

**FAVORABLE\_HB 723.pdf**

Uploaded by: Anna Griffith

Position: FAV



**HB 723 - Natural Resources - Forest Preservation and Retention**

**Position: SUPPORT**

**Date: March 1, 2023**

**Contact: Anna Mudd, Potomac Conservancy**

Our organizations request a **FAVORABLE** report on HB 723 from the Environment and Transportation Committee.

Maryland's Forest Conservation Act, passed in 1991, introduced a minimum floor for mitigation when forests are cleared for development. But these standards are not equipped to address today's challenges to climate and clean water. An unbalanced reforestation ratio of a quarter acre planted for each acre cleared, combined with other credits, means that nearly two-thirds of a forested site can be felled with no replanting required at all. Without clear definitions and protections for the state's most valuable priority forests, too many are left fragmented and vulnerable to degradation.

This legislation will update and strengthen forest goals and definitions to provide clarity and reflect new data, protect and conserve more forest land and tree canopy, and give local governments significantly greater flexibility to pursue solutions that meet local development priorities and advance equity.

A recent study published by the Harry R. Hughes Center for Agro-Ecology of the University of Maryland found that Maryland experienced a net statewide forest loss of more than 19,000 acres from 2013 through 2018. Losses to development and forest fragmentation - particularly in growing suburban counties - remain significant.

Under current law, jurisdictions must usually consider forest impacts from development in a formulaic, project-specific way. This legislation will encourage local innovation by empowering counties and municipalities to design a program customized to meet their local priorities while meeting a stronger forest conservation standard. The bill also recognizes the important role some smaller forested areas play in urban and suburban areas by providing options to receive preservation credit for activity that enhances the health of these areas. In summary, the bill raises the standard for forest conservation but gives local governments and developers the tools they need to succeed in meeting it.

We respectfully request a **FAVORABLE** report from this Committee on HB 723.

Erik Fisher  
Maryland Land Use Planner, AICP  
Chesapeake Bay Foundation

Anna Mudd  
Senior Director of Policy  
Potomac Conservancy

Joel Dunn  
President and CEO  
Chesapeake Conservancy

Denisse Guitarra  
MD Conservation Advocate  
Nature Forward

Robert K. Musil, P.H.D., M.P.H.  
President & CEO  
The Rachel Carson Council

Kit Gage  
Interim President  
Friends of Sligo Creek

Jim Brown, ASLA  
Director of Policy  
Audubon Mid-Atlantic

Caroline Taylor  
Executive Director  
Montgomery Countryside Alliance

Gary Allen  
President  
Maryland Forestry Association

Paulette Hammond  
President  
Maryland Conservation Council

Nancy Soreng  
President  
League of Women Voters of Maryland

Jeanne Braha  
Executive Director  
Rock Creek Conservancy

Annie Richards  
Chester Riverkeeper  
ShoreRivers

Matt Pluta  
Choptank Riverkeeper  
ShoreRivers

Zack Kelleher  
Sassafras Riverkeeper  
ShoreRivers

Mark Southerland, PhD  
Legislative Director  
Safe Skies Maryland

Bonnie Raindrop  
Central Maryland Beekeepers Association  
Baltimore Beekeeping Network

Diana Conway  
President  
Safe Healthy Playing Fields Inc.

Taylor Smith-Hams, MPA, CC-P  
Advocacy & Outreach Senior Manager  
Blue Water Baltimore

Robin G. Todd PhD  
Chair, Conservation Committee  
Maryland Ornithological Society

Katherine J. Lautar  
Executive Director  
Baltimore Green Space

Cecilia Plante  
Co-Chair  
Maryland Legislative Coalition

Staci Hartwell  
Environment and Justice Chair  
NAACP Maryland State Conference

Sarah Morse  
Executive Director  
Little Falls Watershed Alliance

Sandy Sparks  
President  
Friends of The Jones Falls

Matt Johnston  
Executive Director  
Arundel Rivers Federation

Annie Bristow  
Convener  
Mountain Maryland Movement

Hal Delaplane  
President  
Conservancy for Charles County

Judith Stribling  
President  
Friends of the Nanticoke River

Nina Beth Cardin  
Co-Founder and Director  
Maryland Campaign for Environmental  
Human Rights

Karen Metchis  
Coordinating Committee  
Climate Action Plan Coalition for  
Montgomery Coun

Jay Martin  
President  
Friends of the Nanticoke River

Linda Coyle, Co-Chair  
Multi-Faith Alliance of Climate Stewards  
(MACS) of Frederick

