



House Bill 991

Natural Resources – Forest Mitigation Banks – Qualified Preservation

MACo Position: **SUPPORT**
WITH AMENDMENTS

To: Environment and Transportation
Committee

Date: February 24, 2021

From: Alex Butler

The Maryland Association of Counties (MACo) **SUPPORTS HB 991 WITH AMENDMENTS**. The bill is an effort to ensure that reasonable longstanding practices related to forest mitigation banking can continue in light of the recent Attorney General opinion. Amendments clarify the intent of the bill to maintain existing programs and apply retroactively.

Forest mitigation banks allow project developers to meet forest conservation requirements off-site by purchasing easements on established forestland, protecting them in perpetuity. In areas where replanting on-site is not feasible, forest mitigation banks account for a reasonable forest conservation practice by providing “credits” to developers. Many counties use mitigation banking extensively to comply with the State’s Forest Conservation Act.

An October opinion from the Office of the Attorney General (OAG) indicates that credits allotted for existing forest may no longer be permissible, which would put existing practices in jeopardy and hinder both public and private development capability. Since the issuance of the opinion, mitigation banks have sold through most or all of their existing credits. HB 991 clarifies that existing forested areas are eligible for credits under forest mitigation bank programs. Current incentives for creating or restoring “new” forested areas are preserved, but already existing forest remains a useful tool for mitigation banks.

HB 991 represents a thoughtful way to clarify state law and permit longstanding forest conservation practices to continue. Accordingly, MACo urges the Committee to provide a **FAVORABLE WITH AMENDMENTS** report for HB 991.