

SENATE BILL 549

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By: **Senator Dyson**

Introduced and read first time: February 5, 2009

Assigned to: Education, Health, and Environmental Affairs

A BILL ENTITLED

1 AN ACT concerning

2 **Sustainable Forestry Act of 2009**

3 FOR the purpose of authorizing a local government to include certain information in a
4 certain plan; declaring certain policy statements and findings relating to forests;
5 altering the name of the Maryland Agricultural Land Preservation Foundation;
6 revising provisions of the law relating to the protection of certain forestry
7 practices from certain private actions under certain circumstances; exempting
8 certain forestry practices from nuisance lawsuits; repealing the Forest Advisory
9 Commission in the Department of Natural Resources; establishing a
10 Sustainable Forestry Council in the Department; establishing the purpose of
11 the Council; establishing the membership of the Council; altering the uses of the
12 Forest or Park Reserve Fund; altering the amounts of certain payments made to
13 counties from the Forest or Park Reserve Fund; authorizing certain revenues
14 derived from certain forestry practices to be deposited in the Woodland
15 Incentives Fund; adding to the list of uses of the Woodland Incentives Fund;
16 prohibiting certain investment funds from being transferred or reverting to the
17 General Fund; authorizing certain forestry boards to impose certain fees under
18 certain circumstances; requiring the Secretary of the Department to consider
19 certain priorities when allocating the State's share of Program Open Space
20 funds; requiring the Department to develop certain strategies related to the
21 retention and management of forests; encouraging the Department to develop
22 certain plans; requiring the Department to monitor forests in a certain manner
23 using certain funds under certain circumstances; requiring the Department to
24 develop a certain strategy and report the strategy to the Governor on or before a
25 certain date; authorizing certain responsibilities to be transferred from the
26 Department of the Environment to the Department under certain
27 circumstances; requiring the Department to work with certain representatives
28 to determine certain procedures and time lines; authorizing the Department, in
29 cooperation with the Maryland Higher Education Commission, to develop a
30 certain program; requiring a certain goal to be met in a certain manner;
31 encouraging certain forestry boards to work with the University of Maryland

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



Cooperative Extension to formulate a certain strategy and report certain findings and recommendations to certain committees in the General Assembly on or before a certain date; providing for the correction of certain errors and obsolete provisions by the publishers of the Annotated Code; defining certain terms; making technical changes; and generally relating to the conservation of forest lands in the State.

BY repealing and reenacting, with amendments,
Article 66B – Land Use
Section 3.05(a)(4)(ii)
Annotated Code of Maryland
(2003 Replacement Volume and 2008 Supplement)

BY repealing and reenacting, with amendments,
Article – Agriculture
Section 2–501 and 2–502 to be under the amended subtitle “Subtitle 5.
Maryland Agricultural and Forestry Land Preservation Foundation”
Annotated Code of Maryland
(2007 Replacement Volume and 2008 Supplement)

BY repealing and reenacting, with amendments,
Article – Business Occupations and Professions
Section 7–101(c)(1)
Annotated Code of Maryland
(2004 Replacement Volume and 2008 Supplement)

BY repealing and reenacting, with amendments,
Article – Courts and Judicial Proceedings
Section 5–403(a), (b), (c), and (d)
Annotated Code of Maryland
(2006 Replacement Volume and 2008 Supplement)

BY repealing and reenacting, with amendments,
Article – Natural Resources
Section 5–101, 5–102, 5–102.1, 5–204(a), (c), and (e), 5–212(g), 5–307, and
5–427
Annotated Code of Maryland
(2005 Replacement Volume and 2008 Supplement)

BY repealing and reenacting, without amendments,
Article – Natural Resources
Section 5–212(a)
Annotated Code of Maryland
(2005 Replacement Volume and 2008 Supplement)

BY adding to
Article – Natural Resources
Section 5–606(c) and 5–903(h)

1 Annotated Code of Maryland
2 (2005 Replacement Volume and 2008 Supplement)

3 BY repealing and reenacting, with amendments,
4 Article – State Finance and Procurement
5 Section 5–7A–01
6 Annotated Code of Maryland
7 (2006 Replacement Volume and 2008 Supplement)

8 Preamble

9 WHEREAS, Realization of Maryland’s compliance with the nutrient and
10 sediment reduction goals of the Chesapeake 2000 Agreement and the forestry
11 conservation goals of the 2007 Forestry Conservation Initiative will require immediate
12 implementation of innovative, high–impact Chesapeake Bay restoration strategies like
13 the Sustainable Forestry Act of 2009, which is intended to promote forest land
14 retention within the Bay watershed; and

15 WHEREAS, The Bay watershed consists of 24 million acres or 58% of forest
16 land and study after study has found that retaining and expanding forests is critical to
17 the success of restoring the Bay because forests are the most beneficial land use for
18 protecting water quality, due to their ability to capture, filter, and retain water, as
19 well as absorb pollution from the air, as noted by the 2006 report published by The
20 Conservation Fund entitled “The State of Chesapeake Forests”; and

21 WHEREAS, Chesapeake forests are excellent assimilators of air pollution,
22 retaining up to 85% of the nitrogen they receive from air emission sources such as
23 motor vehicles and electric utilities and are essential to filtering drinking water for
24 75% of the Bay’s more than 11 million watershed residents, while simultaneously
25 providing valuable ecological services and economic benefits ranging from carbon
26 sequestration and flood control to wildlife habitats and forest products; and

27 WHEREAS, Chesapeake forests annually contribute an estimated \$24 billion to
28 the Bay watershed in ecological services such as wildlife habitat, recreation, air and
29 water filtration, and flood control, including the contribution of an estimated \$22
30 billion to the regional economy and \$2.2 billion to Maryland’s economy from the forest
31 products industry; and

