

HB1511-EEE_MACo_SUP.pdf

Uploaded by: Dominic Butchko

Position: FAV



House Bill 1511

Forest Conservation Act – Modifications

MACo Position: **SUPPORT**

To: Education, Energy, and the Environment
Committee

Date: March 26, 2024

From: Dominic J. Butchko

The Maryland Association of Counties (MACo) **SUPPORTS** HB 1511. This bill extends certain implementation deadlines from the 2023 Forest Conservation Act update. The bill is necessary because certain early implementation elements from a legislative compromise during the 2023 session have not yet been completed, making other deadlines untenable.

Last year, the Maryland General Assembly passed a comprehensive and wide-ranging update to the state's Forest Conservation Act. This legislation was developed with consultation from a variety of stakeholders, including MACo, and established implementation timelines for state and local governments to update their forest conservation policies. HB 1511 provides an extension to certain provisions in last year's update, without which, the entirety of the update will be rendered unimplementable. Both the Department of Natural Resources (DNR) and counties agree that neither will be able to have their required materials completed by the July 2024 full implementation date.

Additionally, counties request that provisions be added ensuring that the reauthorization of forest mitigation banking be allowed to continue this year as scheduled. Counties have already been working with developers in anticipation of this reauthorization, without which projects currently in the pipeline could experience detrimental effects. The Committee can expect amendment language from DNR very soon.

Without the passage of this legislation, there is likely to be a cascading effect which will chill development in Maryland – especially for affordable housing – and place current projects into a legal limbo until the General Assembly reconvenes in 2025. Accordingly, counties strongly urge the Committee to issue HB 1511 a **FAVORABLE** report.

HB1511, FAV, FCG, OCE, JF, LS24, EEE.pdf

Uploaded by: Jessica Fitzwater

Position: FAV



FREDERICK COUNTY GOVERNMENT
OFFICE OF THE COUNTY EXECUTIVE

Jessica Fitzwater
County Executive

HB 1511 – Forest Conservation Act – Modifications

DATE: March 26, 2024
COMMITTEE: Senate Education, Energy, and the Environment Committee
POSITION: Favorable
FROM: The Office of Frederick County Executive Jessica Fitzwater

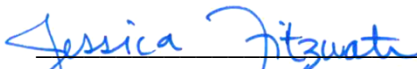
As the County Executive of Frederick County, I urge the committee to give HB 1511 – Forest Conservation Act – Modifications a favorable report.

This bill will extend the deadlines of approval for the Department of Natural Resources and local jurisdictions regarding local forest conservation plans.

Last year, the General Assembly passed legislation that allowed for local jurisdictions to create their own Forest Resource Conservation programs. This gave local governments the opportunity to implement plans specific to the needs of their counties. DNR has been unable to approve these plans and provide guidance in the timeline outlined in last year’s legislation.

HB 1511 will extend the Department of Natural Resources approval deadline from 2024 to 2026. This will allow for the Department to devise meaningful guidance and thoroughly review plans created by local jurisdictions. Without this legislation, local governments are placed in a precarious situation that is no fault of their own. HB 1511 is crucial to ensuring that all counties have the ability to create forest resource conservation plans that suit their unique needs.

Thank you for your consideration of HB 1511. I urge you to advance this bill with a favorable report.



Jessica Fitzwater, County Executive
Frederick County, MD

FINAL_Position Statement_HB_1511 Forest Conservati

Uploaded by: Jordan BaucumColbert

Position: FAV



POSITION STATEMENT

Bill: HB 1511 Forest Conservation Act – Modifications

Position: Support

Date: March 26, 2024

Contact: Debra Borden, General Counsel

Jordan Baucum Colbert, Government Affairs Liaison

Dear Chair Brian J. Feldman and Vice Chair Cheryl C. Kagan,

The Maryland-National Capital Park and Planning Commission (M-NCPPC or “the Commission”) initially voted to support this bill with amendments. The sponsor has since made a needed revision to this bill that would keep the July 2024 effective date for Forest Mitigation Banking provisions to continue. The Commission respectfully requests that the Education, Energy and Environment committee consider this information and include it in the record with a favorable report.

What this bill Does. This bill requires the Department of Natural Resources (DNR) to update a certain model local government ordinance and adopt certain regulations relating to Forest Conservation on or before certain dates. **As amended this bill seeks to include language that would keep the effective dates to allow current forest mitigation banking applications to go into effect in July 2024 as planned.**

Continued Effort to Support Modification to the Forest Conservation Act (FCA). Last 2023 Legislative Session, the Commission worked with the sponsor and alongside various counties in Maryland to help implement updates to the FCA. The Commission’s goals aligned with modifying the state’s policy to encourage the retention and sustainable management of forest lands. One of our top priorities involved ensuring forest mitigation banking provisions were protected. The recent amendments to this bill reflect the Commission’s efforts and recommendations.

