

# CHAPTER 175

(Senate Bill 549)

AN ACT concerning

## Sustainable Forestry Act of 2009

FOR the purpose of authorizing a local government to include certain information in a certain plan; declaring certain policy statements and findings relating to forests; ~~altering the name of the Maryland Agricultural Land Preservation Foundation;~~ revising provisions of the law relating to the protection of certain forestry practices from certain private actions under certain circumstances; exempting certain forestry practices from nuisance lawsuits; repealing the Forest Advisory Commission in the Department of Natural Resources; establishing a Sustainable Forestry Council in the Department; establishing the purpose of the Council; establishing the membership of the Council; ~~altering the uses of the Forest or Park Reserve Fund; altering the amounts of certain payments made to counties from the Forest or Park Reserve Fund;~~ authorizing certain revenues derived from certain forestry practices to be deposited in the Woodland Incentives Fund, subject to approval by the Secretary of Natural Resources and the Board of Public Works; adding to the list of uses of the Woodland Incentives Fund; ~~prohibiting certain investment funds from being transferred or reverting to the General Fund;~~ requiring the Department to report certain information annually on or before a certain date to certain legislative committees; repealing a provision authorizing a certain forestry board to enter on certain woodland for a certain purpose; authorizing certain forestry boards to impose certain fees under certain circumstances; requiring the Secretary of the Department to consider certain priorities when allocating the State's share of Program Open Space funds; requiring the Department to develop certain strategies related to the retention and management of forests; encouraging the Department to develop certain plans; requiring the Department to monitor forests in a certain manner using certain funds under certain circumstances; requiring the Department to develop a certain strategy and report the strategy to the Governor on or before a certain date; ~~authorizing certain responsibilities to be transferred from the Department of the Environment to the Department under certain circumstances;~~ requiring the Department to work with certain representatives to determine certain procedures and time lines; authorizing the Department, in cooperation with the Maryland Higher Education Commission, to develop a certain program; requiring a certain goal to be met in a certain manner; encouraging certain forestry boards to work with the University of Maryland 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; requiring agricultural preservation advisory boards to meet a certain amount with forest conservation district

boards for a certain purpose; 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”~~  
Section 2-501 and 2-504.1(d)  
 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)~~ 5-212(f) and (g),  
5-307, and 5-427, and 5-606(b)  
 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)  
Annotated Code of Maryland  
(2005 Replacement Volume and 2008 Supplement)

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

### Preamble

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

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

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

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

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

WHEREAS, The importance of, and urgency for, Maryland's leadership by the 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~~ PRESERVATION UNDER THIS SUBTITLE, THE GENERAL ASSEMBLY ENCOURAGES ~~THAT;~~ THAT FAIR**

(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~~

2-504.1.

(d) Duties of each agricultural preservation advisory board shall be:

(1) To advise the county governing body with respect to the establishment of agricultural districts and the approval of purchases of easements by the Foundation within the county;

(2) To assist the county governing body in reviewing the status of agricultural districts and land under easement;

(3) To advise the Foundation concerning county priorities for agricultural preservation;

(4) To approve or disapprove an application by the county for certification under § 5-408 of the State Finance and Procurement Article;

(5) To promote preservation of agriculture within the county by offering information and assistance to farmers with respect to establishment of districts and purchase of easements; [and]

(6) TO MEET AT LEAST ANNUALLY WITH FOREST CONSERVATION DISTRICT BOARDS IN ORDER TO WORK COOPERATIVELY TO ENCOURAGE THE PROMOTION AND RETENTION OF FARMLAND AND WOODLAND IN THEIR RESPECTIVE JURISDICTIONS; AND

(7) To perform any other duties as assigned by the county governing body.

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

**Article - Courts and Judicial Proceedings**

5-403.

(a) (1) In this section, "agricultural operation" means an operation for the processing of agricultural crops or on-farm production, harvesting, or marketing of

any agricultural, horticultural, silvicultural, aquacultural, or apicultural product that has been grown, raised, or cultivated by the farmer.

