

SENATE BILL 365

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7lr2384
CF HB 599

By: **Senators Young, Conway, Madaleno, Manno, Nathan-Pulliam, and Pinsky**

Introduced and read first time: January 26, 2017

Assigned to: Education, Health, and Environmental Affairs

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 14, 2017

CHAPTER _____

1 AN ACT concerning

2 ~~Forest Conservation Act—Exemption, Reforestation Rate, and Forest~~
3 ~~Conservation Fund—Alterations~~
4 Task Force on the Forest Conservation Act Offset Policy

5 FOR the purpose of ~~altering the exemption from the application of the Forest Conservation~~
6 ~~Act for the cutting or clearing of public utility rights-of-way or land for certain~~
7 ~~electric generating stations; increasing the acreage that must be planted in order to~~
8 ~~meet the reforestation requirement under the Act; authorizing a certain increase in~~
9 ~~the rate that is paid to the Forest Conservation Fund in lieu of meeting certain~~
10 ~~reforestation or afforestation requirements; making a stylistic change; and generally~~
11 ~~relating to the Forest Conservation Act~~ establishing the Task Force on the Forest
12 Conservation Act Offset Policy; providing for the composition, chair, and staffing of
13 the Task Force; prohibiting a member of the Task Force from receiving certain
14 compensation, but authorizing the reimbursement of certain expenses; requiring the
15 Task Force to review, study, and develop findings and recommendations regarding
16 forest conservation in Maryland; authorizing the Task Force to consult with certain
17 entities in carrying out its duties; requiring the Task Force to report its findings and
18 recommendations to the Governor and General Assembly on or before a certain date;
19 providing for the termination of this Act; and generally relating to the Task Force on
20 the Forest Conservation Act Offset Policy.

21 ~~BY repealing and reenacting, without amendments,~~
22 ~~Article—Natural Resources~~
23 ~~Section 5-1602(a)~~
24 ~~Annotated Code of Maryland~~

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.



~~(2012 Replacement Volume and 2016 Supplement)~~

~~BY repealing and reenacting, with amendments,
Article — Natural Resources
Section 5-1602(b)(5), 5-1606(b) and (d), and 5-1610(e)
Annotated Code of Maryland
(2012 Replacement Volume and 2016 Supplement)~~

Preamble

WHEREAS, Forests and trees are critical for ameliorating the impacts of climate change and can mitigate greenhouse gas emissions by carbon sequestration; and

WHEREAS, Forests provide habitat for hundreds of wildlife species, including habitat needed for rare, threatened, and endangered species; and

WHEREAS, The ecosystem value of Maryland’s forests is in the tens of billions of dollars; and

WHEREAS, Trees and forests in developed areas provide a plethora of benefits including mitigation of urban stormwater runoff, sequestration of carbon, avoidance of energy-related emissions, mitigation of air pollutants such as ozone and particulate matter, reduction of the urban heat island effect, and contributions to community livability; and

WHEREAS, Forest is the most beneficial land use for water quality by retaining sediment and removing nutrient pollution from air, stormwater runoff, and shallow groundwater; and

WHEREAS, Forests are under intense development-related pressure for residential, commercial, and industrial conversion due to the demands of a growing population; and

WHEREAS, Maryland consistently loses thousands of acres of forest annually to development in accordance with the Forest Conservation Act; and

WHEREAS, Recommendations of the Task Force to Study a No Net Loss of Forest Policy in 2009 and the Sustainable Forestry Council in 2011 identified areas of the Forest Conservation Act that need to be amended to move the State closer to its “no net loss of forests” statutory policy adopted in the Forest Preservation Act of 2013; and

WHEREAS, Multiple recommendations from these groups have not been enacted; now, therefore,

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
That ~~the Laws of Maryland read as follows:~~

~~Article — Natural Resources~~

1 ~~5-1602.~~

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

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

7 ~~(5) The cutting or clearing of public utility rights of way or land for~~
8 ~~electric generating stations licensed pursuant to § 7-204, § 7-205, § 7-207, or § 7-208 of~~
9 ~~the Public Utilities Article, provided that:~~

10 ~~(i) Any required certificates of public convenience and necessity~~
11 ~~have been issued in accordance with § 5-1603(f) of this subtitle; [and]~~

12 ~~(ii) The cutting or clearing of the forest is conducted so as to~~
13 ~~minimize the loss of forest; AND~~

14 ~~(iii) THE CUTTING OR CLEARING OF THE FOREST DOES NOT~~
15 ~~RESULT IN THE CUTTING, CLEARING, OR GRADING OF MORE THAN 1 ACRE OF~~
16 ~~FOREST;~~

17 ~~5-1606.~~

18 ~~(b) (1) There is a forest conservation threshold established for all land use~~
19 ~~categories as provided in subsection (c) of this section.~~

20 ~~(2) The forest conservation threshold means the percentage of the net tract~~
21 ~~area at which the reforestation requirement changes from a ratio of [1/4] 1 acre planted for~~
22 ~~every 1 acre removed to a ratio of 2 acres planted for every 1 acre removed.~~

23 ~~(d) (1) Subject to the provisions of paragraph (2) of this subsection, for all~~
24 ~~existing forest cover measured to the nearest 1/10 acre cleared on the net tract area above~~
25 ~~the applicable forest conservation threshold, the area of forest removed shall be reforested~~
26 ~~at a ratio of [1/4] 1 acre planted for every 1 acre removed.~~