Bonnie Bick  
President  
Chapman Forest Foundation

Alex Winter  
President  
Mattawoman Watershed Society

Robin Broder  
Acting Executive Director  
Waterkeepers Chesapeake

Zoe Gensheimer  
Advocacy Director  
Baltimore Tree Trust

# **HB723\_2023\_Favorable.pdf**

Uploaded by: Anna Griffith

Position: FAV



HB 723 - Natural Resources - Forest Preservation and Retention

Position: SUPPORT

Date: March 1, 2023

Contact: Anna Mudd, Potomac Conservancy, [mudd@potomac.org](mailto:mudd@potomac.org)

Potomac Conservancy recommends a **FAVORABLE** report on HB 723 from the Environment and Transportation Committee.

Maryland's Forest Conservation Act, passed in 1991, introduced a minimum floor for mitigation when forests are cleared for development. But these standards are not equipped to address today's challenges to climate and clean water. An unbalanced reforestation ratio of a quarter acre planted for each acre cleared, combined with other credits, means that nearly two-thirds of a forested site can be felled with no replanting required at all. Without clear definitions and protections for the state's most valuable priority forests, too many are left fragmented and vulnerable to degradation.

Rapid deforestation is stripping Maryland's ability to absorb rainwater as streets, parking lots, and rooftops replace natural ground cover. And our climate crisis is only making rain and storm events more intense and harder to manage. Our region's record-setting rainfall in 2018 sent pollution levels soaring with disastrous short-term consequences for the Potomac's health. If left unchecked, polluted stormwater runoff in urban and suburban areas will continually increase and undo decades of progress to return clean streams to our communities.

HB 723 will update and strengthen forest goals and definitions to provide clarity and reflect new data, protect and conserve more forest land and tree canopy, and give local governments significantly greater flexibility to pursue solutions that meet local development priorities and advance equity. In summary, this legislation raises the standard for forest conservation, while also giving local governments and developers the tools they need to succeed in meeting it.

Potomac Conservancy respectfully requests a **FAVORABLE** report from this Committee on HB 723.

# **HB 723 Natural Resources – Forest Preservation and**

Uploaded by: Cait Kerr

Position: FAV



**Wednesday, March 1, 2023**

**TO:** Kumar Barve, Chair of the House Environment and Transportation Committee; and Committee Members  
**FROM:** Michelle Dietz, The Nature Conservancy, Director of Government Relations; and Cait Kerr, The Nature Conservancy, Conservation & Climate Policy Analyst  
**POSITION:** Support HB 723 - Natural Resources – Forest Preservation and Retention

The Nature Conservancy (TNC) supports HB 723 offered by Delegate Love. TNC is a global conservation organization working to conserve the lands and waters on which all life depends. In Maryland, our work focuses on delivering science-based, on-the-ground solutions that secure clean water and healthy living environments for our communities, reducing greenhouse gas emissions and increasing resilience in the face of a changing climate. We are dedicated to a future where people and nature thrive together.

HB 723 seeks to update Maryland's Forest Conservation Act (FCA) in order to provide clear definitions and protections for our state's most valuable priority forests. The current FCA standards have become outdated and insufficient to address today's challenges; this has resulted in many forests in Maryland becoming fragmented and increasingly vulnerable to degradation.

According to a recent study from the Hughes Center for Agro-Ecology, Maryland experienced a net statewide forest loss of more than 19,000 acres between 2013 and 2018. Significant losses were due to development and forest fragmentation, particularly in growing suburban counties. HB 723 reflects this study's data and findings to better protect and conserve forested lands and tree canopy from current threats. It also provides local governments with significantly greater flexibility to pursue solutions that meet local development priorities and advance equity. This legislation will encourage local innovation by enabling counties and municipalities to design programs customized to meet their local needs and priorities, while meeting a stronger overall forest conservation standard. It also recognizes smaller forested areas' importance to improving communities' health and resilience and places value on those benefits.

Each year, the United States loses an area the size of Delaware to development and unsustainable use. This land and biodiversity loss can often be irreversible. Here in Maryland, the lands and waters that surround us are precious resources. They are an invaluable part of our heritage, our economy, and our identity. The Appalachians are one of the most resilient, diverse, and productive ecosystems on Earth. TNC has prioritized conservation across this ancient chain of forested mountains, valleys, wetlands and rivers as a global imperative due to the high biological diversity of species, the carbon stored in the forests and the rich history and culture of this landscape, beginning with the original Indigenous stewards. Through our work to protect this priority landscape, TNC has seen first-hand how critical it is to protect and conserve forested lands and tree canopy. Maryland's forests play a critical role in building climate resilience, enhancing public health, and preserving our state's rich biodiversity. Forest connectivity provides much needed habitat bridges, especially as climate change drives species to move and adapt.

