

# SENATE BILL 399

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By: **Senator Rosapepe**

Introduced and read first time: February 2, 2009

Assigned to: Education, Health, and Environmental Affairs

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## A BILL ENTITLED

1 AN ACT concerning

2 **Forest Conservation Fund Authorized Uses – Street Side Shrub Planting**

3 FOR the purpose of authorizing certain State and local authorities to use the Forest  
4 Conservation Fund to fund the planting of shrubs and similar plants along  
5 streets and in medians if the Department of Natural Resources determines that  
6 the planting of trees is not practicable in these areas; and generally relating to  
7 the use of the Forest Conservation Fund.

8 BY repealing and reenacting, with amendments,  
9 Article – Natural Resources  
10 Section 5–1610  
11 Annotated Code of Maryland  
12 (2005 Replacement Volume and 2008 Supplement)

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

15 **Article – Natural Resources**

16 5–1610.

17 (a) In this section, “Fund” means the Forest Conservation Fund.

18 (b) There is a Forest Conservation Fund in the Department.

19 (c) Except as provided in subsection (h) of this section, if any person subject  
20 to this subtitle demonstrates to the satisfaction of the appropriate State or local  
21 authority that the requirements for reforestation or afforestation on–site or off–site  
22 cannot be reasonably accomplished, the person shall contribute money at a rate of 10  
23 cents per square foot of the area of required planting to the Fund.

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (d) Money collected by the State or a local authority under § 5–1608(c) or §  
2 5–1612 of this subtitle for noncompliance with this subtitle or regulations adopted  
3 under this subtitle or for noncompliance with a forest conservation plan or the  
4 associated 2–year management agreement shall be deposited in the Fund.

5 (e) (1) The Department shall accomplish the [reforestation or]  
6 **REFORESTATION, afforestation, OR OTHER PLANTING REQUIREMENTS AS**  
7 **PROVIDED IN SUBSECTION (F) OF THIS SECTION** for which the money is deposited  
8 within 2 years or 3 growing seasons, as appropriate, after receipt of the money.

9 (2) Money deposited in the Fund under subsection (c) of this section  
10 shall remain in the Fund for a period of 2 years or 3 growing seasons, and at the end of  
11 that time period, any portion that has not been used to meet the [afforestation or  
12 reforestation requirements] **REFORESTATION, AFFORESTATION, OR OTHER**  
13 **PLANTING REQUIREMENTS AS PROVIDED IN SUBSECTION (F) OF THIS SECTION**  
14 shall be returned to the person who provided the money to be used for documented  
15 tree planting in the same county or watershed beyond that required by this subtitle or  
16 other applicable statutes.

17 (f) (1) (i) [Money] **EXCEPT AS PROVIDED UNDER SUBPARAGRAPH**  
18 **(II) OF THIS PARAGRAPH, MONEY** deposited in the Fund under subsection (c) of this  
19 section may only be spent on reforestation and afforestation, including site  
20 identification, acquisition, and preparation, and may not revert to the General Fund of  
21 the State.

22 **(II) IF THE DEPARTMENT HAS DETERMINED THAT**  
23 **PLANTING TREES ALONG STREETS AND WITHIN MEDIANS IS NOT PRACTICABLE,**  
24 **MONEY DEPOSITED IN THE FUND UNDER SUBSECTION (C) OF THIS SECTION MAY**  
25 **BE SPENT ON PLANTING SHRUBS AND SIMILAR PLANTS IN THOSE AREAS FOR**  
26 **THE PURPOSE OF IMPLEMENTING THIS SUBTITLE.**

27 [(ii)] **(III)** Any investment earnings of the Fund shall be credited  
28 to the General Fund of the State.

29 (2) (i) Except as provided in subparagraph (ii) or (iii) of this  
30 paragraph, the [reforestation or afforestation requirement] **REFORESTATION,**  
31 **AFFORESTATION, OR OTHER PLANTING REQUIREMENTS AS PROVIDED** under this  
32 subsection shall occur in the county and watershed in which the project is located.

33 (ii) If the [reforestation or] **REFORESTATION, afforestation, OR**  
34 **OTHER PLANTING REQUIREMENTS AS PROVIDED UNDER THIS SUBSECTION**  
35 cannot be reasonably accomplished in the county and watershed in which the project is  
36 located, then the reforestation or afforestation shall occur in the county or watershed  
37 in the State in which the project is located.

