

# HOUSE BILL 706

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

Introduced and read first time: February 4, 2013

Assigned to: Environmental Matters

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Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 18, 2013

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## CHAPTER \_\_\_\_\_

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

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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.



1 areas; authorizing the Department to take certain action against a local  
 2 jurisdiction for failure to comply with the Forest Conservation Act; requiring  
 3 the Department of Planning, in consultation with the Department and the  
 4 Sustainable Forestry Council, to provide certain technical assistance to local  
 5 jurisdictions by a certain date; clarifying the intent of this Act with respect to  
 6 the authority of the Department of Agriculture to establish forest policy;  
 7 declaring a certain intent of the General Assembly; requiring the Department to  
 8 convene a certain stakeholder group after a certain time to perform a certain  
 9 review and make certain recommendations; making certain stylistic changes;  
 10 defining certain terms; and generally relating to forest conservation and  
 11 sustainability.

12 BY renumbering

13 Article – Natural Resources  
 14 Section 5–101(i), (j), (k), (l), and (m), respectively  
 15 to be Section 5–101(j), (k), (l), (m), and (n), respectively  
 16 Annotated Code of Maryland  
 17 (2012 Replacement Volume)

18 BY renumbering

19 Article – Natural Resources  
 20 Section 5–1601(ff), (gg), (hh), (ii), (jj), (kk), (ll), (mm), and (nn), respectively  
 21 to be Section 5–1601(gg), (hh), (ii), (jj), (kk), (mm), (nn), (oo), and (pp),  
 22 respectively  
 23 Annotated Code of Maryland  
 24 (2012 Replacement Volume)

25 BY repealing and reenacting, without amendments,

26 Article – Land Use  
 27 Section 1–101(o)  
 28 Annotated Code of Maryland  
 29 (2012 Volume)

30 BY repealing and reenacting, with amendments,

31 Article – Land Use  
 32 Section 1–408 and 3–104  
 33 Annotated Code of Maryland  
 34 (2012 Volume)

35 BY repealing and reenacting, without amendments,

36 Article – Natural Resources  
 37 Section 5–101(e), 5–103(a)(1) and (3), 5–1601(a), and 5–1602(a)  
 38 Annotated Code of Maryland  
 39 (2012 Replacement Volume)

40 BY adding to

41 Article – Natural Resources

1 Section 5–101(i), 5–103(j), 5–1601(ff) and (ll), and 5–1602(b)(12) and (13)  
2 Annotated Code of Maryland  
3 (2012 Replacement Volume)

4 BY repealing and reenacting, with amendments,  
5 Article – Natural Resources  
6 Section 5–102, 5–103(a)(2) and (e), 5–219, 5–704, 5–1602(b)(10) and (11), and  
7 5–1603(c)(3)(ii) and (e)  
8 Annotated Code of Maryland  
9 (2012 Replacement Volume)

10 BY repealing  
11 Article – Natural Resources  
12 Section 5–104  
13 Annotated Code of Maryland  
14 (2012 Replacement Volume)

15 BY repealing and reenacting, without amendments,  
16 Article – Tax – General  
17 Section 10–208(a)  
18 Annotated Code of Maryland  
19 (2010 Replacement Volume and 2012 Supplement)

20 BY repealing and reenacting, with amendments,  
21 Article – Tax – General  
22 Section 10–208(i)  
23 Annotated Code of Maryland  
24 (2010 Replacement Volume and 2012 Supplement)

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

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

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

35 **Article – Land Use**

36 1–101.

37 (o) “Sensitive area” includes:

- 1 (1) a stream or wetland, and its buffers;
- 2 (2) a 100-year flood plain;
- 3 (3) a habitat of a threatened or endangered species;
- 4 (4) a steep slope;
- 5 (5) agricultural or forest land intended for resource protection or  
6 conservation; and
- 7 (6) any other area in need of special protection, as determined in a  
8 plan.

9 1-408.

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

13 (b) **BEGINNING OCTOBER 1, 2013, THE DEPARTMENT OF NATURAL**  
14 **RESOURCES SHALL PROVIDE A STATEWIDE FOREST RESOURCE INVENTORY TO**  
15 **LOCAL JURISDICTIONS AT LEAST EVERY 5 YEARS, TO BE AVAILABLE FOR THE**  
16 **~~6-YEAR~~ LOCAL COMPREHENSIVE PLAN REVIEW BY LOCAL JURISDICTIONS**  
17 **REQUIRED UNDER §§ 1-416(A) AND 3-301(A) OF THIS ARTICLE.**

18 (c) Before the plan is adopted, the Department of the Environment and the  
19 Department of Natural Resources shall review the sensitive areas element to  
20 determine whether the proposed plan is consistent with the programs and goals of the  
21 departments.