Climate change and a wide range of human activities are impacting forests at an unprecedented and unsustainable rate. Maryland's forests provide significant economic benefits, in the form of ecosystem services such as pollination and water filtration and storage, as well as recreational opportunities. By passing HB 723, we can take marked steps to reverse forest loss in our state in order to create a future where natural places can support vulnerable species and can continue to provide valuable ecosystem services on which state residents depend.

TNC commends Delegate Love for advancing legislation aimed at better protecting Maryland's forests and preserving the many values and benefits that they provide.

**Therefore, we urge a favorable report on HB 723.**

# **HB723 - FAV - Nature Forward.pdf**

Uploaded by: Denisse Guitarra

Position: FAV

February 27, 2023

**Written testimony for HB723 - Natural Resources - Forest Preservation and Retention <sup>1</sup>**

**Position: Favorable**

Submitted by: Denisse Guitarra, MD Conservation Advocate, Nature Forward



Dear House Environment and Transportation Committee,

Nature Forward (formerly Audubon Naturalist Society) is the oldest independent environmental organization protecting nature in the DC metro region. Our mission is to inspire residents of the greater Washington, DC, region to appreciate, understand, and protect their natural environment through outdoor experiences, education, and advocacy. We thank the House Environment and Transportation Committee for the opportunity to provide testimony on HB723 which seeks to update the state's current forest conservation law. Nature Forward has advocated for forest conservation at the MD General Assembly since passage of the original Forest Conservation Act in 1991.

We support HB723 because, if enacted, this bill will 1) Protect and conserve more forested land and tree canopy in the state of Maryland; 2) Provide local county governments significantly greater flexibility to pursue effective environmental solutions that meet our community needs and advance equity; and 3) Update forest protections to be in alignment with the latest scientific findings and recommendations from the 2022 Technical Study on Changes in Forest Cover and Tree Canopy in Maryland.<sup>2</sup>

**More Forests Protected**

This bill will protect and conserve more forested land and tree canopy in the state of Maryland. Forests purify our air and water, reduce stormwater run-off, reduce heat, reduce stress levels in people, connect communities, serve as habitats for wildlife and so much more that is essential to human health and the resilience of biodiversity in plants and animals. The Maryland Forest Conservation Act, passed in 1991, set a minimum reforestation ratio of a quarter acre planted for each acre cleared (plus other credits). This results in nearly two-thirds of a forested

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<sup>1</sup> HB723 - Natural Resources - Forest Preservation and Retention. Available at: <https://mgaleg.maryland.gov/mgawebsite/Legislation/Details/hb0723>

<sup>2</sup> Maryland Forest Technical Study. Nov 2022. Harry R. Hughes Center for Agro-Ecology of the University of Maryland Available at: <https://www.chesapeakeconservancy.org/mdforeststudy2022>



site that can be felled with no replanting required at all. The time to update Maryland's Forest Conservation is NOW, especially under our current climate crisis. By clarifying definitions within the law with HB723, the state will be able to protect more of our last remaining priority forests, many of which are fragmented and vulnerable to degradation.

### **More flexibility for local jurisdictions**

HB723 will provide local county governments significantly greater flexibility to pursue effective environmental solutions that meet our community needs and advance equity. Nature Forward is one member of the Montgomery County Forest Coalition that consists of members from 13 environmental organizations. The Coalition has been working to update Montgomery County's Forest Conservation Law for over three years<sup>3</sup>. After many conversations with County Council, Planning Staff, environmental leaders, and community members we have all come to an agreement and consensus on amendments on Bill 25-22 - Forest Conservation- Tree bill.<sup>4</sup> If approved, this bill will update and improve the protection status of Montgomery County's forests. The local Montgomery County Forest Conservation Law bill serves as an example that local jurisdictions in Maryland are interested in working on improving our forest conservation laws via working through our own regulatory process to improve greater protections for our forests. Furthermore, because of the greater flexibility for local county governments in the proposed HB723, Montgomery County's proposed bill is expected to comply with and complement these updates to Maryland's Forest Conservation Act.

### **Environmental justice in forests protection**

Eliminating barriers preventing more people from enjoying the outdoors in forests is part of environmental justice. Nature Forward favorably supports HB723 because we have heard first-hand from disfavored communities across Maryland in Long Branch, Langley Park, Riverdale Park, and Edmonston that they want to see more forests and trees.