For these reasons, the Commission requests the Committee vote favorable on HB 1511.

MBIA Letter of Support HB 1511.pdf

Uploaded by: Lori Graf

Position: FAV

March 26, 2024

The Honorable Brian Feldman
Chairman, Senate Education, Energy, and the Environment Committee
2 West Miller Senate Office Building
Annapolis, Maryland 21401

RE: MBIA Letter of HB 1511 Forest Conservation Act - Modifications

Dear Chairman Feldman,

The Maryland Building Industry Association, representing 100,000 employees statewide, appreciates the opportunity to participate in the discussion surrounding **HB 1511 Forest Conservation Act - Modifications**.

This legislation makes some corrections to the Forest Conservation Act amendments that passed the Legislature in 2023. There have been some unexpected challenges in implementation and we support the changes that are proposed.

MBIA supports the version of the legislation that passed the House of Delegates. We support the amendment that was added in the House that allows the creation of new forest mitigation banks should be allowed to become effective on July 1, 2024, as that was the date we originally agreed upon. Several jurisdictions, including Montgomery and Prince George's County, have either revised their local conservation ordinances or are in the process to meet the state's increased mitigation requirements already, or are revising them based on the original implementation date. Not allowing new banks based on preservation to be created for an additional two years will have a detrimental effect on our industry, especially in jurisdictions where mitigation requirements have increased substantially.

For these reasons, MBIA respectfully urges the Committee to give this measure **a favorable report**. Thank you for your consideration.

For more information about this position, please contact Lori Graf at 410-800-7327 or lgraf@marylandbuilders.org.

cc: Members of the Senate Education, Energy, and the Environment Committee

HB 1511 - CBF - FAV - EEE.pdf

Uploaded by: Matt Stegman

Position: FAV



CHESAPEAKE BAY FOUNDATION

*Environmental Protection and Restoration
Environmental Education*

House Bill 1511

Forest Conservation Act – Modifications

Date: March 26, 2024

To: Education, Energy, & the Environment Committee

Position: **Favorable**

From: Matt Stegman
Maryland Staff Attorney

Chesapeake Bay Foundation (CBF) **SUPPORTS HB 1511** as amended by the House of Delegates. In its current posture, the bill would require the Department of Natural Resources (DNR) to update model forest conservation ordinances for local governments by July 1, 2025 and adopt regulations to enforce the Forest Conservation Act by July 1, 2026. The bill also delays the effective date of several provisions of the comprehensive Forest Conservation Act (FCA) update enacted last year.

Ch. 541 passed during the 2023 session updated the state's forest preservation goals while providing new flexibility and tools for local governments and land developers to protect and enhance Maryland's woodlands. This was the first significant update to the FCA since its adoption in 1991. While the urgency to enhance forest protections remains, it is also important that local governments have the appropriate guidance. HB 1511 takes a balanced approach between implementing FCA updates in a timely manner and taking a pause on certain provisions to get implementation right.

CBF urges the Committee's FAVORABLE Report on HB 1511.

For more information, please contact Matt Stegman, Maryland Staff Attorney, at mstegman@cbf.org.

Maryland Office • Philip Merrill Environmental Center • 6 Herndon Avenue • Annapolis • Maryland • 21403

The Chesapeake Bay Foundation (CBF) is a non-profit environmental education and advocacy organization dedicated to the restoration and protection of the Chesapeake Bay. With over 200,000 members and e-subscribers, including 71,000 in Maryland alone, CBF works to educate the public and to protect the interest of the Chesapeake and its resources.

HB1511 - Forest Conservation Act - Modifications -

Uploaded by: Tom Ballentine

Position: FAV



March 25, 2024

The Honorable Brian J. Feldman, Chair
Education, Energy, and the Environment Committee
Miller Senate Office Building, 2 West
Annapolis, MD 21401

Support: HB 1511 – Forest Conservation Act – Modifications

Dear, Chair Feldman and Committee Members:

On behalf of the NAIOP Maryland Chapters representing 700 companies involved in all aspects of commercial, light-industrial, and mixed-use real estate I am writing to support HB 1511.

Chapters 541 and 542 of 2023 made significant changes to the state Forest Conservation Act including increased forest conservation and mitigation ratios and reinstatement of forest mitigation banking as an acceptable mitigation option.

Implementation of these changes requires the Department of Natural Resources to revise its technical manual and guidance documents and local governments to make changes to local laws and regulations in preparation for the July 1, 2024, effective date.

HB 1511 extends deadlines and effective dates to allow additional time to complete these tasks. NAIOP agrees that additional time is needed for implementation of the programmatic changes.

HB 1511 has been amended to contain a provision to allow the mitigation banking provisions to go into effect as planned on July 1, 2024. This is an important addition because one of the major policy tradeoffs in the 2023 changes was that the increase in forest mitigation ratios was to be accompanied by the reinstatement of the use of forest mitigation banks.

