) “STREAM RESTORATION PROJECT” MEANS AN ACTIVITY THAT:**

30 **(1) IS DESIGNED TO STABILIZE STREAM BANKS OR ENHANCE**
31 **STREAM FUNCTION OR HABITAT LOCATED WITHIN AN EXISTING STREAM,**
32 **WATERWAY, OR FLOODPLAIN;**

1 **(2) AVOIDS AND MINIMIZES IMPACTS TO FORESTS AND PROVIDES**
2 **FOR REPLANTING ON-SITE AN EQUIVALENT NUMBER OF TREES TO THE NUMBER**
3 **REMOVED BY THE PROJECT;**

4 **(3) MAY BE PERFORMED UNDER A MUNICIPAL SEPARATE STORM**
5 **SEWER SYSTEM PERMIT, A WATERSHED IMPLEMENTATION PLAN, OR ANOTHER**
6 **PLAN ADMINISTERED BY THE STATE OR LOCAL GOVERNMENT TO ACHIEVE OR**
7 **MAINTAIN WATER QUALITY STANDARDS; AND**

8 **(4) IS NOT PERFORMED TO SATISFY STORMWATER MANAGEMENT,**
9 **WETLANDS MITIGATION, OR ANY OTHER REGULATORY REQUIREMENT**
10 **ASSOCIATED WITH PROPOSED DEVELOPMENT ACTIVITY.**

11 5-1602.

12 (a) Except as provided in subsection (b) of this section, this subtitle shall
13 apply to any public or private subdivision plan or application for a grading or sediment
14 control permit by any person, including a unit of State or local government on areas
15 40,000 square feet or greater.

16 (b) The provisions of this subtitle do not apply to:

17 (10) A county that has and maintains 200,000 acres or more of its land
18 area in forest cover; [and]

19 (11) The cutting or clearing of trees to comply with the requirements of
20 14 C.F.R. § 77.25 relating to objects affecting navigable airspace, provided that the
21 Federal Aviation Administration has determined that the trees are a hazard to
22 aviation;

23 **(12) ANY STREAM RESTORATION PROJECT FOR WHICH THE**
24 **APPLICANT FOR A GRADING OR SEDIMENT CONTROL PERMIT HAS EXECUTED A**
25 **BINDING MAINTENANCE AGREEMENT OF AT LEAST 5 YEARS WITH THE**
26 **AFFECTED PROPERTY OWNER; AND**

27 **(13) MAINTENANCE OR RETROFITTING OF A STORMWATER**
28 **MANAGEMENT STRUCTURE THAT MAY INCLUDE CLEARING OF VEGETATION OR**
29 **REMOVAL AND TRIMMING OF TREES, SO LONG AS THE MAINTENANCE OR**
30 **RETROFITTING IS WITHIN THE ORIGINAL LIMITS OF DISTURBANCE FOR**
31 **CONSTRUCTION OF THE EXISTING STRUCTURE, OR WITHIN ANY MAINTENANCE**
32 **EASEMENT FOR ACCESS TO THE STRUCTURE.**

33 5-1603.

1 (c) (3) (ii) A local forest conservation program, when approved by the
2 Department, may [allow]:

3 1. **ALLOW** clustering and other innovative land use
4 techniques that protect and establish forests where open space is preserved, sensitive
5 areas are protected, and development is physically concentrated; **AND**

6 2. **WAIVE THE REQUIREMENTS OF THIS SUBTITLE**
7 **FOR PREVIOUSLY DEVELOPED AREAS COVERED BY IMPERVIOUS SURFACE AND**
8 **LOCATED IN PRIORITY FUNDING AREAS AT THE TIME OF THE APPLICATION FOR**
9 **SUBDIVISION PLAN, GRADING, OR SEDIMENT CONTROL PERMIT APPROVAL.**

10 (e) (1) (i) The Department shall conduct a review of each local
11 authority's program at least once every 2 years from the date of initial departmental
12 approval.

13 (ii) In its biennial review, the Department shall evaluate the
14 level of compliance with the performance standards and required forest conservation.

15 (2) (I) If a local authority's program is found to be deficient by the
16 Department, then the Department shall give notice and allow the local authority 90
17 days for compliance[, after which].

18 (II) **IF, AFTER 90 DAYS, A LOCAL AUTHORITY HAS FAILED TO**
19 **COMPLY WITH THE TERMS OF A NOTICE GIVEN BY THE DEPARTMENT,** the
20 Department may **DO ONE OR MORE OF THE FOLLOWING:**

21 1. [assume] **ASSUME** review and approval of all forest
22 conservation plans within the jurisdiction of the local authority until the deficiencies
23 are corrected;

24 2. **REQUIRE THE LOCAL AUTHORITY TO SUBMIT**
25 **PAYMENT TO THE STATE CONSERVATION FUND FOR THE AMOUNT OF ANY**
26 **MISAPPROPRIATED LOCAL CONSERVATION FUNDS; AND**

27 3. **REQUEST THAT THE ATTORNEY GENERAL**
28 **INVESTIGATE PAYMENTS AND EXPENDITURES OF FUNDS COLLECTED BY THE**
29 **LOCAL AUTHORITY UNDER THIS SUBTITLE.**

30 **Article – Tax – General**

31 10–208.

1 (a) In addition to the modification under § 10–207 of this subtitle, the
2 amounts under this section are subtracted from the federal adjusted gross income of a
3 resident to determine Maryland adjusted gross income.

4 (i) (1) The subtraction under subsection (a) of this section includes twice
5 the amount of expenses for reforestation or timber stand improvement activity on [10
6 to 100] **3 TO 1,000** acres of commercial forest land, exclusive of federal funds.

7 (2) Of the amount under paragraph (1) of this subsection:

8 (i) 50% may be claimed in the taxable year in which the
9 Department of Natural Resources issues an initial certificate of reforestation or timber
10 stand improvement; and

11 (ii) 50% may be claimed in the taxable year in which the
12 Department of Natural Resources issues a final certificate of reforestation or timber
13 stand improvement.

14 SECTION 4. BE IT FURTHER ENACTED, That by January 1, 2015, the
15 Department of Planning, in consultation with the Department of Natural Resources
16 and the Sustainable Forestry Council, shall provide local jurisdictions with guidelines,
17 recommendations, and technical assistance on policies and standards to protect forest
18 land and urban tree canopy from the adverse effects of development.

19 SECTION 5. AND BE IT FURTHER ENACTED, That nothing in this Act is
20 intended to supplement or limit the authority of the Department of Agriculture to
21 establish policies relating to forest land under any program regulated at the
22 Department of Agriculture.

23 SECTION 6. AND BE IT FURTHER ENACTED, That this Act shall take effect
24 October 1, 2013.