32 WHEREAS, A sustainably managed forest system also helps to promote
33 domestic renewable energy production and clean green energy produced in–State from
34 biomass, including forestry residues, which are vital, not only to securing energy
35 independence, smaller trade deficits, economic growth, and clean air and water, but
36 also to facilitating compliance with the 2010 goals of the Chesapeake 2000 Agreement,
37 the nutrient reduction goals of the Water Quality Improvement Act of 1998, and the
38 land conservation goals of the 2007 Forestry Conservation Initiative; and

39 WHEREAS, The importance of, and urgency for, Maryland’s leadership by the
40 enactment of this Act is attributable to threatened forest land conversion equivalent to

100 acres per day within the Bay watershed, that is directly linked to an expanding population, which absent remedial strategies like this Act, could result in the detrimental impacts noted in “The State of Chesapeake Forests” report and other studies that include: (1) the loss of 9.5 million acres by 2030 resulting in the amount of increased nitrogen reaching streams by 200%; (2) the increase in the cost of drinking water and the decline in air quality adversely affecting public health; (3) the largest intergenerational transfer of family-owned forest land in the region’s history with increased risk of loss of forest land to development; and (4) the increase in invasive pests that dramatically alter forest habitat, diminish available food sources, and shelter and compete with native species; and

WHEREAS, This Act will help Maryland to meet its commitment under the 2010 goals of the Chesapeake 2000 Agreement and the 2007 Forestry Conservation Initiative by improving and sustaining the health and ecological diversity of Chesapeake forests; encouraging retention of privately owned forest lands; protecting and expanding forests in urban areas; increasing public appreciation for the value of Chesapeake forests; measuring Chesapeake forest conditions in the future; and promoting new markets in the field of renewable energy emanating from the use of woody biomass; and

WHEREAS, By enacting this Act, Maryland will continue its leadership by demonstrating its commitment of ensuring that Chesapeake forests, including the 2.6 million acres of forests within the State, are conserved and managed through a sustainable forestry policy worthy of emulation by the other signatories to the Chesapeake 2000 Agreement and the 2007 Forestry Conservation Initiative; now, therefore,

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

Article 66B – Land Use

3.05.

(a) (4) The plan shall contain at a minimum the following elements:

(ii) A land use plan element, which:

1. Shall propose the most appropriate and desirable patterns for the general location, character, extent, and interrelationship of the uses of public and private land, on a schedule that extends as far into the future as is reasonable; and

2. May include public and private, residential, commercial, industrial, agricultural, **FORESTRY, IN ACCORDANCE WITH § 5–101 OF THE NATURAL RESOURCES ARTICLE**, and recreational land uses;

Article – Agriculture

Subtitle 5. Maryland Agricultural **AND FORESTRY** Land Preservation Foundation.
2–501.

(A) It is the intent of the Maryland General Assembly to preserve agricultural land and woodland in order to:

(1) [provide] **PROVIDE** sources of agricultural products within the State for the citizens of the State;

(2) [control] **CONTROL** the urban expansion which is consuming the agricultural land and woodland of the State;

(3) [curb] **CURB** the spread of urban blight and deterioration; and

(4) [protect] **PROTECT** agricultural land and woodland as open-space land.

(B) **WITH RESPECT TO WOODLAND CONSERVATION UNDER THIS SUBTITLE, THE GENERAL ASSEMBLY ENCOURAGES THAT:**

(1) **EQUITABLE CONSIDERATION BE GIVEN TO THE RETENTION OF FOREST LANDS THAT ARE WORKING LANDSCAPES AS DEFINED UNDER § 5–101 OF THE NATURAL RESOURCES ARTICLE; AND**

(2) **AGRICULTURAL PRESERVATION ADVISORY BOARDS MEET REGULARLY WITH FOREST CONSERVANCY DISTRICT BOARDS IN ORDER TO ENCOURAGE THE PROMOTION AND RETENTION OF AGRICULTURAL LAND AND FOREST LAND IN THEIR RESPECTIVE JURISDICTIONS.**

2–502.

There is a Maryland Agricultural **AND FORESTRY** Land Preservation Foundation in the Department. The Foundation has the powers and duties provided in this subtitle.

Article – Business Occupations and Professions

7–101.

(c) (1) [“Forestry”] **NOTWITHSTANDING § 5–101 OF THE NATURAL RESOURCES ARTICLE, “FORESTRY”** means the application, for compensation, of scientific techniques to the planting, conservation, protection, and management of trees and related resources for their continuing use, whether found in large numbers

1 and areas commonly known as forests, woodlands, and woodlots or in small groupings
2 and individual trees in suburban and urban settings.

3 **Article – Courts and Judicial Proceedings**

4 5–403.

5 (a) (1) In this section, “agricultural operation” means an operation for the
6 processing of agricultural crops or on–farm production, harvesting, or marketing of
7 any agricultural, horticultural, silvicultural, aquacultural, or apicultural product that
8 has been grown, raised, or cultivated by the farmer.

9 (2) **NOTWITHSTANDING § 5–101 OF THE NATURAL RESOURCES**
10 **ARTICLE, “SILVICULTURAL OPERATION” MEANS IMPLEMENTATION OF**
11 **FORESTRY PRACTICES, INCLUDING THE ESTABLISHMENT, COMPOSITION,**
12 **GROWTH, AND HARVESTING OF TREES.**

13 (b) (1) This section does not:

14 (i) Prohibit a federal, State, or local government from enforcing
15 health, environmental, zoning, or any other applicable law;

16 (ii) Relieve any agricultural **OR SILVICULTURAL** operation
17 from the responsibility of complying with the terms of any applicable federal, State,
18 and local permit required for the operation;

19 (iii) Relieve any agricultural **OR SILVICULTURAL** operator from
20 the responsibility to comply with any federal, State, or local health, environmental,
21 and zoning requirement; or

22 (iv) Relieve any agricultural **OR SILVICULTURAL** operation
23 from liability for conducting an agricultural operation in a negligent manner.