Several jurisdictions have updated or have nearly completed updating their forest conservation ordinances which include the substantially increased mitigation requirements. Without the mitigation banking provisions the increased mitigation requirements will have a detrimental and unintended impact on development projects.

The expectation of all the stakeholders and the legislative intent of the 2023 bill was that the increased mitigation requirements would be accompanied by reinstatement of forest banking as a mitigation option.

For these reasons, NAIOP respectfully requests your favorable report on HB 1511.

Sincerely,

A handwritten signature in blue ink, appearing to read 'T.M. Ballentine', written over a light blue grid background.

Tom Ballentine, Vice President for Policy
NAIOP – Maryland Chapters, *The Association for Commercial Real Estate*

cc: Education, Energy and the Environment Committee Members
Nick Manis – Manis, Canning Assoc.

Chaberton Energy- HB 1511 - FWA.pdf

Uploaded by: Duwane Rager

Position: FWA

March 26, 2024

To: Senate Education, Energy, & the Environment Committee

Bill: HB 1511: Forest Conservation Act – Modifications

Position: Favorable with amendments (FWA)

Contact: John Lennon Miller, Vice President of Development
Duwane P. Rager, Associate Development Manager, Community Impact

Dear Chair Feldman, Vice Chair Kagan, and members of the Committee:

Thank you for your consideration of HB 1511 and for the opportunity to share our testimony on this bill. Chaberton Energy, a Maryland-based renewable energy company located in District 17, writes to express our FWA position. We have included an overview of our requested amendments below.

It is our understanding that this legislation aims to provide more time to local jurisdictions to implement the requirements outlined in last year's SB 526: Natural Resources – Forest Preservation and Retention. We understand that need and support our partners in local government as they work to fulfill these statutory requirements.

As you may know, last year's bill enacted an exemption for solar photovoltaic facilities from afforestation. This was set to go into effect on July 1, 2024. In drafting this bill and its amendments, this exemption was delayed to July 1, 2026. Based on testimony provided by the Department of Natural Resources during this bill's consideration before the House Environment & Transportation's Natural Resources, Agriculture & Open Space Subcommittee, this implementation date of this exemption was meant to remain at July 1, 2024. We are working closely with the Department and our local jurisdictional partners to address this issue. Additionally, we have included draft amendment language to our testimony. We hope you find this helpful.

Chaberton Energy respectfully requests that the Committee amend HB 1511 to reflect the original intent of enacting the solar voltaic afforestation exemption on July 1, 2024. We sincerely thank you for your attention to this matter. Please do not hesitate to let us know if we can continue to be helpful throughout your deliberations on this legislation.

Respectfully submitted,

John Lennon Miller
Vice President
Development
Chaberton Energy

Duwane P. Rager
Associate Development Manager
Community Impact
Chaberton Energy



DRAFT AMENDMENT

HB1511/XX/1

BY: Education, Energy, and the Environment Committee

SUBSTITUTE AMENDMENTS TO HOUSE BILL 1511 (First Reading File Bill)

AMENDMENT NO. 1

On page 2, after line 21, insert:

“By adding to

Article – Natural Resources

Section 5—1606(a)

Annotated Code of Maryland

(2023 Replacement Volume and 2023 Supplement)

By repealing and reenacting with amendments,

Article – Natural Resources

Section 5—1606(g)

Annotated Code of Maryland

(2023 Replacement Volume and 2023 Supplement)

By repealing and reenacting, with amendments,

Chapter 541 of the Acts of the General Assembly of 2023

Section 3

“By repealing and reenacting with amendments,

Chapter 542 of the Acts of the General Assembly of 2023

Section 3

AMENDMENT NO. 2

On page 3, after line 3, insert:

“5—1606(a).

(6) SOLAR PHOTOVOLTAIC FACILITIES MAY NOT BE SUBJECT TO AFFORESTATION REQUIREMENTS UNDER THIS SUBTITLE.

AMENDMENT NO. 3

On page 3, after Amendment No. 2, insert:

“(g) ~~A~~ **EXCEPT AS PROVIDED IN SUBSECTION (A)(6) OF THIS SECTION, A unit of local government with planning and zoning authority may adopt forest conservation thresholds and afforestation and reforestation requirements as part of**



DRAFT AMENDMENT

**HB1511/XX/1 Education, Energy, and the Environment Committee
Amendments to HB 1511
Page 2 of 2**

its local forest conservation program that are more stringent than the forest conservation thresholds and afforestation and reforestation requirements in this section.”.

AMENDMENT NO. 4

On page 4, after line 31, insert:

“Strike 15-1606(a)(6) in its entirety.

