

# HOUSE BILL 967

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By: **Washington County Delegation**

Introduced and read first time: February 12, 2010

Assigned to: Environmental Matters

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## A BILL ENTITLED

1 AN ACT concerning

2 **Washington County – Local Forest Conservation Fund – Fee-in-Lieu Rates**

3 FOR the purpose of providing that the standard fee-in-lieu rate that a person is  
4 required to pay into a local forest conservation fund under certain  
5 circumstances does not apply in Washington County; requiring Washington  
6 County, in consultation with the Department of Natural Resources and the  
7 Washington County Soil Conservation District, to establish fee-in-lieu rates to  
8 be paid into the Washington County Forest Conservation Fund under certain  
9 circumstances based on certain criteria; requiring the county to reexamine and  
10 adjust the fee-in-lieu rates over a certain periodic cycle; and generally relating  
11 to the fee-in-lieu rates for payments to the Washington County Forest  
12 Conservation Fund.

13 BY repealing and reenacting, with amendments,  
14 Article – Natural Resources  
15 Section 5–1610  
16 Annotated Code of Maryland  
17 (2005 Replacement Volume and 2009 Supplement)

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

20 **Article – Natural Resources**

21 5–1610.

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

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

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (c) Except as provided in subsection (h) of this section, if any person subject  
2 to this subtitle demonstrates to the satisfaction of the appropriate State or local  
3 authority that the requirements for reforestation or afforestation on-site or off-site  
4 cannot be reasonably accomplished, the person shall contribute money to the Fund:

5 (1) Until September 30, 2014, at a rate of 30 cents per square foot of  
6 the area of required planting; and

7 (2) After September 30, 2014, at a rate adjusted for inflation as  
8 determined by the Department annually by regulation.

9 (d) Money collected by the State or a local authority under § 5-1608(c) or §  
10 5-1612 of this subtitle for noncompliance with this subtitle or regulations adopted  
11 under this subtitle or for noncompliance with a forest conservation plan or the  
12 associated 2-year management agreement shall be deposited in the Fund.

13 (e) (1) The Department shall accomplish the reforestation or afforestation  
14 for which the money is deposited within 2 years or 3 growing seasons, as appropriate,  
15 after receipt of the money.

16 (2) Money deposited in the Fund under subsection (c) of this section  
17 shall remain in the Fund for a period of 2 years or 3 growing seasons, and at the end of  
18 that time period, any portion that has not been used to meet the afforestation or  
19 reforestation requirements shall be returned to the person who provided the money to  
20 be used for documented tree planting in the same county or watershed beyond that  
21 required by this subtitle or other applicable statutes.

22 (f) (1) (i) Money deposited in the Fund under subsection (c) of this  
23 section may only be spent on reforestation and afforestation, including site  
24 identification, acquisition, and preparation, maintenance of existing forests, and  
25 achieving urban canopy goals, and may not revert to the General Fund of the State.

26 (ii) Any investment earnings of the Fund shall be credited to the  
27 General Fund of the State.

28 (2) (i) Except as provided in subparagraph (ii) or (iii) of this  
29 paragraph, the reforestation or afforestation requirement under this subsection shall  
30 occur in the county and watershed in which the project is located.

31 (ii) If the reforestation or afforestation cannot be reasonably  
32 accomplished in the county and watershed in which the project is located, then the  
33 reforestation or afforestation shall occur in the county or watershed in the State in  
34 which the project is located.

35 (iii) If the reforestation or afforestation cannot be reasonably  
36 accomplished in the county or watershed in which the project is located, then the  
37 reforestation or afforestation shall be accomplished through purchase of credits in,  
38 establishment, or maintenance of a forest mitigation bank in accordance with

1 regulations of the Department. The Reforestation Fund may not be used to finance  
2 administrative activities associated with a mitigation bank and any credits created by  
3 the Reforestation Fund may not be sold to compensate for additional forest impacts.

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

6 (h) (1) In lieu of a State Forest Conservation Fund, any local authority  
7 with an approved forest conservation program may establish a forest conservation  
8 fund, to be administered by the local authority, to allow a payment by any person who  
9 has demonstrated to the satisfaction of the local authority that the requirements for  
10 reforestation and afforestation on-site and off-site cannot be reasonably  
11 accomplished.

12 (2) (I) [The] **EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF**  
13 **THIS PARAGRAPH, THE** rate shall be the same as the rate established for the State  
14 Forest Conservation Fund under subsection (c) of this section.

15 (II) **IN WASHINGTON COUNTY, THE RATES:**

16 1. **SHALL BE IN AMOUNTS DETERMINED BY THE**  
17 **COUNTY, IN CONSULTATION WITH THE DEPARTMENT AND THE WASHINGTON**  
18 **COUNTY SOIL CONSERVATION DISTRICT;**

19 2. **MAY NOT BE HIGHER THAN THE AMOUNT SET**  
20 **FORTH UNDER SUBSECTION (C) OF THIS SECTION; AND**

21 3. **SHALL BE REEXAMINED AND ADJUSTED EVERY 3**  
22 **YEARS.**

23 (i) Money deposited in the local forest conservation fund under subsection  
24 (h) of this section shall remain in the fund for a period of 2 years or 3 growing seasons.  
25 At the end of that time period, any portion that has not been used to meet the  
26 afforestation or reforestation requirements shall be returned to the person who  
27 provided the money to be used for documented tree planting in the same county or  
28 watershed beyond that required by this subtitle or other applicable statutes.

29 (j) (1) Money deposited in the local forest conservation fund under  
30 subsection (h) of this section may only be spent on reforestation and afforestation,  
31 including the costs directly related to site identification, acquisition, prepurchase, and  
32 preparation, maintenance of existing forests, and achieving urban canopy goals, and  
33 may not revert to any other local general fund.

34 (2) (i) Except as provided in subparagraph (ii) or (iii) of this  
35 paragraph, the reforestation or afforestation requirement under this subsection shall  
36 occur in the county and watershed in which the project is located.

1                   (ii) If the reforestation or afforestation cannot be reasonably  
2 accomplished in the county and watershed in which the project is located, then the  
3 reforestation or afforestation shall occur in the county or watershed in the State in  
4 which the project is located.

5                   (iii) If the reforestation or afforestation cannot be reasonably  
6 accomplished in the county or watershed in which the project is located, then the  
7 reforestation or afforestation shall be accomplished through purchase of credits in,  
8 establishment, or maintenance of a forest mitigation bank in accordance with  
9 regulations of the local forest conservation program. The Reforestation Fund may not  
10 be used to finance administrative activities associated with a mitigation bank and any  
11 credits created by the Reforestation Fund may not be sold to compensate for additional  
12 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 October 1, 2010.