22 3-104.

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24 policies, and standards designed to protect sensitive areas from the adverse effects of  
25 development.

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32 Department of Natural Resources shall review the sensitive areas element to

1 determine whether the proposed plan is consistent with the programs and goals of the  
2 departments.

3 **Article – Natural Resources**

4 5–101.

5 (e) (1) “Forest land” means a biological community dominated by trees  
6 and other woody plants that are capable of producing timber or other wood products  
7 with a stocking of at least 100 trees per acre with at least 50% of those trees having a  
8 2–inch or greater diameter at 4.5 feet above the ground.

9 (2) “Forest land” includes forested areas that have been cut but not  
10 converted to other land uses.

11 **(I) “NO NET LOSS OF FOREST” MEANS 40% OF ALL LAND IN MARYLAND**  
12 **IS COVERED BY TREE CANOPY.**

13 5–102.

14 (a) The General Assembly finds that:

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

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

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

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

27 (5) Forests are susceptible to environmental degradation caused by  
28 natural threats;

29 (6) Forests, like other open space areas, are under intense  
30 development–related pressures for residential, commercial, and industrial conversion  
31 due to the demands of a growing population;

32 (7) Trees and forests in urban areas provide multiple benefits,  
33 including:

- 1 (i) Mitigation of urban stormwater runoff into the Chesapeake  
 2 Bay;
- 3 (ii) Sequestration of carbon;
- 4 (iii) Avoidance of energy-related emissions;
- 5 (iv) Mitigation of air pollutants, such as ozone and particulate  
 6 matter;
- 7 (v) Reduction of the urban heat island effect; and
- 8 (vi) Contributions to community livability;

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

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

- 16 (i) Green power goal for State facilities;
- 17 (ii) Renewable Energy Portfolio Standard;
- 18 (iii) Healthy Air Act; and
- 19 (iv) Maryland Clean Energy Incentive Act of 2006; and

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

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

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

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

1            **[(2)] (3)**     Enhancing the retention of privately owned forest lands  
 2 through research-based educational outreach efforts to landowners by the State's  
 3 forest conservancy district boards;

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

7            **[(4)] (5)**     Promoting renewable energy policies and markets with  
 8 increased emphasis on the use of in-State produced woody biomass;

9            **(6)     ENSURING DUAL CERTIFICATION OF THE STATE'S FORESTS**  
 10 **BY THE FOREST STEWARDSHIP COUNCIL AND THE SUSTAINABLE FORESTRY**  
 11 **INITIATIVE;**

12            **[(5)] (7)**     Recognizing the importance of:

13                            (i)     A viable forest products industry to the economies of rural  
 14 Maryland;

15                            (ii)    Continued development of fiber products; and

16                            (iii)   Maryland's green infrastructure; and

17            **[(6)] (8)**     Developing and enhancing programs with a sustainable  
 18 forestry component, including a forest mitigation banking system, a carbon credit or  
 19 carbon sequestration program, a clean water credit trading system, an environmental  
 20 services credit trading program, and a renewable energy credit trading system.

21     5-103.

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

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

25                            **(I)     CONSTRUCTION OF OR IMPROVEMENTS TO A HIGHWAY;**  
 26 **OR**

27                            **(II)    OFF-SITE ENVIRONMENTAL MITIGATION RELATED TO**  
 28 **HIGHWAY CONSTRUCTION.**

29                            (3)     "Constructing agency" means:

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

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

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

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

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

6 (I) **FINANCE** the planting of trees on:

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

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

13 (II) **FINANCE THE PREVENTION OF AND RESPONSE TO**  
14 **FOREST HEALTH EMERGENCIES.**

15 (4) The Department shall administer the Fund.

16 (5) (i) The Fund is a special, nonlapsing fund that is not subject to  
17 § 7-302 of the State Finance and Procurement Article.

18 (ii) The Treasurer shall hold the Fund separately and the  
19 Comptroller shall account for the Fund.