24 (2) This section does not apply to any agricultural operation that is
25 operating without a fully and demonstrably implemented nutrient management plan
26 for nitrogen and phosphorus if otherwise required by law.

27 (c) If an agricultural operation **OR SILVICULTURAL OPERATION** has been
28 under way for a period of 1 year or more and if the operation is in compliance with
29 applicable federal, State, and local health, environmental, zoning, and permit
30 requirements relating to any nuisance claim and is not conducted in a negligent
31 manner:

32 (1) The operation, including any **SIGHT**, noise, odors, dust, or insects
33 **RESULTING** from the operation, may not be deemed to be a public or private nuisance;
34 and

(2) A private action may not be sustained on the grounds that the operation interferes or has interfered with the use or enjoyment of other property, whether public or private.

(d) (1) This section does not create, and may not be construed as creating, a new cause of action or substantive legal right against a person who is engaged in an agricultural **OR SILVICULTURAL** operation.

(2) This section does not affect, and may not be construed as affecting, any defenses available at common law to a defendant who is engaged in an agricultural **OR SILVICULTURAL** operation and subject to an action for nuisance.

Article – Natural Resources

5–101.

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

(b) “County” includes Baltimore City unless otherwise indicated.

(c) “Department” means Department of Natural Resources.

(D) “ENVIRONMENTAL SERVICES” MEANS THE BENEFITS GENERATED FOR SOCIETY BY THE EXISTENCE AND DYNAMIC DEVELOPMENT OF FORESTS, INCLUDING:

(1) PRODUCING OXYGEN AND REMOVING CARBON DIOXIDE FROM THE ATMOSPHERE;

(2) REGULATING THE SURFACE AND UNDERGROUND FLOW OF WATER;

(3) PROVIDING EFFECTIVE FILTRATION SYSTEMS FOR HIGHER WATER QUALITY;

(4) SUPPORTING A MYRIAD OF NATIVE FLORA AND FAUNA; AND

(5) PROVIDING GOODS AND SERVICES RANGING FROM FOREST PRODUCTS TO AESTHETICS.

(E) (1) “FOREST LAND” MEANS A BIOLOGICAL COMMUNITY DOMINATED BY TREES AND OTHER WOODY PLANTS THAT ARE CAPABLE OF PRODUCING TIMBER OR OTHER WOOD PRODUCTS WITH A STOCKING OF AT LEAST 100 TREES PER ACRE WITH AT LEAST 50% OF THOSE TREES HAVING A 2-INCH OR GREATER DIAMETER AT 4.5 FEET ABOVE THE GROUND.

1 (2) **“FOREST LAND” INCLUDES FORESTED AREAS THAT HAVE**
2 **BEEN CUT BUT NOT CONVERTED TO OTHER LAND USES.**

3 (F) **“FORESTRY” OR “SILVICULTURE” MEANS THE SCIENCE, ART, AND**
4 **PRACTICE OF CREATING, MANAGING, USING, AND CONSERVING FORESTS AND**
5 **ASSOCIATED RESOURCES FOR HUMAN BENEFIT AND IN A SUSTAINABLE MANNER**
6 **TO MEET DESIRED GOALS, INCLUDING GOALS FOR:**

7 (1) **CLEAN AIR AND WATER;**

8 (2) **BIODIVERSITY;**

9 (3) **WILDLIFE HABITAT;**

10 (4) **FIBER PRODUCTION; AND**

11 (5) **RECREATION.**

12 (G) (1) **“FORESTRY PRACTICES” MEANS ACTIVITIES CONDUCTED TO**
13 **ACHIEVE LAND MANAGEMENT OBJECTIVES.**

14 (2) **“FORESTRY PRACTICES” INCLUDES:**

15 (I) **PLANTING;**

16 (II) **PRESCRIBED BURNING;**

17 (III) **THINNING;**

18 (IV) **PRUNING;**

19 (V) **HARVESTING;**

20 (VI) **FERTILIZING; AND**

21 (VII) **PESTICIDE AND HERBICIDE APPLICATION.**

22 (H) **“FOREST STEWARDSHIP PLAN” MEANS A DOCUMENT WRITTEN BY A**
23 **PROFESSIONAL FORESTER WHO IS LICENSED UNDER TITLE 7, SUBTITLE 3 OF**
24 **THE BUSINESS OCCUPATIONS AND PROFESSIONS ARTICLE, REGARDING A**
25 **PARCEL OF LAND COMPRISED OF NOT LESS THAN 5 CONTIGUOUS FORESTED**
26 **ACRES THAT LISTS ACTIVITIES THAT ENHANCE OR IMPROVE FOREST**

**RESOURCES, INCLUDING SOIL, WATER, TIMBER, RECREATION, AND AESTHETICS
OVER A 15-YEAR PERIOD.**

[(d)] (I) “Person” includes the State, any county, municipal corporation, or other political subdivision of the State, or any of their units, or an individual, receiver, trustee, guardian, executor, administrator, fiduciary, or representative of any kind, or any partnership, firm, association, public or private corporation, or any other entity.

[(e)] (J) “Secretary” means Secretary of Natural Resources.

