

HB1511/253828/1

BY: Environment and Transportation Committee

SUBSTITUTE AMENDMENTS TO HOUSE BILL 1511
(First Reading File Bill)

AMENDMENT NO. 1

On page 1, in line 3, after the first “of” insert “establishing a definition of “qualified conservation” for purposes of provisions of law related to forest mitigation banks; altering rules for the use of qualified conservation to meet afforestation or reforestation requirements; adding certain areas and vegetation considered to be a priority for forest retention and protection under certain circumstances;”; after line 8, insert:

“BY renumbering

Article - Natural Resources

Section 5-1601(gg) through (pp)

to be Section 5-1601(hh) through (qq), respectively

Annotated Code of Maryland

(2023 Replacement Volume and 2023 Supplement)

BY repealing and reenacting, without amendments,

Article – Natural Resources

Section 5-1601(a)

Annotated Code of Maryland

(2023 Replacement Volume and 2023 Supplement)

BY adding to

Article – Natural Resources

Section 5-1601(gg) and 5-1607(c)(3)

Annotated Code of Maryland

(2023 Replacement Volume and 2023 Supplement)

BY repealing and reenacting, with amendments,

**HB1511/253828/01 Environment and Transportation Committee
Amendments to HB 1511
Page 2 of 6**

Article - Natural Resources
Section 5-1607(b)(2) and (c)(1) and 5-1610.1(c)
Annotated Code of Maryland
(2023 Replacement Volume and 2023 Supplement)”;

after line 14, insert:

“SECTION 1. AND BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That Sections(s) 5–1601(gg) through (pp) of Article – Natural Resources of the Annotated Code of Maryland be renumbered to be Section(s) 5–1601(hh) through (qq), respectively.”;

in line 15, strike “1.” and substitute “2.”; and in the same line, strike "BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND" and substitute "AND BE IT FURTHER ENACTED".

AMENDMENT NO. 2

On page 1, after line 16, insert:

“Article – Natural Resources

5–1601.

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

(GG) “QUALIFIED CONSERVATION” MEANS THE CONSERVATION OF ALL OR A PART OF AN EXISTING FOREST THAT:

(1) HAS BEEN APPROVED BY THE APPROPRIATE STATE OR LOCAL FOREST CONSERVATION PROGRAM FOR THE PURPOSE OF ESTABLISHING A FOREST MITIGATION BANK; AND

(2) IS ENCUMBERED IN PERPETUITY BY A RESTRICTIVE EASEMENT, COVENANT, OR ANOTHER SIMILAR MECHANISM RECORDED IN THE COUNTY LAND RECORDS TO CONSERVE ITS CHARACTER AS A FOREST.

5-1607.

(b) Standards for meeting afforestation or reforestation requirements shall be established by the State or local program using one or more of the following methods:

(2) The use of qualified conservation completed in a forest mitigation bank TO MEET:

(I) UP TO 50% OF THE AFFORESTATION OR REFORESTATION REQUIREMENT, in which case, the afforestation or reforestation credit granted may not exceed 50% of the forest area encumbered in perpetuity; OR

(II) IF A LOCAL JURISDICTION PROPOSES AND, AFTER PUBLIC COMMENT, THE DEPARTMENT APPROVES A WRITTEN JUSTIFICATION FOR THE INCREASE, UP TO 60% OF THE AFFORESTATION OR REFORESTATION REQUIREMENT, IN WHICH CASE THE AFFORESTATION OR REFORESTATION CREDIT GRANTED MAY NOT EXCEED 50% OF THE FOREST AREA ENCUMBERED IN PERPETUITY.

(c) (1) The following trees, shrubs, plants, and specific areas shall be considered priority for retention and protection, and they shall be left in an undisturbed condition unless the applicant has demonstrated, to the satisfaction of the State or local authority, that reasonable efforts have been made to protect them and the plan cannot reasonably be altered:

(Over)

**HB1511/253828/01 Environment and Transportation Committee
Amendments to HB 1511
Page 4 of 6**

(i) Trees, shrubs, and plants located in sensitive areas including 100-year floodplains, intermittent [and] STREAMS AND THEIR BUFFERS OF AT LEAST 50 FEET FROM THE STREAM CHANNEL, perennial streams and their buffers OF AT LEAST 100 FEET FROM THE STREAM CHANNEL, coastal bays and their buffers, steep slopes, and critical habitats; [and]

(ii) Contiguous forest that connects the largest undeveloped or most vegetated tracts of land within and adjacent to the site;

(iii) FOREST SUITABLE FOR FOREST INTERIOR-DWELLING SPECIES;

(iv) FOREST LOCATED IN A TIER II OR TIER III HIGH QUALITY WATERSHED AS IDENTIFIED BY THE DEPARTMENT OF THE ENVIRONMENT;

(v) FOREST LOCATED IN A WATER RESOURCE PROTECTION ZONE, A RESERVOIR WATERSHED, OR A WELLHEAD PROTECTION AREA AS IDENTIFIED BY A LOCAL JURISDICTION; AND

(vi) FORESTS IN URBAN AREAS:

1. AS DELINEATED IN THE PRIORITY URBAN FOREST MAPPING INCLUDED IN THE STATE FOREST CONSERVATION TECHNICAL MANUAL REQUIREMENTS; OR

2. THAT ARE MOST IMPORTANT FOR PROVIDING WILDLIFE HABITAT OR MITIGATING FLOODING, HIGH TEMPERATURES, OR AIR POLLUTION.

(3) (I) THE DEPARTMENT OR A LOCAL AUTHORITY SHALL ISSUE WRITTEN FINDINGS AND JUSTIFICATION FOR ANY CLEARING OF A PRIORITY RETENTION AREA DESCRIBED IN PARAGRAPH (1) OR (2) OF THIS SUBSECTION.

(II) ANY JUDICIAL REVIEW OF A FINAL DETERMINATION MADE UNDER THIS PARAGRAPH SHALL BE:

1. CONDUCTED IN ACCORDANCE WITH THE MARYLAND RULES; AND

2. LIMITED TO THE RECORD COMPILED BY THE DEPARTMENT OR THE LOCAL AUTHORITY.

5-1610.1.

(c) [Mitigation] AFTER DECEMBER 31, 2020, MITIGATION banks may be allowed only [in priority]:

(1) IF THE APPLICATION WAS SUBMITTED BEFORE DECEMBER 31, 2020; OR

(2) WHEN USING:

(I) QUALIFIED CONSERVATION LOCATED IN PRIORITY RETENTION AREAS AS IDENTIFIED IN § 5-1607(C) OF THIS SUBTITLE; OR

(II) NEWLY PLANTED FOREST LOCATED IN PRIORITY AFFORESTATION OR REFORESTATION areas as identified in § 5-1607(d) of this subtitle or as identified in a comprehensive plan adopted by a local jurisdiction.”.

(Over)

**HB1511/253828/01 Environment and Transportation Committee
Amendments to HB 1511
Page 6 of 6**

On page 3, in line 24, strike “2.” and substitute “3.”; and in the same line, strike “June” and substitute “July”.