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

(b) (1) This section does not:

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

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

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

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

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

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

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

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

**(F) “FORESTRY” OR “SILVICULTURE” MEANS THE SCIENCE, ART, AND PRACTICE OF CREATING, MANAGING, USING, AND CONSERVING FORESTS AND**

**ASSOCIATED RESOURCES FOR HUMAN BENEFIT AND IN A SUSTAINABLE MANNER TO MEET DESIRED GOALS, INCLUDING GOALS FOR:**

- (1) CLEAN AIR AND WATER;**
- (2) BIODIVERSITY;**
- (3) WILDLIFE HABITAT;**
- (4) FIBER PRODUCTION; AND**
- (5) RECREATION.**

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

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

- (I) PLANTING;**
- (II) PRESCRIBED BURNING;**
- (III) THINNING;**
- (IV) PRUNING;**
- (V) HARVESTING;**
- (VI) FERTILIZING; AND**
- (VII) PESTICIDE AND HERBICIDE APPLICATION.**

**(H) “FOREST STEWARDSHIP PLAN” MEANS A DOCUMENT WRITTEN BY A PROFESSIONAL FORESTER WHO IS LICENSED UNDER TITLE 7, SUBTITLE 3 OF THE BUSINESS OCCUPATIONS AND PROFESSIONS ARTICLE, REGARDING A PARCEL OF LAND COMPRISED OF NOT LESS THAN 5 CONTIGUOUS FORESTED 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) NUTRIENT REDUCTION BENEFITS;
- ~~(4)~~ (5) VITALITY; AND
- ~~(5)~~ (6) 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 FORESTRY MANAGEMENT AS DEFINED IN SUBSECTION (L) OF THIS SECTION; AND
- (2) AGRICULTURAL LANDS THAT ARE MANAGED CONSISTENTLY WITH CRITERIA SET FORTH BY THE DEPARTMENT OF AGRICULTURE.

5-102.

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

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

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

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

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

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

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

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

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

**(II) SEQUESTRATION OF CARBON;**

**(III) AVOIDANCE OF ENERGY-RELATED EMISSIONS;**

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

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

**(VI) CONTRIBUTIONS TO COMMUNITY LIVABILITY;**

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

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

**(I) GREEN POWER GOAL FOR STATE FACILITIES;**

**(II) RENEWABLE ENERGY PORTFOLIO STANDARD;**

**(III) HEALTHY AIR ACT; AND**

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

**AND**

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

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

**(1) AFFORDING DUE CONSIDERATION TO THE PROTECTION AND RETENTION OF FORESTS IN THE STATE THROUGH EXISTING LAND CONSERVATION PROGRAMS WHERE THEY HAVE THE HIGHEST VALUE IN TERMS OF PROMOTING THE STATE'S COMPLIANCE WITH ITS CLEAN WATER GOALS**

**UNDER THE CHESAPEAKE 2000 AGREEMENT AND THE 2007 FOREST CONSERVATION INITIATIVE;**

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

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

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

**(5) RECOGNIZING THE IMPORTANCE OF:**

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

**(II) CONTINUED DEVELOPMENT OF FIBER PRODUCTS; AND**

**(III) MARYLAND'S GREEN INFRASTRUCTURE; AND**

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

5-102.1.

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

(2) "Forestry" does not include the clearing of land as a prelude to a 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; AND**

**(VII) ASSIGNING A NUTRIENT EFFICIENCY BENEFIT TO FOREST STEWARDSHIP PLANS AND OTHER FOREST CONSERVATION MANAGEMENT PLANS THAT CAN BE MEASURABLY TRACKED AND REPORTED BY THE NUMBER OF FORESTED ACRES COVERED BY THE PLANS.**

(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.

(f) The Fund consists of:

(1) [Any] EXCEPT AS PROVIDED IN § 5-307(F)(3) OF THIS TITLE, ANY money obtained from the State forest reserves, State parks, scenic reserves, parkways, historic monuments, and recreation areas;

(2) Revenue distributed to the Fund from fines collected under § 5-1302 of this title; and

(3) Revenue received by the Fund under § 5-207(b) of this subtitle.