Since 2019, Nature Forward has worked with a majority Latinx immigrant community in Long Branch located in Silver Spring, MD. This is an urbanized area undergoing Purple Line construction, with the narrow Long Branch stream valley park cutting through the community. Most of these families come from countries where their connection to nature was and is part of their culture. These families are eager to get outdoors in the little time they have after holding multiple jobs, and often live in rapidly deteriorating apartment units. Across these years, we have seen the community members express the need to see more forests, urban tree canopy,

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<sup>3</sup> Montgomery County Forest Conservation Bill 25-22. Nature Forward. Available at:

<https://natureforward.org/take-action-now-save-montgomery-countys-forests/>

<sup>4</sup> Bill 25-22 - Forest Conservation - Trees. Montgomery County, MD. Available at:

<https://apps.montgomerycountymd.gov/ccllms/BillDetailsPage?RecordId=2766&fullTextSearch=bill%20AND%2025-22>



and increased access to greenspaces for outdoor recreation activities for their family's health and wellbeing.<sup>5</sup> Furthermore, in the recently showcased Climate Stories Ambassadors Project short film series produced by Montgomery County Department of Environment, individual community members expressed their need and desire to see more trees across the county.<sup>6</sup>

## **MD Forest Study**

The bill will update forest protections to be in alignment with the latest scientific findings and recommendations from the Harry R. Hughes Center for Agro-Ecology of the University of Maryland Forest Study<sup>7</sup>. This report was mandated by previous legislations of SB729 (2019)<sup>8</sup> and HB991 (2021).<sup>9</sup> A couple of major findings in the report were that 1) “Montgomery and Prince George’s counties accounted for more than 44% of the state’s total tree canopy loss;” 2) Maryland experienced a net statewide forest loss of more than 19,000 acres from 2013 through 2018; and 3) most forests priority forests in MD are experiencing fragmentation and are being taken over by invasive plant species. The Hughes Center study identified a huge imbalance in banking credits: 4 out of every 5 acres were preserved forest, with only 1 out of 5 acres newly planted which means that every acre of replanting offset in a preservation bank shrinks the county’s footprint by that acre and hence resulting in forest loss. Therefore, it is crucial that limits are placed on unrestricted banking to prevent further forest loss across Maryland, as a an acre of forest banked is an acre of forest lost. If enacted, HB723 will prove the protection MD forests need as aligned with this study.

On behalf of Nature Forward and our 28,000 members and supporters, we respectfully urge this committee to support HB723. Protecting our forests now will help to continue to build healthy and climate resilient communities for Maryland into the future.

Sincerely,

Denisse Guitarra, Nature Forward Maryland Conservation Advocate  
Debra Street, Nature Forward Conservation Volunteer

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<sup>5</sup> Nature Forward - Long Branch community outreach. Available at:

<https://natureforward.org/program/long-branch-community-outreach/>

<sup>6</sup> Climate Stories Ambassadors Project. Montgomery County, MD. Available at:

<https://www.montgomerycountymd.gov/climate/climate-stories-ambassadors.html>

<sup>7</sup> Maryland Forest Technical Study. Nov 2022. Harry R. Hughes Center for Agro-Ecology of the University of Maryland Available at: <https://www.chesapeakeconservancy.org/mdforeststudy2022>

<sup>8</sup> SB729 / CH405. Technical Study on Changes in Forest Cover and Tree Canopy in Maryland. Available at: <https://mgaleg.maryland.gov/mgawebsite/Legislation/Details/sb0729/?ys=2019rs>

<sup>9</sup> HB991/CH645. Tree Solutions Now Act of 2021. Available at:

<https://mgaleg.maryland.gov/mgawebsite/Legislation/Details/HB0991/?ys=2021rs>

**HB 723 CBF FAV.pdf**

Uploaded by: Erik Fisher

Position: FAV



# CHESAPEAKE BAY FOUNDATION

*Environmental Protection and Restoration  
Environmental Education*

## HB 723

Natural Resources – Forest Preservation and Retention

Date: March 1, 2023

Position: **Support**

To: Environment & Transportation Committee

From: Erik Fisher, AICP, MD Land Use Planner

Chesapeake Bay Foundation (CBF) **SUPPORTS** HB 723, which updates the state’s forest preservation goals while providing new flexibility and tools for local governments and land developers to protect and enhance Maryland’s woodlands. A recent study commissioned by the General Assembly has found that, despite previous and ongoing preservation efforts, forest loss continues unabated with land development the leading cause. Nevertheless, Maryland still has the opportunity to reverse the trend. New tools are needed now to turn these losses to gains, restoring the numerous benefits trees provide to people and nature and stabilizing efforts to clean our waterways.

