

Chapter 464

(House Bill 874)

AN ACT concerning

Air Navigation Protection From Hazards Act of 2017

FOR the purpose of creating an exemption under the Forest Conservation Act for the cutting or clearing of trees to comply with a certain provision of law relating to obstructions to air navigation, under certain circumstances; providing that the exemption does not apply to the cutting or clearing of trees to facilitate the expansion or extension of the boundaries of any airport or runway; and generally relating to the applicability of the Forest Conservation Act.

BY repealing and reenacting, with amendments,
Article – Natural Resources
Section 5–1602
Annotated Code of Maryland
(2012 Replacement Volume and 2016 Supplement)

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

Article – Natural Resources

5–1602.

(a) Except as provided in subsection (b) of this section, this subtitle shall apply to any public or private subdivision plan or application for a grading or sediment control permit by any person, including a unit of State or local government on areas 40,000 square feet or greater.

(b) The provisions of this subtitle do not apply to:

(1) Any construction activity that is subject to § 5–103 of this title;

(2) Any cutting or clearing of forest in areas governed by the Chesapeake Bay Critical Area Protection Law (Title 8, Subtitle 18 of this article);

(3) Commercial logging and timber harvesting operations, including any harvesting conducted under the forest conservation and management program under § 8–211 of the Tax – Property Article:

(i) That were completed before July 1, 1991; or

(ii) That were completed on or after July 1, 1991 on property that is not the subject of an application for a grading permit for development within 5 years after the logging or harvesting operation. However, after this 5-year period, the property shall be subject to this subtitle;

(4) Any agricultural activity that does not result in a change in land use category, including agricultural support buildings and other related structures built using accepted best management practices;

(5) The cutting or clearing of public utility rights-of-way or land for electric generating stations licensed pursuant to § 7-204, § 7-205, § 7-207, or § 7-208 of the Public Utilities Article, provided that:

(i) Any required certificates of public convenience and necessity have been issued in accordance with § 5-1603(f) of this subtitle; and

(ii) The cutting or clearing of the forest is conducted so as to minimize the loss of forest;

(6) Any routine maintenance of public utility rights-of-way;

(7) Any activity conducted on a single lot of any size or a linear project provided that:

(i) The activity does not result in the cutting, clearing, or grading of more than 20,000 square feet of forest; and

(ii) The activity on the lot or linear project will not result in the cutting, clearing, or grading of any forest that is subject to the requirements of a previous forest conservation plan prepared under this subtitle;

(8) Any strip or deep mining of coal regulated under Title 15, Subtitle 5 or Subtitle 6 of the Environment Article and any noncoal surface mining regulated under Title 15, Subtitle 8 of the Environment Article;

(9) Any activity required for the purpose of constructing a dwelling house intended for the use of the owner, or a child of the owner, if the activity does not result in the cutting, clearing, or grading of more than 20,000 square feet of forest;

(10) A county that has and maintains 200,000 acres or more of its land area in forest cover;

(11) The cutting or clearing of trees to comply with the requirements of:

(I) 14 C.F.R. § 77.25 relating to objects affecting navigable airspace, provided that the Federal Aviation Administration has determined that the trees are a hazard to aviation; **OR**

(II) **SUBJECT TO SUBSECTION (C) OF THIS SECTION, § 5-703 OF THE TRANSPORTATION ARTICLE RELATING TO OBSTRUCTIONS TO AIR NAVIGATION, PROVIDED THAT, IF A DISPUTE ARISES REGARDING THE CUTTING OR CLEARING OF TREES, THE MARYLAND AVIATION ADMINISTRATION HAS DETERMINED THAT THE TREES ARE A HAZARD TO AIR NAVIGATION MAKES THE FINAL DETERMINATION WHETHER THE TREES SHOULD BE CUT OR CLEARED;**

(12) Any stream restoration project for which the applicant for a grading or sediment control permit has executed a binding maintenance agreement of at least 5 years with the affected property owner; and

(13) Maintenance or retrofitting of a stormwater management structure that may include clearing of vegetation or removal and trimming of trees, so long as the maintenance or retrofitting is within the original limits of disturbance for construction of the existing structure, or within any maintenance easement for access to the structure.

(c) **AN EXEMPTION UNDER SUBSECTION (B)(11)(II) OF THIS SECTION DOES NOT APPLY TO THE CUTTING OR CLEARING OF TREES TO FACILITATE THE EXPANSION OR EXTENSION OF THE BOUNDARIES OF ANY AIRPORT OR RUNWAY.**

(D) For an application for subdivision or sediment and erosion control or grading for a site with more than 50% of the net tract area governed by Title 8, Subtitle 18 of this article, the Department or local authority may allow an applicant to extend critical area forest protection measures instead of meeting the requirements of this subtitle.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2017.

Approved by the Governor, May 4, 2017.