(K) **“SILVICULTURAL PRODUCT” OR “FOREST PRODUCT” MEANS ANY
RAW MATERIAL YIELDED BY A FOREST, INCLUDING:**

(1) **TIMBER;**

(2) **TIMBER PRODUCTS; AND**

(3) **ANY OTHER FOREST MATERIALS, SUCH AS LUMBER, POLES,
PULPWOOD, FIREWOOD, AND PINE STRAW.**

(L) **“SUSTAINABLE FORESTRY” OR “SUSTAINABLE FORESTRY
MANAGEMENT” MEANS AN INTERNATIONALLY ACCEPTED AND APPLIED
STEWARDSHIP CONCEPT FOR THE USE OF FORESTS AND FOREST LANDS IN A
MANNER AND AT A RATE THAT MAINTAINS A FOREST’S:**

(1) **BIODIVERSITY;**

(2) **PRODUCTIVITY;**

(3) **REGENERATION CAPACITY;**

(4) **VITALITY; AND**

(5) **ECOLOGICAL, ECONOMIC, AND SOCIAL PURPOSES AT LOCAL
AND NATIONAL LEVELS THAT DO NOT CAUSE DAMAGE TO OTHER ECOSYSTEMS.**

(M) **“WORKING LANDSCAPES” MEANS:**

(1) **FOREST LANDS THAT ARE MANAGED CONSISTENTLY WITH
THE REQUIREMENTS OF A FOREST STEWARDSHIP PLAN OR A FOREST
CONSERVATION PLAN, APPROVED BY THE DEPARTMENT OR A PROFESSIONAL
FORESTER WHO IS LICENSED UNDER TITLE 7, SUBTITLE 3 OF THE BUSINESS
OCCUPATIONS AND PROFESSIONS ARTICLE, THAT ADVANCES SUSTAINABLE**

1 **FORESTRY MANAGEMENT AS DEFINED IN SUBSECTION (L) OF THIS SECTION;**
2 **AND**

3 **(2) AGRICULTURAL LANDS THAT ARE MANAGED CONSISTENTLY**
4 **WITH CRITERIA SET FORTH BY THE DEPARTMENT OF AGRICULTURE.**

5 5–102.

6 **(A) THE GENERAL ASSEMBLY FINDS THAT:**

7 **(1)** Forests, streams, valleys, wetlands, parks, scenic, historic and
8 recreation areas of the State are basic assets[. Their] **AND THEIR** proper use,
9 development, and preservation are necessary to protect and promote the health,
10 safety, economy, and general welfare of the people of the State[. It is the policy of the
11 State to encourage the economic development and use of its natural resources for the
12 improvement of local economy, preservation of the natural beauty, and promotion of
13 the recreational and leisure interest throughout the State.];

14 **(2) ENHANCING THE EXTENT AND CONDITION OF TREE AND**
15 **FOREST COVER IN THE CHESAPEAKE BAY WATERSHED IS CRITICAL TO THE**
16 **SUCCESS IN RESTORING THE CHESAPEAKE BAY BECAUSE FORESTS ARE THE**
17 **MOST BENEFICIAL USE OF PROTECTING WATER QUALITY DUE TO THEIR ABILITY**
18 **TO CAPTURE, FILTER, AND RETAIN WATER, AS WELL AS ABSORB POLLUTION**
19 **FROM THE AIR;**

20 **(3) FORESTS AND TREES ARE KEY INDICATORS OF CLIMATE**
21 **CHANGE AND CAN MITIGATE GREENHOUSE GAS EMISSIONS BY CARBON**
22 **SEQUESTRATION;**

23 **(4) FORESTS PROVIDE HABITAT FOR HUNDREDS OF WILDLIFE**
24 **SPECIES, INCLUDING HABITAT NEEDED FOR RARE, THREATENED, AND**
25 **ENDANGERED SPECIES;**

26 **(5) FORESTS ARE SUSCEPTIBLE TO ENVIRONMENTAL**
27 **DEGRADATION CAUSED BY NATURAL THREATS;**

28 **(6) FORESTS, LIKE OTHER OPEN SPACE AREAS, ARE UNDER**
29 **INTENSE DEVELOPMENT-RELATED PRESSURES FOR RESIDENTIAL,**
30 **COMMERCIAL, AND INDUSTRIAL CONVERSION DUE TO THE DEMANDS OF A**
31 **GROWING POPULATION;**

32 **(7) TREES AND FORESTS IN URBAN AREAS PROVIDE MULTIPLE**
33 **BENEFITS, INCLUDING:**

1 (I) MITIGATION OF URBAN STORMWATER RUNOFF INTO
2 THE CHESAPEAKE BAY;

3 (II) SEQUESTRATION OF CARBON;

4 (III) AVOIDANCE OF ENERGY-RELATED EMISSIONS;

5 (IV) MITIGATION OF AIR POLLUTANTS, SUCH AS OZONE AND
6 PARTICULATE MATTER;

7 (V) REDUCTION OF THE URBAN HEAT ISLAND EFFECT; AND

8 (VI) CONTRIBUTIONS TO COMMUNITY LIVABILITY;

9 (8) FOREST LAND OWNERS, INCLUDING LOCAL GOVERNMENT
10 OFFICIALS RESPONSIBLE FOR OVERSEEING THE MANAGEMENT OF PUBLICLY
11 OWNED FOREST LANDS, COULD BENEFIT FROM RESEARCH-BASED EDUCATION
12 OUTREACH PROGRAMS IN ORDER TO HELP FACILITATE AN UNDERSTANDING OF
13 SUSTAINABLE FORESTRY MANAGEMENT THAT IS CONSISTENT WITH FOREST
14 STEWARDSHIP PRINCIPLES;

15 (9) FORESTS ARE A RENEWABLE RESOURCE THAT HELP THE
16 STATE MEET ITS RENEWABLE ENERGY GOALS THAT ARE CONSISTENT WITH THE
17 STATE'S:

18 (I) GREEN POWER GOAL FOR STATE FACILITIES;

19 (II) RENEWABLE ENERGY PORTFOLIO STANDARD;

20 (III) HEALTHY AIR ACT; AND

21 (IV) MARYLAND CLEAN ENERGY INCENTIVE ACT OF 2006;

22 AND

23 (10) THIS TITLE SETS FORTH MARYLAND'S VISION FOR
24 SUSTAINING MARYLAND'S COVETED FOREST LANDS INTO THE 21ST CENTURY
25 THAT IS CONSISTENT WITH THE CHESAPEAKE 2000 AGREEMENT AND THE 2007
26 FORESTRY CONSERVATION INITIATIVE.