### **HB 723 supports local innovation and works with local priorities to curb forest loss from development.**

Through the Forest Conservation Act (FCA), the state has long partnered with cities, towns, and counties to manage the impacts of development on forests. Now more than thirty years old, the FCA has slowed – but not stopped – forest loss. HB 723 updates the FCA to be both more flexible and more effective than current law. It does so by doing the following:

- **Setting a consistent standard:** HB 723 recognizes existing goals to stop the net loss of forest – and the commitment for other environmental restoration programs to achieve a net gain – by setting a consistent standard of “no-net-loss” for local forest conservation programs governing development activity.
- **Supporting local priorities:** Development priorities vary across jurisdictions, and this bill provides the opportunity for local governments to design a customized forest preservation program that supports those local priorities. As opposed to current law which applies formulaic requirements to nearly every development project, HB 723 gives local governments the power to create a holistic forest preservation program that meets the “no-net-loss” standard.
- **Recognizing local innovation:** Some jurisdictions across Maryland are already applying creative solutions to protect forests. HB 723 ensures that these jurisdictions receive appropriate preservation credit for their efforts.
- **Raising the bar for preservation:** HB 723 encourages local jurisdictions to develop their own local program to achieve no-net-loss. In cases where counties or towns elect not to customize their program, the bill provides a baseline mitigation formula of 1:1 replacement when forest is cleared (2:1 replacement when clearing priority forest).

### **HB 723 clarifies the review of “priority” forest areas to reduce harmful fragmentation of forest land.**

Maryland Office • Philip Merrill Environmental Center • 6 Herndon Avenue • Annapolis • Maryland • 21403

*The Chesapeake Bay Foundation (CBF) is a non-profit environmental education and advocacy organization dedicated to the restoration and protection of the Chesapeake Bay. With over 300,000 members and e-subscribers, including over 109,000 in Maryland alone, CBF works to educate the public and to protect the interest of the Chesapeake and its resources.*



State law has long recognized that certain forested areas provide uniquely powerful benefits to people and nature. Unfortunately, these areas have been left vaguely defined and the existing statute provides little guidance to local environmental managers who must evaluate proposals for clearing them. Inconsistent regulation of priority areas often results in fragmentation, leaving the patches of forest that remain even more exposed to degradation and loss.

HB 723 defines five specific categories of priority forests, including those most critical for the well-being of urban communities, interior forest-dwelling birds, regional ecology, the state's highest-quality creeks and streams, and drinking water. The bill further provides an avenue for public participation in the decision to cut these priority forests, and clear criteria by which such proposals should be evaluated.

**HB 723 offers new tools to help local governments and land developers mitigate forest loss.**

Higher standards for offsetting forest loss are sorely needed – but so are additional options to meet them, especially in urban areas where space to replant is tight. HB 723 provides local environmental managers and land developers with mitigation options that are unavailable under existing law:

- **Preservation banking** where the forest conserved is otherwise at reasonable risk of loss due to development activity;
- **Restoration of degraded forest**, which include removal of invasive species, soil improvements, and other recognized best practices;
- Credit for planted **stormwater management** above and beyond state minimum requirements.

The bill adds these new tools to the existing mitigation sequence in the FCA, to be used at the discretion of the local government. These options can help keep the environmental benefits of woodlands and trees closest to the communities bearing the impacts of development activity.

**HB 723 affirms existing processes and authorities to build a stronger and more flexible program.**

The FCA is built on the premise that coordination between the state and local governments is the most effective way to manage the impacts of growth on Maryland's forests. HB 723 integrates new tools and standards into the law in a manner familiar to local governments and land developers. The bill:

- Utilizes existing DNR review and approval authorities for local program amendments;
- Relies on existing annual reporting requirements to track the performance of local programs;
- Clarifies and fills out existing concepts in the law including priority forest, mitigation banking, and alternative compliance measures.

**CBF urges the Committee's FAVORABLE report on HB 723.**

For more information, please contact Matt Stegman, Maryland Staff Attorney, at [mstegman@cbf.org](mailto:mstegman@cbf.org).

**FCA\_HB723\_AudubonMidAtlantic\_.pdf**

Uploaded by: Jim Brown

Position: FAV



**Maryland Office**  
Patterson Park Audubon Ctr  
2901 E. Baltimore St  
Baltimore, MD 21214

March 1, 2023

**To:** House Environment and Transportation Committee

**From:** Jim Brown, Policy Director, Audubon Mid-Atlantic

**Subject:** Favorable Testimony for Maryland **HB723 Natural Resources – Forest Preservation and Retention**

Good Afternoon. My name is Jim Brown. I am the policy director for Audubon Mid-Atlantic, here in Maryland. Audubon Mid-Atlantic is the regional office of National Audubon Society, representing over 35,000 Marylanders who advocate for the protection of birds, bird habitat, and policies aiming to protect both birds and human communities in the face of increasing environmental challenges, habitat loss, pollution and climate change.

