

HOUSE BILL 1511

M1

4lr3538

By: **Delegate Love**

Introduced and read first time: February 22, 2024

Assigned to: Rules and Executive Nominations

Re-referred to: Environment and Transportation, February 26, 2024

Committee Report: Favorable with amendments

House action: Adopted with floor amendments

Read second time: March 9, 2024

Returned to second reading: March 9, 2024

Committee amendments withdrawn, March 9, 2024

House action: Adopted

Read second time: March 9, 2024

CHAPTER _____

1 AN ACT concerning

2 **Forest Conservation Act – Modifications**

3 FOR the purpose of establishing a definition of “qualified conservation” for purposes of
4 provisions of law related to forest mitigation banks; altering rules for the use of
5 qualified conservation to meet afforestation or reforestation requirements; adding
6 certain areas and vegetation considered to be a priority for forest retention and
7 protection under certain circumstances; requiring the Department of Natural
8 Resources to update a certain model local government ordinance and adopt certain
9 regulations relating to forest conservation on or before certain dates; delaying the
10 dates on which certain provisions of the Forest Conservation Act will apply to certain
11 solarvoltaic facilities and forest conservation plans; delaying the effective date of
12 certain provisions of the Forest Conservation Act; and generally relating to the
13 Forest Conservation Act.

14 BY renumbering

15 Article – Natural Resources
16 Section 5–1601(gg) through (pp)
17 to be Section 5–1601(hh) through (qq), respectively
18 Annotated Code of Maryland
19 (2023 Replacement Volume and 2023 Supplement)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 BY repealing and reenacting, without amendments,
 2 Article – Natural Resources
 3 Section 5–1601(a)
 4 Annotated Code of Maryland
 5 (2023 Replacement Volume and 2023 Supplement)

6 BY adding to
 7 Article – Natural Resources
 8 Section 5–1601(gg) and 5–1607(c)(3)
 9 Annotated Code of Maryland
 10 (2023 Replacement Volume and 2023 Supplement)

11 BY repealing and reenacting, with amendments,
 12 Article – Natural Resources
 13 Section 5–1607(b)(2) and (c)(1) and 5–1610.1(c)
 14 Annotated Code of Maryland
 15 (2023 Replacement Volume and 2023 Supplement)

16 BY repealing and reenacting, with amendments,
 17 Chapter 541 of the Acts of the General Assembly of 2023
 18 Section 5, 9, and 10

19 BY repealing and reenacting, with amendments,
 20 Chapter 542 of the Acts of the General Assembly of 2023
 21 Section 5, 9, and 10

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

26 ~~SECTION 1. 2. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND~~
 27 AND BE IT FURTHER ENACTED, That the Laws of Maryland read as follows:

28 **Article – Natural Resources**

29 5–1601.

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

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

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

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

4 5-1607.

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

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

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

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

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

22 **(i) Trees, shrubs, and plants located in sensitive areas including**
23 **100-year floodplains, intermittent [and] STREAMS AND THEIR BUFFERS OF AT LEAST**
24 **50 FEET FROM THE STREAM CHANNEL, perennial streams and their buffers OF AT**
25 **LEAST 100 FEET FROM THE STREAM CHANNEL, coastal bays and their buffers, steep**
26 **slopes, and critical habitats; [and]**

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

29 **(III) FOREST SUITABLE FOR FOREST INTERIOR-DWELLING**
30 **SPECIES;**

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

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

4 (VI) FORESTS IN URBAN AREAS:

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

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

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

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

16 1. CONDUCTED IN ACCORDANCE WITH THE MARYLAND
 17 RULES; AND

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

20 5-1610.1.

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

23 (1) IF THE APPLICATION WAS SUBMITTED BEFORE DECEMBER 31,
 24 2020; OR

25 (2) WHEN USING:

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

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

1 SECTION 5. AND BE IT FURTHER ENACTED, That:

2 (a) The Department of Natural Resources shall update the State Forest
3 Conservation Technical Manual on or before December 31, 2024, for consistency with this
4 Act.

5 (b) The updates shall include:

6 (1) guidance on:

7 (i) when the clearing of a priority area for retention described in §
8 5–1607(c) of the Natural Resources Article, as enacted by this Act, may be justified,
9 including for purposes related to forest health or composition; and

10 (ii) the use of site design practices to minimize clearing; and

11 (2) standards by which credit may be granted for the restoration of
12 degraded forest.

13 **(C) ON OR BEFORE JULY 1, 2025, THE DEPARTMENT OF NATURAL**
14 **RESOURCES SHALL UPDATE THE MODEL LOCAL GOVERNMENT ORDINANCE**
15 **REQUIRED UNDER § 5–1609 OF THE NATURAL RESOURCES ARTICLE FOR**
16 **CONSISTENCY WITH THIS ACT.**

17 **(D) ON OR BEFORE JULY 1, 2026, THE DEPARTMENT OF NATURAL**
18 **RESOURCES SHALL ADOPT REGULATIONS TO CARRY OUT THE PROVISIONS OF THIS**
19 **ACT.**

20 SECTION 9. AND BE IT FURTHER ENACTED, That this Act may not apply to:

21 (1) a solarvoltaic facility granted a certificate of public convenience and
22 necessity by the Public Service Commission under § 7–207 of the Public Utilities Article
23 before July 1, [2023] **2025**;

24 (2) a forest conservation plan approved before July 1, [2024] **2026**, that is
25 associated with a subdivision plan, site plan, building permit, or grading or sediment
26 control application; or

27 (3) a revision to a plan or permit described in item (2) of this section that
28 does not materially alter the proposed or actual limits of disturbance.

29 SECTION 10. AND BE IT FURTHER ENACTED, That Sections 1, 2, and 3 of this
30 Act shall take effect July 1, [2024] **2026**.

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27 does not materially alter the proposed or actual limits of disturbance.

28 SECTION 10. AND BE IT FURTHER ENACTED, That Sections 1, 2, and 3 of this
29 Act shall take effect July 1, [2024] **2026**.

30 SECTION ~~2~~ 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
31 ~~June~~ July 1, 2024.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.