27 (B) IT IS THE POLICY OF THE STATE TO ENCOURAGE THE RETENTION
28 AND SUSTAINABLE MANAGEMENT OF THE STATE'S PRIVATELY OWNED FOREST
29 LANDS BY:

1 (1) AFFORDING DUE CONSIDERATION TO THE PROTECTION AND
2 RETENTION OF FORESTS IN THE STATE THROUGH EXISTING LAND
3 CONSERVATION PROGRAMS WHERE THEY HAVE THE HIGHEST VALUE IN TERMS
4 OF PROMOTING THE STATE'S COMPLIANCE WITH ITS CLEAN WATER GOALS
5 UNDER THE CHESAPEAKE 2000 AGREEMENT AND THE 2007 FOREST
6 CONSERVATION INITIATIVE;

7 (2) ENHANCING THE RETENTION OF PRIVATELY OWNED FOREST
8 LANDS THROUGH RESEARCH-BASED EDUCATIONAL OUTREACH EFFORTS TO
9 LANDOWNERS BY THE STATE'S FOREST CONSERVANCY DISTRICT BOARDS;

10 (3) DEVELOPING FINANCIAL INCENTIVES TO ENCOURAGE
11 LANDOWNERS TO RETAIN AND MANAGE THEIR FORESTS SUSTAINABLY AND IN A
12 MANNER THAT IS CONSISTENT WITH A FOREST STEWARDSHIP PLAN;

13 (4) PROMOTING RENEWABLE ENERGY POLICIES AND MARKETS
14 WITH INCREASED EMPHASIS ON THE USE OF IN-STATE PRODUCED WOODY
15 BIOMASS;

16 (5) RECOGNIZING THE IMPORTANCE OF:

17 (I) A VIABLE FOREST PRODUCTS INDUSTRY TO THE
18 ECONOMIES OF RURAL MARYLAND;

19 (II) CONTINUED DEVELOPMENT OF FIBER PRODUCTS; AND

20 (III) MARYLAND'S GREEN INFRASTRUCTURE; AND

21 (6) DEVELOPING AND ENHANCING PROGRAMS WITH A
22 SUSTAINABLE FORESTRY COMPONENT, INCLUDING A FOREST MITIGATION
23 BANKING SYSTEM, A CARBON CREDIT OR CARBON SEQUESTRATION PROGRAM, A
24 CLEAN WATER CREDIT TRADING SYSTEM, AN ENVIRONMENTAL SERVICES
25 CREDIT TRADING PROGRAM, AND A RENEWABLE ENERGY CREDIT TRADING
26 SYSTEM.

27 5-102.1.

28 (a) (1) In this section, the term "forestry" includes activities prescribed by
29 a licensed professional forester in accordance with § 7-101 of the Business
30 Occupations and Professions Article.

31 (2) "Forestry" does not include the clearing of land as a prelude to a
32 change in the use of land.

(b) Forestry, as prescribed by a person licensed as a forester under Title 7 of the Business Occupations and Professions Article and in accordance with accepted silvicultural principles, as defined by the Society of American Foresters, constitutes a traditional, fundamental, beneficial, and desirable use of the State's forest resource. Forestry is an important land management tool that contributes significantly to the economy of the State by the support of a vital forest products industry, as well as to the health of forests and their wildlife, water quality, and recreational benefits by the sustainment of forest productivity and wildlife habitats.

(c) In Maryland, forestry, including the harvest and transport of forest products, is often carried out in close proximity to populated areas. Other than development for more intensive uses, this harvest of timber may represent a major source of income for the profitable use of private property.

(D) (1) RETENTION, MANAGEMENT, AND EXPANSION OF THE STATE'S FORESTED RESOURCES ARE CRITICAL TO THE HEALTH AND VITALITY OF THE CHESAPEAKE BAY WATERSHED, RURAL MARYLAND, AND FOREST RESOURCE-BASED INDUSTRIES.

(2) IT IS THE INTENT OF THIS SUBSECTION TO:

(I) ENCOURAGE FORESTRY PRACTICES IN LOCAL COMPREHENSIVE PLANS DEVELOPED IN ACCORDANCE WITH ARTICLE 66B, § 3.05 OF THE CODE; AND

(II) TO EXPRESS THE GENERAL ASSEMBLY'S INTENT THAT LOCAL PLANNING AND ZONING RESTRICTIONS THAT IMPACT SILVICULTURAL PRACTICES MAY NOT BE MORE STRINGENT THAN RESTRICTIONS IMPOSED BY STATE LAW AND REGULATION.

[(d)] (E) Since it is in the State and public interests to preserve the forest land base and other natural resources, a local government with planning and zoning powers shall support forestry by a reasonable exercise of these powers, including the consideration, development, and interpretation of planning and zoning requirements that beneficially impact the efficient and economic practice of forestry in a manner consistent with the local government's implementation of the visions listed in Article 66B, § 1.01 of the Code.

5-204.