Audubon Mid-Atlantic enthusiastically supports *HB723* because it will protect one of Maryland's most important resources, our forests. Specifically, this bill protects birds. What is good for birds is good for all of us. This bill addresses the significant forest loss in our rapidly growing communities, by allowing local government solutions to protect forest and grow tree canopy coverage while meeting local development needs.

The Avian Science tells us birds are in decline due to habitat loss and habitat fragmentation. 1/3 of eastern forest bird species experienced significant population declines in the past 50 years. The rapid declines in birds signal the intensifying stresses that wildlife and people alike are experiencing in Maryland because of habitat loss and environmental degradation.

Taking action on forest protection brings back birds and delivers a cascade of benefits that improve climate resilience and quality of life for all Marylanders. When we restore forest, we filter our water, we sequester carbon, and create habitat for birds. Iconic birds such as – the Baltimore Oriole, Wood Thrush, American Kestrel, Brown Thrasher, Yellow Warbler, which are in decline across Maryland will benefit from this bill, as will people that get to see them.

The Science tells us:

- Maryland forests are becoming increasingly fragmented and diminished
- Fragmentation and forest loss leads to lower productivity in bird populations
- Restoring Maryland's forests will increase bird habitat and overall bird population health across our state.

HB723 will preserve and increase Maryland's tree canopy coverage, improve water quality in the our waterways, and support local community development in an eco-friendly way. HB732 will hold up Maryland as a leader habitat conservation, ecosystem preservation, and the protection of birds now and in the future.

Audubon Mid-Atlantic respectfully urges a favorable review of this legislation.

Thank You,

Jim Brown

Policy Director

Audubon Mid-Atlantic

410-207-2445

[Jim.brown@audubon.org](mailto:Jim.brown@audubon.org)

# **HB 723 Testimony - IPC.pdf**

Uploaded by: Jodi Rose

Position: FAV



*Forming Faithful Stewards,  
Caring for Sacred Waters*

PO Box 6791  
Annapolis, MD 21401

**Natural Resources – Forest Preservation and Retention  
House Bill 723  
FAVORABLE**

February 27, 2023

The Honorable Kumar Barve  
Chair, Environment and Transportation  
Maryland House of Delegates  
251 Taylor House Office Building  
6 Bladen Street  
Annapolis, MD 21401

The Honorable Dana Stein  
Vice Chair, Environment and Transportation  
Maryland House of Delegates  
251 Taylor House Office Building  
6 Bladen Street  
Annapolis, MD 21401

Dear Chair Barve, Vice Chair Stein and members of the Environment and Transportation Committee,

On behalf of Interfaith Partners for the Chesapeake, I write to urge your support for the Natural Resources – Forest Preservation and Retention bill (HB 723) to advance this bill favorably from committee.

**Maryland’s forest losses are staggering: 19,000 acres of forests lost in five years.**<sup>1</sup> That’s the equivalent of losing 10 acres of forest every single day for five years. We all know forests are critical for sinking carbon, filtering pollutants out of the air, slowing down rains thereby reducing flooding, and fostering resilient ecosystems. So why are we allowing such loss of forests? In short, it’s because the laws that define and regulate forest conservation date back to 1991 and no longer address present-day circumstances and development pressures.

**House Bill 723 will update and strengthen forest goals and definitions to provide clarity, reflect new data, protect and conserve more forest land and tree canopy, and give local governments significantly greater flexibility to pursue solutions that meet local development priorities and advance equity.** Maryland’s Forest Conservation Act of 1991 is ill-equipped to address today’s challenges of climate change and watershed pollution and offers an unbalanced reforestation ratio of ¼-acre planted for 1-acre cleared.

Our network of congregations across the state are working hard to plant new trees on their properties, but we cannot keep up with the unsustainable pace of forest losses. **We need**

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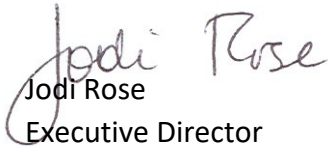
<sup>1</sup> According to Potomac Conservancy, “A recent study published by the Harry R. Hughes Center for Agro-Ecology of the University of Maryland found that Maryland experienced a net statewide forest loss of more than 19,000 acres from 2013 through 2018.”



