

# HOUSE BILL 1511

M1

(4lr3538)

## ENROLLED BILL

— *Environment and Transportation/Education, Energy, and the Environment* —

Introduced by **Delegate Love**

Read and Examined by Proofreaders:

\_\_\_\_\_  
Proofreader.

\_\_\_\_\_  
Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this

\_\_\_\_\_ day of \_\_\_\_\_ at \_\_\_\_\_ o'clock, \_\_\_\_\_ M.

\_\_\_\_\_  
Speaker.

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

1 AN ACT concerning

### 2 **Forest Conservation Act – Modifications**

3 FOR the purpose of ~~establishing a~~ altering the definition of “qualified conservation” for  
4 purposes of provisions of law related to forest mitigation banks; altering rules for the  
5 use of qualified conservation to meet afforestation or reforestation requirements;  
6 adding certain areas and vegetation considered to be a priority for forest retention  
7 and protection under certain circumstances; *providing that certain solar voltaic*  
8 *facilities may not be subject to certain afforestation requirements;* requiring the  
9 Department of Natural Resources to update a certain model local government  
10 ordinance and adopt certain regulations relating to forest conservation on or before  
11 certain dates; delaying the dates on which certain provisions of the Forest  
12 Conservation Act will apply to certain ~~solar voltaic facilities and~~ forest conservation  
13 plans; delaying the effective date of certain provisions of the Forest Conservation  
14 Act; and generally relating to the Forest Conservation Act.

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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.

*Italics indicate opposite chamber/conference committee amendments.*



BY renumbering

~~Article – Natural Resources  
Section 5–1601(gg) through (pp)  
to be Section 5–1601(hh) through (qq), respectively  
Annotated Code of Maryland  
(2023 Replacement Volume and 2023 Supplement)~~

BY repealing and reenacting, without amendments,

~~Article – Natural Resources  
Section 5–1601(a)  
Annotated Code of Maryland  
(2023 Replacement Volume and 2023 Supplement)~~

BY adding to

~~Article – Natural Resources  
Section 5–1601(gg) and 5–1607(c)(3)  
Annotated Code of Maryland  
(2023 Replacement Volume and 2023 Supplement)~~

BY repealing and reenacting, with amendments,

~~Article – Natural Resources  
Section 5–1601(gg), 5–1606(a), 5–1607(b)(2) and (c)(1), and 5–1610.1(c)  
Annotated Code of Maryland  
(2023 Replacement Volume and 2023 Supplement)~~

BY adding to

~~Article – Natural Resources  
Section 5–1607(c)(3)  
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 5, 9, and 10~~

BY repealing and reenacting, with amendments,

~~Chapter 542 of the Acts of the General Assembly of 2023  
Section 5, 9, and 10~~

BY repealing and reenacting, with amendments,

~~Chapter 645 of the Acts of the General Assembly of 2021  
Section 11~~

SECTION 1. AND BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That Section(s) 5–1601(gg) through (pp) of Article – Natural Resources of the Annotated Code of Maryland be renumbered to be Section(s) 5–1601(hh) through (qq), respectively.

1 ~~SECTION 1. 2. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND~~  
 2 ~~AND BE IT FURTHER ENACTED,~~ That the Laws of Maryland read as follows:

3 Article – Natural Resources

4 5-1601.

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

6 ~~(GG) “QUALIFIED CONSERVATION” MEANS THE CONSERVATION OF ALL OR A~~  
 7 ~~PART OF AN EXISTING FOREST THAT:~~

8 ~~(1) HAS BEEN APPROVED BY THE APPROPRIATE STATE OR LOCAL~~  
 9 ~~FOREST CONSERVATION PROGRAM FOR THE PURPOSE OF ESTABLISHING A FOREST~~  
 10 ~~MITIGATION BANK; AND~~

11 ~~(2) IS ENCUMBERED IN PERPETUITY BY A RESTRICTIVE EASEMENT,~~  
 12 ~~COVENANT, OR ANOTHER SIMILAR MECHANISM RECORDED IN THE COUNTY LAND~~  
 13 ~~RECORDS TO CONSERVE ITS CHARACTER AS A FOREST.~~

14 (gg) “Qualified conservation” means the conservation of all or a part of an existing  
 15 forest that:

16 (1) [Was] HAS BEEN approved [on or before December 31, 2020,] by the  
 17 appropriate State or local forest conservation program for the purpose of establishing a forest  
 18 mitigation bank; and

19 (2) Is encumbered in perpetuity by a restrictive easement, covenant, or  
 20 another similar mechanism recorded in the county land records to conserve its character as  
 21 a forest.