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

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

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

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

29 A. Plant trees on State or other publicly owned lands  
30 located in the county or in the watershed in the State in which the construction  
31 activity is located; or

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

4                   3. Replace trees, except nursery stock that has not been  
5 replanted, that were destroyed by the application of a treatment applied to destroy  
6 plant pests under a quarantine imposed by the Secretary of Agriculture, whether or  
7 not the quarantine is in effect in the county or watershed where the construction  
8 activity occurred; **OR**

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

11                   **A. MAINTAINING THE HEALTH AND VITALITY OF**  
12 **FOREST LAND AND URBAN TREE CANOPY; AND**

13                   **B. PREVENTING OR CONTROLLING SIGNIFICANT**  
14 **FOREST LAND AND URBAN TREE CANOPY DEGRADATION CAUSED BY ACTS OF**  
15 **NATURE.**

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

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

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

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

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

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

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

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

3                   [(10) The Department may adopt regulations to implement this  
4 subsection.]

5                   **(J) THE DEPARTMENT MAY ADOPT REGULATIONS TO IMPLEMENT THIS**  
6 **SECTION.**

7 [5–104.

8                   (a) The Department shall cooperate with forestry–related stakeholder groups  
9 to:

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

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

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

20 5–219.

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

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

24                                   (ii) “Reforestation” includes:

25   1. Site preparation by mechanical operation, application  
26 of herbicides, or prescribed burning;

27   2. Tree planting;

28   3. Release of seedlings from competing vegetation;

29   4. Animal damage control of seedlings; and



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

3           (c) The Department shall issue an initial certification of reforestation or  
4 timber stand improvement to an applicant who owns or leases [10 to 500] **3 TO 1,000**  
5 acres of land that is used as commercial forest land or that is being restored and is  
6 capable of growing a commercial forest, if there is:

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

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

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

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

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

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

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

24           (f) The Department shall decertify land if:

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

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

29           (3) The land does not continue to be used as commercial forest land for  
30 15 years after final certification is issued.

31           (g) The Secretary shall:

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

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

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

8 5–704.

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

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

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

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

28 5–1601.

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

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

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

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

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

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

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

14 5-1602.

15           (a) Except as provided in subsection (b) of this section, this subtitle shall  
16 apply to any public or private subdivision plan or application for a grading or sediment  
17 control permit by any person, including a unit of State or local government on areas  
18 40,000 square feet or greater.

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

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

22           (11) The cutting or clearing of trees to comply with the requirements of  
23 14 C.F.R. § 77.25 relating to objects affecting navigable airspace, provided that the  
24 Federal Aviation Administration has determined that the trees are a hazard to  
25 aviation;

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

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

1 5-1603.

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

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

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

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

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

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

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

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

25 2. ~~REQUIRE~~ **ON A FINDING BY AN AUDITOR MADE IN**  
26 **CONSULTATION WITH THE OFFICE OF THE ATTORNEY GENERAL THAT A LOCAL**  
27 **AUTHORITY HAS MISAPPROPRIATED LOCAL FOREST CONSERVATION FUNDS,**  
28 **THE DEPARTMENT MAY REQUIRE** THE LOCAL AUTHORITY TO SUBMIT PAYMENT  
29 TO THE STATE CONSERVATION FUND FOR THE AMOUNT OF ANY  
30 MISAPPROPRIATED LOCAL CONSERVATION FUNDS; **AND**

31 3. **REQUEST THAT THE ATTORNEY GENERAL**  
32 **INVESTIGATE PAYMENTS AND EXPENDITURES OF FUNDS COLLECTED BY THE**  
33 **LOCAL AUTHORITY UNDER THIS SUBTITLE.**

## Article – Tax – General

10–208.

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

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

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

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

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

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

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

SECTION 6. AND BE IT FURTHER ENACTED, That it is the intent of the General Assembly that:

(1) the policy of achieving no net loss of forest shall be implemented in a manner that does not incentivize the conversion of prime agricultural land with Natural Resources Conservation Service type I, II, or III soil classification to forestland, except for conservation best management practices meeting Natural Resources Conservation Service standards and specifications; but

(2) this Act may not be construed to prohibit an owner of agricultural land from voluntarily agreeing to place conservation best management practices on the property owner's agricultural land.

1        SECTION 7. AND BE IT FURTHER ENACTED, That, following the release of  
2 the first statewide forest resource inventory after January 1, 2017, the Department of  
3 Natural Resources shall convene a stakeholder group comprised of representatives  
4 from local government, agriculture, forestry, development, conservation, and other  
5 interested parties to review the inventory and make recommendations in accordance  
6 with the policy goals established under § 5-102(b) of the Natural Resources Article, as  
7 enacted by Section 1 of this Act.

8        SECTION ~~6~~ 8. AND BE IT FURTHER ENACTED, That this Act shall take  
9 effect October 1, 2013.

Approved:

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Governor.

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Speaker of the House of Delegates.

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President of the Senate.