
By: **Delegates Hecht and Stull**

Introduced and read first time: February 8, 2002

Assigned to: Environmental Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Natural Resources - Forest Mitigation Banks**

3 FOR the purpose of requiring the Department of Natural Resources to establish a
4 forest mitigation bank pilot program in certain counties for a certain period;
5 specifying the purpose of the pilot program; providing for a committee to
6 establish certain guidelines for the pilot program; providing for a chairman of
7 the committee; requiring a certain report by a certain date; and generally
8 relating to forest mitigation banks.

9 BY repealing and reenacting, with amendments,
10 Article - Natural Resources
11 Section 5-1610.1
12 Annotated Code of Maryland
13 (2000 Replacement Volume and 2001 Supplement)

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

16 **Article - Natural Resources**

17 5-1610.1.

18 (a) The Department shall develop standards and adopt regulations for the
19 creation and use of forest mitigation banks, including criteria for tracking, crediting,
20 maintaining, bonding, and reporting mitigation bank activities.

21 (b) A local jurisdiction may develop procedures for establishing forest
22 mitigation banks as part of its forest conservation program.

23 (c) Mitigation banks may be permitted only in priority areas as identified in §
24 5-1607(d) of this subtitle or as identified in a comprehensive plan adopted by a local
25 jurisdiction.

26 (d) The establishment of mitigation banks and their use may not alter the
27 sequence for retention, reforestation, or afforestation on a development site as
28 outlined in § 5-1607 of this subtitle.

1 (e) Criteria established by local or State programs for the use and
2 establishment of forest mitigation banks shall include protection and conservation in
3 perpetuity of forest mitigation banks consistent with reasonable management plans,
4 through methods that include easements, covenants, or similar mechanisms that
5 shall be in place at the time credits are withdrawn.

6 (f) (1) THE DEPARTMENT SHALL ESTABLISH A 2-YEAR PILOT PROGRAM IN
7 CARROLL AND FREDERICK COUNTIES THAT ALLOWS A PERSON TO USE FUNDS FROM
8 THE FEDERAL CONSERVATION RESERVE ENHANCEMENT PROGRAM TO CREATE A
9 FOREST MITIGATION BANK.

10 (2) THE PILOT PROGRAM SHALL ENCOURAGE THE PERMANENT
11 PROTECTION OF HIGHLY SENSITIVE BUFFERS ON WORKING FARMLANDS AT A 1:1
12 MITIGATION RATIO.

13 (3) ON OR BEFORE OCTOBER 31, 2002, GUIDELINES FOR THE PILOT
14 PROGRAM SHALL BE DEVELOPED BY A COMMITTEE THAT INCLUDES:

15 (I) TWO MEMBERS FROM THE DEPARTMENT OF NATURAL
16 RESOURCES;

17 (II) ONE MEMBER FROM THE DEPARTMENT OF AGRICULTURE;

18 (III) ONE MEMBER FROM THE UNITED STATES DEPARTMENT OF
19 AGRICULTURE FARM SERVICE AGENCY;

20 (IV) ONE MEMBER FROM THE UNITED STATES DEPARTMENT OF
21 AGRICULTURE NATURAL RESOURCE CONSERVATION SERVICE;

22 (V) ONE MEMBER FROM EACH OF THE CARROLL AND FREDERICK
23 CATOCTIN SOIL CONSERVATION DISTRICTS; AND

24 (VI) ONE MEMBER FROM THE CHESAPEAKE BAY FOUNDATION.

25 (4) A MEMBER FROM THE DEPARTMENT OF NATURAL RESOURCES
26 SHALL BE CHAIRMAN OF THE COMMITTEE.

27 (5) ON OR BEFORE DECEMBER 31, 2004, SUBJECT TO § 2-1246 OF THE
28 STATE GOVERNMENT ARTICLE, THE COMMITTEE SHALL REPORT TO THE GENERAL
29 ASSEMBLY ON THE EFFECTIVENESS OF THE PILOT PROGRAM.

30 (G) This section may not be construed to require the Department or a local
31 jurisdiction to:

32 (1) Establish or fund State or local mitigation banks;

33 (2) Fund the establishment of forest mitigation banking by the private
34 sector; or

35 (3) Use State or local government land for forest mitigation banking.

1 [(g)] (H) (1) Credits in a mitigation bank may not be approved for debiting
2 until construction of the mitigation bank is complete.

3 (2) A mitigation bank shall maintain sufficient credits in reserve to cover
4 anticipated expenses of completion of the mitigation bank.

5 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
6 July 1, 2002.