22 5-1606.

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

25 (i) Agriculture and resource areas; and

26 (ii) Medium density residential areas.

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

29 (i) Institutional development areas;

1                   (ii) High density residential areas;

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

3                   (iv) Commercial and industrial use areas.

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

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

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

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

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

17 5-1607.

18                   (b) Standards for meeting afforestation or reforestation requirements shall be  
19 established by the State or local program using one or more of the following methods:

20                   (2) The use of qualified conservation completed in a forest mitigation bank  
21 **TO MEET:**

22                   **(I) UP TO 50% OF THE AFFORESTATION OR REFORESTATION**  
23 **REQUIREMENT, in which case, the afforestation or reforestation credit granted may not**  
24 **exceed 50% of the forest area encumbered in perpetuity; OR**

25                   **(II) IF A LOCAL JURISDICTION PROPOSES AND, AFTER PUBLIC**  
26 **COMMENT, THE DEPARTMENT APPROVES A WRITTEN JUSTIFICATION FOR THE**  
27 **INCREASE, UP TO 60% OF THE AFFORESTATION OR REFORESTATION REQUIREMENT,**  
28 **IN WHICH CASE THE AFFORESTATION OR REFORESTATION CREDIT GRANTED MAY**  
29 **NOT EXCEED 50% OF THE FOREST AREA ENCUMBERED IN PERPETUITY.**

30                   (c) (1) The following trees, shrubs, plants, and specific areas shall be  
31 considered priority for retention and protection, and they shall be left in an undisturbed  
32 condition unless the applicant has demonstrated, to the satisfaction of the State or local

1 authority, that reasonable efforts have been made to protect them and the plan cannot  
2 reasonably be altered:

3 (i) Trees, shrubs, and plants located in sensitive areas including  
4 100-year floodplains, intermittent [and] STREAMS AND THEIR BUFFERS OF AT LEAST  
5 50 FEET FROM THE STREAM CHANNEL, perennial streams and their buffers OF AT  
6 LEAST 100 FEET FROM THE STREAM CHANNEL, coastal bays and their buffers, steep  
7 slopes, and critical habitats; [and]

8 (ii) Contiguous forest that connects the largest undeveloped or most  
9 vegetated tracts of land within and adjacent to the site;

10 (iii) FOREST SUITABLE FOR FOREST INTERIOR-DWELLING  
11 SPECIES;

12 (iv) FOREST LOCATED IN A TIER II OR TIER III HIGH QUALITY  
13 WATERSHED AS IDENTIFIED BY THE DEPARTMENT OF THE ENVIRONMENT;

14 (v) FOREST LOCATED IN A WATER RESOURCE PROTECTION  
15 ZONE, A RESERVOIR WATERSHED, OR A WELLHEAD PROTECTION AREA AS  
16 IDENTIFIED BY A LOCAL JURISDICTION; AND

17 (vi) FORESTS IN URBAN AREAS:

18 1. AS DELINEATED IN THE PRIORITY URBAN FOREST  
19 MAPPING INCLUDED IN THE STATE FOREST CONSERVATION TECHNICAL MANUAL  
20 REQUIREMENTS; OR

21 2. THAT ARE MOST IMPORTANT FOR PROVIDING  
22 WILDLIFE HABITAT OR MITIGATING FLOODING, HIGH TEMPERATURES, OR AIR  
23 POLLUTION.

