

March 1, 2023

The Honorable Brian J. Feldman
Senate Education, Health & Environmental Affairs Committee
Miller Senate Office Building,
2 West Wing 11 Bladen St.,
Annapolis, MD, 21401

RE: MBIA Letter of Opposition SB 526 Natural Resources – Forest Preservation and Retention

Dear Chairman Feldman:

The Maryland Building Industry Association, representing 100,000 employees statewide, appreciates the opportunity to participate in the discussion surrounding **SB 526 Natural Resources – Forest Preservation and Retention**. MBIA **Opposes** the Act in its current version.

This bill ~~redefines~~ ~~amends~~ amends the ~~term definition of~~ “Priority Forest” to add thousands of additional forest acres ~~to the “Priority Forest” definition~~. Currently across the State of Maryland mitigation banks are becoming less and less available. New banks stopped being established after the passage of HB 991 in 2020-2021 which means that the amount of mitigation banking available to developers is decreasing. This bill would increase the required mitigation to 2:1 and up to 8:1 for projects ~~in the that impact~~ priority forest area which includes ~~the ill-defined~~ “contiguous forest” a term that has no defined threshold. This requirement would be impractical to meet for on-site mitigation and it will quickly require that projects use the available forest mitigation banks. This will force projects to move to paying a fee-in-lieu of mitigation driving up the cost of housing ~~even~~ while Maryland struggles to bring down prices and make housing more accessible to residents of the state.

The ~~Park and Planning Commission has also noted that~~ bill also amends the location requirements for new mitigation banks based on preservation. ~~could and in some cases nearly~~ Nearly all rural and agricultural areas will be off limits for these types of mitigation banking. The bill requires that qualified conservation not must be established in areas where subdivisions are not allowed and where state or local laws prohibit subdivisions. This prohibits nearly all of the Prince Georges County Rural and Agricultural areas ~~out of bounds~~ for tree banking ~~and prohibits the area in which most of those banks are located~~. Taking away an important incentive currently in place to preserve large tracts of forest by unregulated entities.

The new requirements are designed to promote forest conservation ~~in areas~~ in counties where the majority of the state population resides even though the recently released forest technical study showed that the forest has ~~remained stable~~ stabilized state-wide ~~over the period in which the study was conducted~~ while the population grew during the time frame studied. We should target development to where its needed. Maryland currently faces an estimated 120,000 housing unit shortage and we should incentivize development in the areas in which the majority of the population wants to live as long as it can be done by expanding forest in areas in which it is feasible to expand. As it stands this bill could halt numerous projects already in development providing desperately needed housing stock. The bill contains no transition or grandfathering language which will force projects to re-work and resubmit their forest conservation plans adding additional time and expense to the project.

For more information about this position, please contact Lori Graf at 410-800-7327 or lgraf@marylandbuilders.org.

cc: Members of the Senate Education, Health & Environmental Affairs Committee

- ~~Since the technical study came out now goal is net forest gain~~
- ~~Tweaks applying almost solely to development~~
- ~~Creates a new calculation~~
- ~~Redefines Priority Forest adds new criteria~~
- ~~Contiguous forest is priority forest still, no definition~~
- ~~Need to apply for a variance for a newly defined forest~~
- ~~Not allowed by law to impact the priority forest~~
- ~~Adds court time~~
- ~~If you do impact priority forest at all, even old forest 2:1 mitigation~~
- ~~If priority forest is under conservation threshold. If you remove below the threshold 8:1 only applies to offsite banking in priority forest~~
- ~~Mitigation banking so high you cannot bank on site.~~
- ~~Banking availability is decreasing~~
- ~~No transition or grandfathering, projects already started will be subject to the new criteria~~
- ~~Counties are required to adopt if they can't show that they aren't losing forest~~
- ~~Everyone lives and works in heavily populated areas~~
- ~~Forest Loss has stabilized during the time period for the study~~
- ~~Lots of projects could be killed~~
- ~~Could conflict with local laws which are not designed for new state goals could conflict with county affordable housing priorities~~
- ~~Only banks that can be used before 2020~~
- ~~Will accelerate fee in lieu making development more expensive~~
- ~~We can produce a net forest gain without unnecessarily adding development cost~~