(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]

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

**(3) ~~REVENUES~~ SUBJECT TO APPROVAL BY THE SECRETARY AND THE BOARD OF PUBLIC WORKS, A PORTION OF THE REVENUES DERIVED FROM THE FORESTRY PRACTICES ON DESIGNATED LANDS OWNED AND MANAGED BY THE DEPARTMENT, THAT ARE CONDUCTED IN ACCORDANCE WITH APPLICABLE STATE LAW AND REGULATION.**

(g) The Department shall use the Fund:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**(I) A FOREST MITIGATION BANKING SYSTEM;**

**(II) A CARBON CREDIT OR CARBON SEQUESTRATION PROGRAM;**

**(III) A CLEAN WATER CREDIT TRADING SYSTEM;**

**(IV) AN ENVIRONMENTAL SERVICES CREDIT TRADING PROGRAM; AND**

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

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

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

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

**(J) ON OR BEFORE JUNE 30 OF EACH YEAR, THE DEPARTMENT SHALL REPORT TO THE SENATE EDUCATION, HEALTH, AND ENVIRONMENTAL AFFAIRS COMMITTEE AND THE HOUSE ENVIRONMENTAL MATTERS COMMITTEE ON THE USE OF FUNDS CREDITED TO THE WOODLAND INCENTIVES FUND, INCLUDING AN IDENTIFICATION OF AND THE REASONS FOR THOSE REVENUES DERIVED FROM FORESTRY PRACTICES ON DESIGNATED LANDS OWNED AND MANAGED BY THE DEPARTMENT THAT WERE NOT CREDITED TO THE WOODLAND INCENTIVES FUND.**

**[(h)] ~~(J)~~ (K) (1)** The Treasurer shall invest the money of the Fund in the 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)~~ (L)** 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.

(b) Any board or its agent may:

(1) ~~Enter upon any woodland in the county or district in performance of its duty;~~

~~(2)~~ Hold meetings and demonstrations in regard to conservation of natural resources;

~~(3)~~ (2) Enter into agreements with landowners within its county or district for a specified period of years;

~~(4)~~ (3) Cooperate with other government agencies to achieve better forest growth and promulgate conservation measures, INCLUDING MEETING AT LEAST ANNUALLY WITH AGRICULTURAL ADVISORY BOARDS AS PROVIDED UNDER § 2-504.1 OF THE AGRICULTURE ARTICLE IN ORDER TO ENCOURAGE THE PROMOTION AND RETENTION OF AGRICULTURAL LAND AND FOREST LAND IN THEIR RESPECTIVE JURISDICTIONS;

~~(5)~~ (4) Develop comprehensive forest management plans for conservation of soil resources and for control and prevention of soil erosion within the county or district;

~~(6)~~ (5) Enforce rules and regulations made by the Department. Each local board may suggest tentative rules and regulations of forest practice to accomplish objectives set forth in this subtitle and to carry out policies established by the Department. The board shall publish the tentative rules and regulations in one or more newspapers having a wide circulation in the area they cover, together with a notice of a public hearing which the board shall hold on them. The final draft of these rules and regulations shall be presented to the Department for approval. The board may summon witnesses for hearings on infraction of its rules and regulations and initiate a prosecution for violation of its rules. It shall forward copies of any

proceedings and rulings to the Department and make an annual report of its proceedings and actions to the Department; and

~~(7)~~ (6) Promulgate safeguards for proper forest land use, such as those intended to:

(i) Provide for adequate restocking, after cutting, of trees of desirable species and condition;

(ii) Provide for reserving for growth and subsequent cutting, a sufficient growing stock of thrifty trees of desirable species to keep the land reasonably productive; and

(iii) Prevent clear-cutting, or limit the size of a tract to be clear-cut in areas where clear-cutting will seriously interfere with protection of a watershed, or in order to maintain a suitable growing stock to insure natural reproduction. However, any rule dealing with clear-cutting shall establish a procedure by which any operator of forest land may secure a permit to clear-cut particular lands upon proof that he has a bona fide intention of devoting the land to other than forest use; that the lands are appropriate for the proposed use; and that devoting the lands to the new use will not seriously interfere with the protection of the watershed.