24 (3) (i) THE DEPARTMENT OR A LOCAL AUTHORITY SHALL ISSUE  
25 WRITTEN FINDINGS AND JUSTIFICATION FOR ANY CLEARING OF A PRIORITY  
26 RETENTION AREA DESCRIBED IN PARAGRAPH (1) OR (2) OF THIS SUBSECTION.

27 (ii) ANY JUDICIAL REVIEW OF A FINAL DETERMINATION MADE  
28 UNDER THIS PARAGRAPH SHALL BE:

29 1. CONDUCTED IN ACCORDANCE WITH THE MARYLAND  
30 RULES; AND

31 2. LIMITED TO THE RECORD COMPILED BY THE  
32 DEPARTMENT OR THE LOCAL AUTHORITY.

1 5-1610.1.

2 (c) [Mitigation] AFTER DECEMBER 31, 2020, MITIGATION banks may be  
 3 allowed only [in priority]:

4 (1) IF THE APPLICATION WAS SUBMITTED BEFORE DECEMBER 31,  
 5 2020; OR

6 (2) WHEN USING:

7 (I) QUALIFIED CONSERVATION LOCATED IN PRIORITY  
 8 RETENTION AREAS AS IDENTIFIED IN § 5-1607(C) OF THIS SUBTITLE; OR

9 (II) NEWLY PLANTED FOREST LOCATED IN PRIORITY  
 10 AFFORESTATION OR REFORESTATION areas as identified in § 5-1607(d) of this subtitle  
 11 or as identified in a comprehensive plan adopted by a local jurisdiction.

12 SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland read  
 13 as follows:

14 **Chapter 541 of the Acts of 2023**

15 SECTION 5. AND BE IT FURTHER ENACTED, That:

16 (a) The Department of Natural Resources shall update the State Forest  
 17 Conservation Technical Manual on or before December 31, 2024, for consistency with this  
 18 Act.

19 (b) The updates shall include:

20 (1) guidance on:

21 (i) when the clearing of a priority area for retention described in §  
 22 5-1607(c) of the Natural Resources Article, as enacted by this Act, may be justified,  
 23 including for purposes related to forest health or composition; and

24 (ii) the use of site design practices to minimize clearing; and

25 (2) standards by which credit may be granted for the restoration of  
 26 degraded forest.

27 (C) **ON OR BEFORE JULY 1, 2025, THE DEPARTMENT OF NATURAL**  
 28 **RESOURCES SHALL UPDATE THE MODEL LOCAL GOVERNMENT ORDINANCE**  
 29 **REQUIRED UNDER § 5-1609 OF THE NATURAL RESOURCES ARTICLE FOR**  
 30 **CONSISTENCY WITH THIS ACT.**

1 (D) ON OR BEFORE JULY 1, 2026, THE DEPARTMENT OF NATURAL  
2 RESOURCES SHALL ADOPT REGULATIONS TO CARRY OUT THE PROVISIONS OF THIS  
3 ACT.

4 ~~SECTION 9. AND BE IT FURTHER ENACTED, That this Act may not apply to:~~

5 ~~(1) a solarvoltaic facility granted a certificate of public convenience and~~  
6 ~~necessity by the Public Service Commission under § 7-207 of the Public Utilities Article~~  
7 ~~before July 1, [2023] 2025;~~

8 ~~(2) a forest conservation plan approved before July 1, [2024] 2026, that is~~  
9 ~~associated with a subdivision plan, site plan, building permit, or grading or sediment~~  
10 ~~control application; or~~

11 ~~(3) a revision to a plan or permit described in item (2) of this section that~~  
12 ~~does not materially alter the proposed or actual limits of disturbance.~~

13 SECTION 10. AND BE IT FURTHER ENACTED, That Sections 1, 2, and 3 of this  
14 Act shall take effect July 1, [2024] 2026.

### 15 Chapter 542 of the Acts of 2023

16 SECTION 5. AND BE IT FURTHER ENACTED, That:

17 (a) The Department of Natural Resources shall update the State Forest  
18 Conservation Technical Manual on or before December 31, 2024, for consistency with this  
19 Act.