**House Bill 723 to address systemic failures of the 1991 Forest Conservation Act, so that individual efforts to plant trees are not made in vain.**

Forests are “Creation’s Cure-All,” meaning they restore balance to the Earth in terms of cleaner water, cleaner air to breathe, flourishing ecosystem, home and habitat for birds and insects, holding the soil from erosion, a place to play, a place to pray. This is a gift entrusted to our care, and it is our responsibility to ensure we are preserving forests, not only for today, but also for tomorrow. **Please support House Bill 723 so that we can strengthen the laws designed to protect healthy forests.**

Sincerely,

  
Jodi Rose  
Executive Director

# **HB723 Testimony.pdf**

Uploaded by: Karen Metchis

Position: FAV



Committee: House Environment & Transportation  
Testimony on: HB 723 Sustainable Maryland Program Fund-Establishment  
Submitting: Karen Metchis  
Position: Favorable – without amendments  
Hearing Date: March 1, 2023

HB 723 & SB 526

Dear Delegate Love,

I recently became aware of a proposed amendment by Montgomery County Executive Marc Elrich to remove limits on preservation banking. This is alarming. While some limits could be added to address some concerns, the proposed amendment is too broad and undercuts the State's ability to redress the ongoing loss of forests and to fight climate change. Limits are important for the following reasons:

1. Every acre of replanting obligation offset in a preservation bank *shrinks* the county's forest footprint by that acre. It is, by definition, a net-loss proposition.
2. The loss is compounded when preservation credit is offered on land that is already unlikely to be developed, because of an existing restriction by law or limitation due to site characteristics.
3. The Hughes Center study identified a huge imbalance in banking credits: 4 out of every 5 acres were preserved forest, with only 1 out of 5 acres newly planted.

The list of limitations in the bill significantly curtails the available land area for preservation banking. It is time to take aggressive action to protect and expand forest cover both to preserve biodiversity AND to tackle the onerous challenge of climate change. **Unrestricted banking is simply not acceptable, and I urge you to take caution in accepting any such amendments.**

Thank you for your sponsorship and for voting in favor of HB723 – without watering it down.

Karen Metchis  
4632 South Chelsea Lane  
Bethesda, MD 20814

# **HB723-FAV-AdvocatesForHerringBay.pdf**

Uploaded by: Kathleen Gramp

Position: FAV

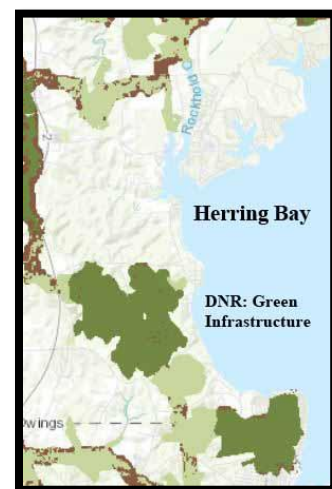
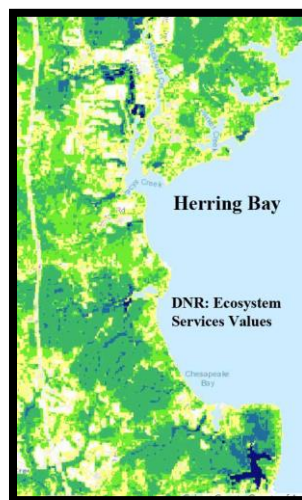
Testimony of the Advocates for Herring Bay<sup>1</sup>  
 Regarding HB 723: Forest Preservation and Retention  
 Submitted by Kathleen Gramp, February 27, 2023  
*Favorable*

The Advocates for Herring Bay strongly support enacting the forestry management reforms in HB 723. The bill offers a fresh approach to valuing Maryland’s forest resources, one that builds on scientific evidence of their role in promoting the resiliency and health of our communities.

Without the reforms in HB 723, the Herring Bay area is at risk of losing forests that provide ecosystem services valued at an average of about \$2,000 *per acre per year*, according to estimates by the Department of Natural Resources (DNR).<sup>2</sup> The watershed’s 7,000 acres of forest stabilize the area’s steep slopes and wetlands, cleanse streams, nurture wildlife, and mitigate damage to property from flooding. For such reasons, DNR has designated a large portion of the Herring Bay area’s forests as green infrastructure assets, as shown in the maps below.