(a) **(1) There is a [Forest Advisory Commission] SUSTAINABLE FORESTRY COUNCIL in the Department.**

(2) THE PURPOSE OF THE COUNCIL IS TO ADVISE THE DEPARTMENT ON ALL MATTERS RELATED TO:

(I) SUSTAINABLE FORESTRY MANAGEMENT IN THE STATE;

(II) THE EXPENDITURE OF FUNDS FROM THE WOODLAND INCENTIVES FUND UNDER § 5-307 OF THIS TITLE;

(III) EXISTING REGULATORY AND STATUTORY POLICIES THAT ARE PERCEIVED AS ECONOMIC BARRIERS TO A VIABLE FOREST PRODUCTS INDUSTRY;

(IV) NEW MARKETS TO ENHANCE FOREST HEALTH, INCLUDING RENEWABLE ENERGY DEVELOPMENT THROUGH BIOMASS ENERGY, TO OFFSET FOSSIL FUEL CONSUMPTION AND REDUCE GREENHOUSE GAS EMISSIONS;

(V) CREATIVE STRATEGIES TO HELP PRIVATELY OWNED FOREST LANDS BETTER COMPETE WITH REAL ESTATE MARKET VALUES THAT ARE DRIVING FOREST CONVERSION AND FRAGMENTATION; AND

(VI) THE MEANS TO PROMOTE FOREST-BASED ECONOMIES AND PROCESSING CAPABILITY THAT CONTRIBUTE TO ECONOMIC AND EMPLOYMENT GROWTH.

(c) (1) [From and after July 1, 1988, the Forest Advisory Commission] THE SUSTAINABLE FORESTRY COUNCIL shall have 9 members.

(2) Members of the [Forest Advisory Commission] COUNCIL shall be appointed by the Governor, with the advice of the Secretary, to serve at the pleasure of the Governor.

(3) IF A REGULATED LOBBYIST IS APPOINTED TO SERVE AS A MEMBER OF THE COUNCIL, THE LOBBYIST:

(I) IS NOT SUBJECT TO § 15-504(D) OF THE STATE GOVERNMENT ARTICLE WITH RESPECT TO THAT SERVICE; AND

(II) IS NOT SUBJECT TO § 15-703(F)(3) OF THE STATE GOVERNMENT ARTICLE AS A RESULT OF THAT SERVICE.

(e) Notwithstanding any other provisions of this section, a member of the [Forest and] Park Advisory Commission as of June 30, 1988, may serve the unexpired remainder of his term as a member of an advisory commission created by law.

5-212.

(a) In this section, "Fund" means the Forest or Park Reserve Fund.

(g) The Fund may be used only for:

(1) (I) Purchasing and managing in the name of the State lands suitable for forest culture, reserves, watershed protection, State parks, scenic preserves, historic monuments, parkways, and State recreational reserves; **AND**

(II) **HELPING TO OFFSET THE COSTS TO THE FOREST AND PARK SERVICE FOR DEVELOPING AND IMPLEMENTING A FOREST HEALTH EMERGENCY CONTINGENCY PROGRAM UNDER § 5-307 OF THIS TITLE;**

(2) Annual payments to counties in the amount of:

(i) If the State forest or park reserve comprises less than 10% of the total land area of the county, a sum equal to [15%] **12.5%** of the revenue derived from the State forest or park reserve located in that county; and

(ii) If the State forest or park reserve comprises 10% or more of the total land area of the county, a sum equal to [25%] **22.5%** of the revenue derived from the State forest or park reserve located in that county; and

(3) Administrative costs calculated in accordance with § 1-103(b)(2) of this article.
5-307.

(a) In this section, "Fund" means the Woodland Incentives Fund.

(b) There is a Woodland Incentives Fund in the Department.

(c) The purpose of the Fund is to finance the Woodland Incentives Program and the cost-share assistance established under this subtitle.

(d) The Department shall administer the Fund.

(e) (1) The Fund is a special, nonlapsing fund that is not subject to § 7-302 of the State Finance and Procurement Article.

(2) The Treasurer shall hold the Fund separately and the Comptroller shall account for the Fund.

(f) The Fund consists of:

(1) As provided in § 13-306 of the Tax – Property Article,[up to \$200,000 annually of] the proceeds of the tax imposed by § 13-302 of the Tax – Property Article that are attributable to the taxation of instruments of writing that transfer title to parcels of land that are entirely woodland; [and]

1 (2) Revenues collected by the Department from the payment of
2 charges imposed for Department assistance in implementation of an approved
3 practice; AND

4 **(3) REVENUES DERIVED FROM THE FORESTRY PRACTICES ON**
5 **DESIGNATED LANDS OWNED AND MANAGED BY THE DEPARTMENT, THAT ARE**
6 **CONDUCTED IN ACCORDANCE WITH APPLICABLE STATE LAW AND REGULATION.**

7 (g) The Department shall use the Fund:

8 (1) To help fund the Woodland Incentives Program and the cost-share
9 assistance established under this subtitle; [and]

10 (2) For administrative costs calculated in accordance with §
11 1-103(b)(2) of this article;

12 **(3) TO OFFSET THE COSTS OF THE FOREST [AND PARK] SERVICE**
13 **FOR DEVELOPING AND APPROVING FOREST STEWARDSHIP PLANS ON**
14 **PRIVATELY OWNED FOREST LANDS;**

15 **(4) TO PROVIDE ANNUAL GRANTS TO THE FOREST CONSERVANCY**
16 **DISTRICT BOARDS UNDER § 5-605 OF THIS TITLE, TO HELP FACILITATE THEIR**
17 **RESPECTIVE OUTREACH EFFORTS TO ENCOURAGE FOREST LAND OWNERS TO**
18 **DEVELOP FOREST STEWARDSHIP AND OTHER FOREST CONSERVATION**
19 **MANAGEMENT PLANS;**