**(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**

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

## **Article – State Finance and Procurement**

## 5-7A-01.

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

- (1) development shall be concentrated in suitable areas;
- (2) sensitive areas shall be protected;
- (3) in rural areas, growth shall be directed to existing population centers and resource areas shall be protected;
- (4) stewardship of the Chesapeake Bay and the land shall be a universal ethic;
- (5) conservation of resources, including a reduction in resource consumption **AND THE PROMOTION OF SUSTAINABLE FORESTRY MANAGEMENT THAT IS CONSISTENT WITH § 5-102.1 OF THE NATURAL RESOURCES ARTICLE**, shall be practiced;
- (6) to encourage the achievement of paragraphs (1) through (5) of this subsection, economic growth shall be encouraged and regulatory mechanisms shall be streamlined;
- (7) adequate public facilities and infrastructure are available or planned in areas where growth is to occur; and
- (8) funding mechanisms shall be addressed to achieve this policy.

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

SECTION 3. AND BE IT FURTHER ENACTED, That the Department of Natural Resources is encouraged, to the extent that financial resources are available, to develop a Forest Stewardship Plan on all appropriate State-owned forest lands consistent with § 5-603 of the Natural Resources Article. On the completion of the plan or plans, the Department of Natural Resources is encouraged to share the findings and recommendations with other units of State government and local governments that own forest lands for possible emulation of the plans by other government entities.

SECTION 4. AND BE IT FURTHER ENACTED, That the Department of Natural Resources shall monitor forest retention and restoration by encouraging local

jurisdictions to report data to the State with the geospatial location of forest retained or restored through the implementation of the Forest Conservation Act, the Chesapeake and Atlantic Coastal Bays Critical Areas Protection Program, local comprehensive plans, and any programs that impact urban and community forestry. If State funding is necessary to acquire the data from local governments, the Department may use money in the Woodland Incentives Fund under § 5-307 of the Natural Resources Article.

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

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

SECTION ~~7~~ 6. AND BE IT FURTHER ENACTED, That the Department of Natural Resources shall work with representatives of Maryland's forest products industry to determine procedures and time lines for advising the industry regarding individual timber harvests that require approval by the Department of Natural Resources, and applicable statutory and regulatory restrictions related to planned silvicultural activities prior to the implementation of such activities.

SECTION ~~8~~ 7. AND BE IT FURTHER ENACTED, That the Department of Natural Resources, in cooperation with the Maryland Higher Education Commission and any interested institution of higher education, may develop a program that creates a wood technology institute specializing in 21st-century workforce training in the fields of wood technology, manufacturing, construction, and renewable energy generation.

SECTION ~~9~~ 8. AND BE IT FURTHER ENACTED, That Maryland's green power goal for procurement of renewable energy by State government be met, to the extent practicable, through the provision of financial and other incentives intended to promote in-State production of renewable energy, with due consideration afforded to biomass-fueled facilities.

SECTION ~~10~~ 9. AND BE IT FURTHER ENACTED, That the General Assembly encourages the forest conservancy district boards and the University of Maryland Cooperative Extension to work together in formulating a strategy to help facilitate the State's compliance, from a private forest land owner outreach

perspective, with the 2007 Forestry Conservation Initiative. The boards and the Cooperative Extension shall submit written findings and recommendations to the Senate Education, Health, and Environmental Affairs Committee and the House Environmental Matters Committee, in accordance with § 2-1246 of the State Government Article, on or before December 1, 2009.

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

SECTION ~~12~~ 11. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2009.

**Approved by the Governor, May 7, 2009.**