Strike 15—1606(d) in its entirety, and substitute:

~~(e)~~ (D) Except as provided in subsection (a)(6) of this section, a unit of local government with planning and zoning authority may adopt forest conservation thresholds and afforestation and reforestation requirements as part of its local forest conservation program that are more stringent than the forest conservation thresholds and afforestation and reforestation requirements in this section.”.

AMENDMENT NO. 5

On page 5, after line 31, insert:

“Strike 15-1606(a)(6) in its entirety.

Strike 15—1606(d) in its entirety, and substitute:

~~(e)~~ (D) Except as provided in subsection (a)(6) of this section, a unit of local government with planning and zoning authority may adopt forest conservation thresholds and afforestation and reforestation requirements as part of its local forest conservation program that are more stringent than the forest conservation thresholds and afforestation and reforestation requirements in this section.”.



HB1511_DNR_SWA_EEE_3-26-24.pdf

Uploaded by: Dylan Behler

Position: FWA



Wes Moore, Governor
Aruna Miller, Lt. Governor
Josh Kurtz, Secretary
David Goshorn, Deputy Secretary

March 26, 2024

BILL NUMBER: House Bill 1511 – Third Reader

SHORT TITLE: Forest Conservation Act - Modifications

DEPARTMENT’S POSITION: SUPPORT WITH AMENDMENTS

EXPLANATION OF DEPARTMENT’S POSITION

The Department supports the passage of HB1511 as it will delay the dates on which certain provisions of the Forest Conservation Act that were passed in 2023 (SB526/HB723) will go into effect. The Department worked out amendments in the House with various stakeholders to allow certain provisions of the law related to mitigation banking to go into effect this year.

Additionally, based on further feedback from the solar industry there is a need to ensure that the solar provisions of the law go into effect on July 1 of 2024 as well.

BACKGROUND INFORMATION

Last year’s SB526/HB723 codified the most significant changes to the Forest Conservation Act since it was enacted in 1991. While administered by the state-level, the FCA is primarily implemented by jurisdictions that have local ordinances reviewed and approved by the Department. However, the deadlines allowed for in SB526/HB723 do not grant adequate time for the Department to issue the necessary guidance and technical specifications for local government entities to comply with state law.

A prime example of how this incongruity manifests is with the deadline for the Department to publish a technical manual by 12/31/24. This technical manual cannot be completed without the Department first developing and then incorporating a new set of regulations, definitions, calculations, standards and exemptions. And yet, many of the provisions in SB526/HB723, which local programs would have to comply with, are promulgated six months earlier, on 7/1/24.

BILL EXPLANATION

HB1511 extends the dates on which certain provisions go into effect from July 1, 2024 to July 1, 2026. It also adds deadlines for the Department to publish an updated model ordinance by July 1, 2025 and updated regulations by July 1, 2026.

Contact: Dylan Behler, Director, Legislative and Constituent Services
dylan.behler@maryland.gov ♦ 410-260-8113 (office) ♦ 443-924-0891 (cell)

BY:

(To be offered in the Education, Energy, and the Environment)

AMENDMENTS TO HOUSE BILL 1511
(Third Reading File Bill)

AMENDMENT NO. 1

On page 1, in line 4, after “banks;” insert “authorizing a certain exemption from afforestation requirements;”; and on page 2, in line 13, after “Section” insert “5-1606.”.

AMENDMENT NO. 2

On page 3, after line 3, insert:

“5-1606.

(a) (1) For the following land use categories, tracts having less than 20% of the net tract area in forest cover shall be afforested up to 20% of the net tract area:

(i) Agriculture and resource areas; and

(ii) Medium density residential areas.

(2) For the following land use categories, tracts having less than 15% of the net tract area in forest cover shall be afforested up to 15% of the net tract area:

(i) Institutional development areas;

(ii) High density residential areas;

(iii) Mixed use and planned unit development areas; and

(iv) Commercial and industrial use areas.

(3) Afforestation requirements must conform to the conditions in §§ 5-1607 and 5-1610 of this subtitle, including payment into the Forest Conservation Fund, if afforestation on-site or off-site cannot be reasonably accomplished.

(4) (i) The afforestation requirements under this subsection shall be accomplished within 1 year or 2 growing seasons after the completion of the development project.

(ii) If afforestation cannot be reasonably accomplished on-site or off-site, the requirement to contribute money to a Forest Conservation Fund under § 5-1610 of this subtitle shall be met within 90 days after the completion of the development project.

(5) Linear projects that involve no change in land use may not be subject to afforestation requirements.

(6) SOLAR PHOTOVOLTAIC FACILITIES MAY NOT BE SUBJECT TO AFFORESTATION REQUIREMENTS UNDER THIS SUBTITLE.”;

on page 5, in line 23 and on page 6, in line 22, in each instance, strike the brackets; and in the same lines, in each instance, strike “**2025**”.