1 (iii) If the [reforestation or] **REFORESTATION**, afforestation,  
2 **OR OTHER PLANTING REQUIREMENTS AS PROVIDED UNDER THIS SUBSECTION**  
3 cannot be reasonably accomplished in the county or watershed in which the project is  
4 located, then [the reforestation or afforestation] **THESE REQUIREMENTS** shall be  
5 accomplished through purchase of credits in, establishment, or maintenance of a forest  
6 mitigation bank in accordance with regulations of the Department. The Reforestation  
7 Fund may not be used to finance administrative activities associated with a mitigation  
8 bank and any credits created by the Reforestation Fund may not be sold to compensate  
9 for additional forest impacts.

10 (g) Money deposited in the Fund under subsection (d) of this section may be  
11 used by the Department for the purpose of implementing this subtitle.

12 (h) In lieu of a State Forest Conservation Fund, any local authority with an  
13 approved forest conservation program may establish a forest conservation fund, to be  
14 administered by the local authority, to allow a payment by any person who has  
15 demonstrated to the satisfaction of the local authority that the requirements for  
16 reforestation and afforestation on-site and off-site cannot be reasonably  
17 accomplished. The rate shall be 10 cents per square foot of the area required to be  
18 replanted.

19 (i) Money deposited in the local forest conservation fund under subsection  
20 (h) of this section shall remain in the fund for a period of 2 years or 3 growing seasons.  
21 At the end of that time period, any portion that has not been used to meet the  
22 [afforestation or reforestation requirements] **REFORESTATION, AFFORESTATION,**  
23 **OR OTHER PLANTING REQUIREMENTS AS PROVIDED IN SUBSECTION (F) OF THIS**  
24 **SECTION** shall be returned to the person who provided the money to be used for  
25 documented tree planting in the same county or watershed beyond that required by  
26 this subtitle or other applicable statutes.

27 (j) (1) Money deposited in the local forest conservation fund under  
28 subsection (h) of this section may only be spent on [reforestation and]  
29 **REFORESTATION, afforestation, AND OTHER PLANTING REQUIREMENTS AS**  
30 **PROVIDED IN SUBSECTION (F) OF THIS SECTION**, including the costs directly  
31 related to site identification, acquisition, prepurchase, and preparation, and may not  
32 revert to any other local general fund.

33 (2) (i) Except as provided in subparagraph (ii) or (iii) of this  
34 paragraph, the [reforestation or afforestation requirement under this subsection]  
35 **REFORESTATION, AFFORESTATION, OR OTHER PLANTING REQUIREMENTS AS**  
36 **PROVIDED IN SUBSECTION (F) OF THIS SECTION** shall occur in the county and  
37 watershed in which the project is located.

38 (ii) If the [reforestation or] **REFORESTATION**, afforestation, **OR**  
39 **OTHER PLANTING REQUIREMENTS AS PROVIDED IN SUBSECTION (F) OF THIS**  
40 **SECTION** cannot be reasonably accomplished in the county and watershed in which

1 the project is located, then [the reforestation or afforestation] **THESE**  
2 **REQUIREMENTS** shall occur in the county or watershed in the State in which the  
3 project is located.

4 (iii) If the [reforestation or] **REFORESTATION, afforestation, OR**  
5 **OTHER PLANTING REQUIREMENTS AS PROVIDED IN SUBSECTION (F) OF THIS**  
6 **SECTION** cannot be reasonably accomplished in the county or watershed in which the  
7 project is located, then [the reforestation or afforestation] **THESE REQUIREMENTS**  
8 shall be accomplished through purchase of credits in, establishment, or maintenance  
9 of a forest mitigation bank in accordance with regulations of the local forest  
10 conservation program. The Reforestation Fund may not be used to finance  
11 administrative activities associated with a mitigation bank and any credits created by  
12 the Reforestation Fund may not be sold to compensate for additional forest impacts.

13 (k) Money collected by the local authority under § 5-1608(c) of this subtitle  
14 for noncompliance with this subtitle or regulations or ordinances adopted under this  
15 subtitle for noncompliance with a forest conservation plan or the associated 2-year  
16 management agreement shall be deposited in the local fund. The rate shall be 30 cents  
17 per square foot of the area found to be in noncompliance with the required forest  
18 conservation.

19 (l) Money deposited in a local forest conservation fund under subsection (k)  
20 of this section may be used by the local authority for purposes related to implementing  
21 this subtitle.

22 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
23 July 1, 2009.