20 **(5) TO ESTABLISH A FOREST HEALTH EMERGENCY CONTINGENCY**
21 **PROGRAM TO HELP:**

22 (I) MAINTAIN THE HEALTH AND VITALITY OF PUBLICLY
23 OWNED AND PRIVATELY OWNED FOREST LANDS; AND

24 (II) PREVENT OR CONTROL LARGE DEGRADATION CAUSED
25 BY NATURAL THREATS;

26 **(6) TO PROVIDE FINANCIAL ASSISTANCE, AS PROVIDED IN THE**
27 **STATE BUDGET, FOR THE ADMINISTRATION OF AN URBAN AND COMMUNITY**
28 **FORESTRY PROGRAM ESTABLISHED UNDER § 5-426 OF THIS TITLE, INCLUDING:**

29 (I) INCREASING THE NUMBER OF COMMUNITIES WITH
30 TREE CANOPY GOALS;

31 (II) FACILITATING COMPLIANCE WITH THE CHESAPEAKE
32 BAY PROGRAM'S FORESTRY TARGETS;

1 (III) SUPPORTING THE USE OF URBAN TREE CANOPY
2 EXPANSION FOR AIR QUALITY IMPROVEMENT PURPOSES; AND

3 (IV) HELPING ACHIEVE IMPLEMENTATION OF REGIONAL
4 GREENHOUSE GAS INITIATIVE OFFSET OPPORTUNITIES IN URBAN AREAS;

5 (7) TO HELP FUND A FOREST MARKETING AND UTILIZATION
6 PROGRAM IN THE DEPARTMENT TO PROVIDE FINANCIAL ASSISTANCE TO HELP
7 SUPPORT, STIMULATE, AND MARKET INNOVATIVE AND CREATIVE WAYS TO
8 ENHANCE THE PRODUCTION OF VALUE-ADDED WOOD PRODUCTS;

9 (8) TO HELP THE DEPARTMENT, IN COOPERATION WITH
10 APPROPRIATE PUBLIC AND PRIVATE SECTOR ENTITIES, DEVELOP AND EXPAND:

11 (I) A FOREST MITIGATION BANKING SYSTEM;

12 (II) A CARBON CREDIT OR CARBON SEQUESTRATION
13 PROGRAM;

14 (III) A CLEAN WATER CREDIT TRADING SYSTEM;

15 (IV) AN ENVIRONMENTAL SERVICES CREDIT TRADING
16 PROGRAM; AND

17 (V) A RENEWABLE ENERGY CREDIT TRADING SYSTEM; AND

18 (9) TO HELP OFFSET ADMINISTRATIVE COSTS FOR PROVIDING
19 STAFF ASSISTANCE TO THE SUSTAINABLE FORESTRY COUNCIL ESTABLISHED
20 UNDER § 5-204 OF THIS ARTICLE.

21 (H) THE AMOUNT OF REVENUES COLLECTED UNDER SUBSECTION (F)(1)
22 OF THIS SECTION SHALL BE INCLUDED IN THE REPORT REQUIRED UNDER
23 ARTICLE 24, § 2-101 OF THE CODE.

24 (I) THE AMOUNT OF THE GRANTS UNDER SUBSECTION (G)(4) OF THIS
25 SECTION SHALL BE DETERMINED BY THE DEPARTMENT AND ELIGIBILITY FOR
26 THE GRANTS SHALL BE CONTINGENT ON EACH BOARD PROVIDING AN
27 IN-KIND MATCH AS CERTIFIED BY THE SECRETARY.

28 [(h)] (J) (1) The Treasurer shall invest the money of the Fund in the
29 same manner as other State money may be invested.

(2) Any investment earnings of the Fund [shall be credited to the General Fund of the State] **MAY NOT BE TRANSFERRED OR REVERT TO THE GENERAL FUND OF THE STATE.**

[(i)] (K) Expenditures from the Fund may be made only in accordance with the State budget.

5-427.

(a) The governing body of a county or municipal corporation, by appropriate resolution or ordinance, may implement a local urban and community forestry program within its jurisdiction or enter into a cooperative agreement with the Department.

(b) The Department may accept federal funds and provide funds, on a matching basis, to:

(1) Cooperating counties and municipal corporations for the purpose of administering an urban and community forestry program; and

(2) Nonprofit corporations that participate in the implementation and administration of an urban and community forestry program.

(c) Any urban and community forestry program within the Department shall be:

(1) [funded] **FUNDED** as provided in the budget; **AND**

(2) **CONSISTENT WITH § 5-307 OF THIS TITLE.**

5-606.

(C) **SUBJECT TO THE APPROVAL OF THE SECRETARY, EACH BOARD MAY IMPOSE FEES FOR THE PURPOSE OF OFFSETTING ITS COSTS INCURRED IN CARRYING OUT THE REQUIREMENTS OF THIS SECTION, UNLESS AN EQUIVALENT AMOUNT OF FUNDS IS PROVIDED TO EACH BOARD UNDER § 5-307 OF THIS TITLE.**

5-903.

(H) **IN ALLOCATING THE STATE'S SHARE OF FUNDS UNDER THIS SECTION, THE SECRETARY SHALL CONSIDER THE FOLLOWING LAND CONSERVATION PRIORITIES, NOTWITHSTANDING OTHER PRIORITIES SPECIFIED IN THIS TITLE:**

(1) **CONSERVING WORKING LANDSCAPES, AS DEFINED IN § 5-101 OF THIS TITLE; AND**

1 **(2) PROTECTING AND RESTORING FORESTS FROM THREATS,**
2 **INCLUDING CATASTROPHIC WILDFIRES, HURRICANES, WINDSTORMS, SNOW OR**
3 **ICE STORMS, FLOODING, DROUGHT, INVASIVE SPECIES, INSECT OR DISEASE**
4 **OUTBREAK, AND DEVELOPMENT.**

5 **Article – State Finance and Procurement**

6 5–7A–01.