20 (b) The updates shall include:

21 (1) guidance on:

22 (i) when the clearing of a priority area for retention described in §  
23 5-1607(c) of the Natural Resources Article, as enacted by this Act, may be justified,  
24 including for purposes related to forest health or composition; and

25 (ii) the use of site design practices to minimize clearing; and

26 (2) standards by which credit may be granted for the restoration of  
27 degraded forest.

28 (C) ON OR BEFORE JULY 1, 2025, THE DEPARTMENT OF NATURAL  
29 RESOURCES SHALL UPDATE THE MODEL LOCAL GOVERNMENT ORDINANCE  
30 REQUIRED UNDER § 5-1609 OF THE NATURAL RESOURCES ARTICLE FOR  
31 CONSISTENCY WITH THIS ACT.

1 (D) ON OR BEFORE JULY 1, 2026, THE DEPARTMENT OF NATURAL  
2 RESOURCES SHALL ADOPT REGULATIONS TO CARRY OUT THIS ACT.

3 ~~SECTION 9. AND BE IT FURTHER ENACTED, That this Act may not apply to:~~

4 ~~(1) a solarvoltaic facility granted a certificate of public convenience and~~  
5 ~~necessity by the Public Service Commission under § 7-207 of the Public Utilities Article~~  
6 ~~before July 1, [2023] 2025;~~

7 ~~(2) a forest conservation plan approved before July 1, [2024] 2026, that is~~  
8 ~~associated with a subdivision plan, site plan, building permit, or grading or sediment~~  
9 ~~control application; or~~

10 ~~(3) a revision to a plan or permit described in item (2) of this section that~~  
11 ~~does not materially alter the proposed or actual limits of disturbance.~~

12 SECTION 10. AND BE IT FURTHER ENACTED, That Sections 1, 2, and 3 of this  
13 Act shall take effect July 1, [2024] 2026.

14 ***Chapter 645 of the Acts of 2021***

15 SECTION 11. AND BE IT FURTHER ENACTED, That, except as provided in  
16 Section 10 of this Act, this Act shall take effect June 1, 2021. [Sections 1, 2, and] SECTION  
17 7 of this Act shall remain effective for a period of 3 years and 1 month and, at the end of  
18 June 30, 2024, [Sections 1, 2, and] SECTION 7 of this Act, with no further action required  
19 by the General Assembly, shall be abrogated and of no further force and effect. Subject to  
20 Section 10 of this Act, Sections 3, 4, and 5 of this Act shall remain effective for a period of  
21 10 years and 1 month, and, at the end of June 30, 2031, Sections 3, 4, and 5 of this Act, with  
22 no further action required by the General Assembly, shall be abrogated and of no further  
23 force and effect. Section 6 of this Act shall remain effective for a period of 2 years and 1  
24 month and, at the end of June 30, 2023, Section 6 of this Act, with no further action required  
25 by the General Assembly, shall be abrogated and of no further force and effect.

26 SECTION 3. AND BE IT FURTHER ENACTED, That Section 1 of this Act may not  
27 apply to:

28 (1) a solarvoltaic facility granted a certificate of public convenience and  
29 necessity by the Public Service Commission under § 7-207 of the Public Utilities Article  
30 before July 1, 2023;

31 (2) a forest conservation plan approved before July 1, 2024, that is  
32 associated with a subdivision plan, site plan, building permit, or grading or sediment  
33 control application; or



1                   (3) a revision to a plan or permit described in item (2) of this section that  
2 does not materially alter the proposed or actual limits of disturbance.

3                   SECTION 4. AND BE IT FURTHER ENACTED, That Sections 1 and 3 of this Act  
4 shall take effect July 1, 2024.

5                   SECTION ~~2~~ ~~3~~ ~~4~~ 5. AND BE IT FURTHER ENACTED, That, except as provided in  
6 Section 4 of this Act, this Act shall take effect ~~June~~ ~~July~~ June 1, 2024.

Approved:

\_\_\_\_\_  
Governor.

\_\_\_\_\_  
Speaker of the House of Delegates.

\_\_\_\_\_  
President of the Senate.