27 ~~(2) Each acre of forest retained on the net tract area above the applicable~~
28 ~~forest conservation threshold shall be credited against the total number of acres required~~
29 ~~to be reforested under paragraph (1) of this subsection.~~

30 ~~5-1610.~~

31 ~~(e) (1) Except as provided in subsection (h) of this section, if any person subject~~
32 ~~to this subtitle demonstrates to the satisfaction of the appropriate State or local authority~~

~~that the requirements for reforestation or afforestation on site or off site cannot be reasonably accomplished, the person shall contribute money to the Fund:~~

~~[(1)] (I) On or before September 30, 2014:~~

~~[(i)] 1. For a project inside a priority funding area, at a rate of 30 cents per square foot of the area of required planting; and~~

~~[(ii)] 2. For a project outside a priority funding area, at a rate of 36 cents per square foot of the area of required planting; and~~

~~[(2) After] (H) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, AFTER September 30, 2014:~~

~~[(i)] 1. For a project inside a priority funding area, at a rate adjusted for inflation as determined by the Department annually by regulation; and~~

~~[(ii)] 2. For a project outside a priority funding area, at a rate that is 20% higher than the rate set under item [(2)(i)] 1 of this [subsection] ITEM.~~

~~(2) THE RATES ESTABLISHED UNDER PARAGRAPH (1)(H) OF THIS SUBSECTION MAY BE INCREASED BY 20% FOR EACH ACRE FOR WHICH MONEY IS CONTRIBUTED TO THE FUND IN LIEU OF MEETING THE REQUIREMENTS FOR REFORESTATION OR AFFORESTATION.~~

(a) There is a Task Force on the Forest Conservation Act Offset Policy.

(b) The Task Force consists of the following members:

(1) two members of the Senate of Maryland, appointed by the President of the Senate;

(2) two members of the House of Delegates, appointed by the Speaker of the House;

(3) the Secretary of Natural Resources, or the Secretary's designee;

(4) the Secretary of Planning, or the Secretary's designee;

(5) two municipal government representatives, designated by the Maryland Municipal League;

(6) two county government representatives, designated by the Maryland Association of Counties; and

1 (7) the following 14 representatives, appointed jointly by the President of
2 the Senate and the Speaker of the House:

3 (i) four representatives from conservation organizations;

4 (ii) one representative from a land preservation organization;

5 (iii) one representative from a wildlife conservation organization;

6 (iv) one representative from the Sustainable Forestry Council;

7 (v) one representative from the nursery industry in the State;

8 (vi) one representative from the public health sector;

9 (vii) two representatives from the utility industry;

10 (viii) two representatives from the commercial and residential
11 development industry; and

12 (ix) one faculty member from a State college or university urban
13 forestry or planning program.

14 (c) The President of the Senate and the Speaker of the House shall designate
15 jointly the chair or cochairs of the Task Force.

16 (d) The Department of Legislative Services shall provide staff for the Task Force.

17 (e) A member of the Task Force:

18 (1) may not receive compensation as a member of the Task Force; but

19 (2) is entitled to reimbursement for expenses under the Standard State
20 Travel Regulations, as provided in the State budget.

21 (f) The Task Force shall:

22 (1) review and study the following issues:

23 (i) the amount and nature of historical and projected future changes
24 in forested land due to development under the Forest Conservation Act, including changes
25 due to activities exempt from the Act;

26 (ii) the amount and nature of forest clearing based on the type and
27 location of development, such as differentiating low-density development from
28 development that is associated with proximity to core public infrastructure and population
29 centers;

1 (iii) the capacity of Priority Funding Areas to accommodate
2 reforestation efforts, and alternatives for offsetting losses;

3 (iv) the status and effectiveness of fee-in-lieu programs in offsetting
4 forest loss, considering the actual costs to local jurisdictions to undertake tree plantings;
5 and

6 (v) mechanisms for ensuring timely reporting and maintenance of
7 public records required annually under the Forest Conservation Act; and

8 (2) develop findings and recommendations for legislation to implement the
9 findings and recommendations of the Task Force to Study a No Net Loss of Forest Policy's
10 Final Report of 2009 and the Sustainable Forestry Council's Report on Policies to Achieve
11 a No Net Loss of Forests in Maryland of 2011 related to the Forest Conservation Act, which
12 may include:

13 (i) altering Forest Conservation Act mitigation ratios and allowable
14 exemptions to fully offset all forest loss;

15 (ii) encouraging forest mitigation banking and other options to more
16 efficiently replace forest lost to development;

17 (iii) enhancing protection for contiguous forest patches greater than
18 200 acres; and

19 (iv) adjusting fee-in-lieu programs as necessary to ensure all forest
20 loss is offset or otherwise benefiting Maryland's forest goals.

21 (g) The Task Force may consult with the Chesapeake Bay Program, the U.S.
22 Forest Service, and other government agencies or academic institutions to obtain
23 information about data, models, and policies useful in carrying out the duties of the Task
24 Force.

25 (h) On or before December 1, 2017, the Task Force shall report its findings and
26 recommendations to the Governor and, in accordance with § 2-1246 of the State
27 Government Article, the General Assembly.

28 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
29 ~~October~~ June 1, 2017. It shall remain effective for a period of 1 year and, at the end of May
30 31, 2018, with no further action required by the General Assembly, this Act shall be
31 abrogated and of no further force and effect.