



The Maryland House of Delegates
ANNAPOLIS, MARYLAND 21401

March 31, 2021

HB 991
Natural Resources - Forest Mitigation Banks - Qualified Conservation

Good afternoon Chair Pinsky and members of the committee,

HB 991 concerns the Forest Conservation Act (FCA) and Mitigation Banks. The Forest Conservation Act protects forests in Maryland, and mitigation banks have played an important role in the conservation of existing forests. As it has been administered for over twenty years, the Forest Conservation Act identifies a sequence to forest preservation when a new project is considered. First is onsite preservation of forest or reforestation. Second is reforestation in the same watershed as the project. Third is the use of forest mitigation banks and last is payment in lieu. Each county submits a plan to the Department of Natural Resources on how the Forest Conservation Act is to work in their county.

Last fall the Attorney General's office was asked by Anne Arundel County for an opinion concerning the use of forest mitigation banks. The county asked if off-site forest mitigation banks that preserved existing forest were allowed under the FCA. The Office of the Attorney General responded in an opinion that a protective easement on an already existing forest would not qualify under the FCA.

This opinion has ramifications across the state for how the FCA operates. SB 234 of 2019 asked for more information concerning local fee in lieu policies while also elevating the importance of forest mitigation banks. Counties have different policies concerning mitigation banking and other aspects of the law.

House Bill 991 restores the FCA to how it has been operating for more than twenty years. It includes a 2 to 1 ratio for area in a forest mitigation bank to area needed to be mitigated. The bill was also amended in the House to restore authorization for an FCA study that was meant to be completed in 2019. That study is being led by the Harry Hughes Agroecology Center. The Center advises that the study will be complete this year, with or without the bill language.

To restore the workings of the FCA and protect the work of state and local governments I urge a favorable report for HB 991.