7 The State Economic Growth, Resource Protection, and Planning Policy is that:

8 (1) development shall be concentrated in suitable areas;

9 (2) sensitive areas shall be protected;

10 (3) in rural areas, growth shall be directed to existing population
11 centers and resource areas shall be protected;

12 (4) stewardship of the Chesapeake Bay and the land shall be a
13 universal ethic;

14 (5) conservation of resources, including a reduction in resource
15 consumption **AND THE PROMOTION OF SUSTAINABLE FORESTRY MANAGEMENT**
16 **THAT IS CONSISTENT WITH § 5–102.1 OF THE NATURAL RESOURCES ARTICLE,**
17 shall be practiced;

18 (6) to encourage the achievement of paragraphs (1) through (5) of this
19 subsection, economic growth shall be encouraged and regulatory mechanisms shall be
20 streamlined;

21 (7) adequate public facilities and infrastructure are available or
22 planned in areas where growth is to occur; and

23 (8) funding mechanisms shall be addressed to achieve this policy.

24 **SECTION 2. AND BE IT FURTHER ENACTED,** That the Department of
25 Natural Resources, in consultation with other appropriate units of State government
26 and representatives from the Partnership for Sustainable Forestry, shall develop for
27 General Assembly consideration in the 2010 and 2011 legislative sessions,
28 respectively, creative, tax-related strategies intended to help promote the retention
29 and improved management of the State’s privately owned forest lands.

30 **SECTION 3. AND BE IT FURTHER ENACTED,** That the Department of
31 Natural Resources is encouraged, to the extent that financial resources are available,
32 to develop a Forest Stewardship Plan on all appropriate State-owned forest lands
33 consistent with § 5–603 of the Natural Resources Article. On the completion of the

1 plan or plans, the Department of Natural Resources is encouraged to share the
2 findings and recommendations with other units of State government and local
3 governments that own forest lands for possible emulation of the plans by other
4 government entities.

5 SECTION 4. AND BE IT FURTHER ENACTED, That the Department of
6 Natural Resources shall monitor forest retention and restoration by encouraging local
7 jurisdictions to report data to the State with the geospatial location of forest retained
8 or restored through the implementation of the Forest Conservation Act, the
9 Chesapeake and Atlantic Coastal Bays Critical Areas Protection Program, local
10 comprehensive plans, and any programs that impact urban and community forestry. If
11 State funding is necessary to acquire the data from local governments, the
12 Department may use money in the Woodland Incentives Fund under § 5–307 of the
13 Natural Resources Article.

14 SECTION 5. AND BE IT FURTHER ENACTED, That the Department of
15 Natural Resources shall work with the Chesapeake Bay Trust and other appropriate
16 entities to develop a strategy that better coordinates the State's urban tree canopy
17 efforts. The Department shall report to the Governor on or before December 1, 2009,
18 on its proposed strategy, including any proposed statutory, regulatory, or budgetary
19 actions.

20 SECTION 6. AND BE IT FURTHER ENACTED, That the responsibility and
21 resources necessary for sediment and erosion control planning and enforcement under
22 Title 4 of the Environment Article, with respect to silvicultural practices, as defined
23 under § 5–102.1 of the Natural Resources Article, may be transferred from the
24 Department of the Environment to the Department of Natural Resources subject to
25 approval by the Governor and General Assembly.

26 SECTION 7. AND BE IT FURTHER ENACTED, That the Department of
27 Natural Resources shall work with representatives of Maryland's forest products
28 industry to determine procedures and time lines for advising the industry regarding
29 individual timber harvests that require approval by the Department of Natural
30 Resources, and applicable statutory and regulatory restrictions related to planned
31 silvicultural activities prior to the implementation of such activities.

32 SECTION 8. AND BE IT FURTHER ENACTED, That the Department of
33 Natural Resources, in cooperation with the Maryland Higher Education Commission
34 and any interested institution of higher education, may develop a program that
35 creates a wood technology institute specializing in 21st-century workforce training in
36 the fields of wood technology, manufacturing, construction, and renewable energy
37 generation.

38 SECTION 9. AND BE IT FURTHER ENACTED, That Maryland's green power
39 goal for procurement of renewable energy by State government be met, to the extent
40 practicable, through the provision of financial and other incentives intended to
41 promote in-State production of renewable energy, with due consideration afforded to
42 biomass-fueled facilities.

1 SECTION 10. AND BE IT FURTHER ENACTED, That the General Assembly
2 encourages the forest conservancy district boards and the University of Maryland
3 Cooperative Extension to work together in formulating a strategy to help facilitate the
4 State's compliance, from a private forest land owner outreach perspective, with the
5 2007 Forestry Conservation Initiative. The boards and the Cooperative Extension
6 shall submit written findings and recommendations to the Senate Education, Health,
7 and Environmental Affairs Committee and the House Environmental Matters
8 Committee, in accordance with § 2-1246 of the State Government Article, on or before
9 December 1, 2009.

10 SECTION 11. AND BE IT FURTHER ENACTED, That any reference in the
11 Annotated Code of Maryland rendered incorrect or obsolete by the provisions of
12 Section 1 of this Act shall be corrected by the publishers of the Annotated Code, in
13 consultation with and subject to the approval of the Department of Legislative
14 Services, with no further action required by the General Assembly.

15 SECTION 12. AND BE IT FURTHER ENACTED, That this Act shall take
16 effect October 1, 2009.