In addition to broad measures strengthening forestry planning and management, HB 723 includes specific reforms that would aid conservation efforts in our area. For example, the bill would:

- Make certain forests a priority for retention, including those that are suitable for forest interior dwelling species, located in Targeted Ecological Areas, or in wellhead protection areas. Those provisions are especially important for the Herring Bay area since 40 percent of its green infrastructure currently is unprotected.
- Allow smaller properties to participate in certain DNR forest conservation programs. Lowering the eligibility threshold to two acres may lead to better protections for the wetland migration zones in Herring Bay that are rimmed by parcels that are too small to qualify for those incentives under current law. And,
- Apply the Forest Conservation Act to land used for electricity generation facilities, which would ensure that projects being built in Herring Bay and adjacent watersheds will be held to the same standards as other types of development.



<sup>1</sup> The Advocates for Herring Bay, Inc. is a community-based environmental group in Anne Arundel County.

<sup>2</sup> See DNR, [Accounting for Maryland's Ecosystems](#) and [Greenprint](#). Map values: green = \$900 to \$2,800 per acre per year; blue = \$2,700 to \$3,600 per acre per year.

# 2023 Written Testimony HB 723\_Forest.pdf

Uploaded by: Kenneth Phelps, Jr.

Position: FAV



**TESTIMONY IN SUPPORT OF HB 0723:**

Natural Resources – Forest Preservation and Retention

**\*\*FAVORABLE\*\***

March 1, 2023

**TO:** Hon. Kumar P. Barve, Chair, Hon. Dana Stein, Vice Chair and the members of the House Environment and Transportation Committee

**FROM:** Albert H Todd, Member, Maryland Episcopal Public Policy Network, Diocese of Maryland

**DATE:** February 28, 2023

What if we asked our best engineers to build a machine that could remove pollution from the air and water, suck up CO2 from the atmosphere, filter runoff and groundwater, cool our communities and reduce energy consumption; and, in addition, could do all these things without using any electricity or fuel, at minimal cost to operate and maintain, and be delivered in such a diversity of colors, shapes, and sizes, that almost any community would welcome the installation of such a machine in their neighborhood. They could not improve on a tree. Next to us humans, trees are one of God's most miraculous creations.

In our efforts to restore the Chesapeake Bay, we seem almost exclusively focused on fixing problems – many of which we have created by removing trees and forests from the land! We need to pay attention to conserving those parts of our watershed that already protect our waters—like those marvelous natural machines -- our forests.

Since you woke up today, we lost 10 acres of forest in Maryland. Tomorrow we will lose another 10 acres and so on and so on each day into the future. This rate of loss has declined from a decade ago according to recent studies, but it is still far too much, too fast. It will soon be impossible to maintain healthy streams, restore our Chesapeake Bay, or maintain our own health in the face of this loss of forest lands.

The science is clear; with each acre of forest converted to other uses, we increase the nitrogen and phosphorus pollution into our waterways, we reduce our health, and we diminish habitats. While planting new trees is a worthy investment, it is difficult to replace existing mature healthy forests. It is like walking up a down escalator. We can hardly add enough trees to offset the losses. We continue to lose ground.



Forest clearing has significant negative impacts on water quality, air quality, biodiversity, carbon sequestration, property values, and increases localized flooding. In and around our cities, tree canopy may be the single most practical strategy for adjusting to the serious effects of warming due to climate change. For our waters, buffers of forest along streams are one of our most effective means to fight warming temperatures and reduce pollution. The State of Maryland acknowledged all of this when it passed the landmark Forest Conservation Act in 1992. This progressive legislation is unlike any other in the nation, and the State is to be commended for its far-reaching vision. But, the FCA is flawed and not always enforced, making it hard to achieve its true intent.

**The Natural Resources – Forest Preservation and Retention Bill will clarify and strengthen the FCA and its protections for forests while increasing the total acreage of forest.**

The faith community has been actively engaged in advocacy for previous forest conservation actions taken at the State and local level. The faith community shares a deep connection with trees through scripture and in spiritual practice and have planted thousands of trees on their properties and in their communities. Forests are a special part of God's creation left to our care. Our inability to stem the loss of forests now, is stealing this critical resource from our children. We urge support for the stronger restrictions on the clearing of forests and the requirements for mitigation of loss due to development as well as using forests more effectively to improve our air and water..

The Diocese of Maryland supports a favorable outcome and passage of this Bill.

# **HB0723 Forest Retention February 2023.pdf**

Uploaded by: Kurt Schwarz

Position: FAV



March 1, 2023

**Committee: Environment and Transportation**

**Testimony on: HB0273 – Natural Resources – Forest Protection and Retention**

**Position: Support**

The Maryland Ornithological Society (MOS) strongly supports HB0723 and requests a favorable report from the Environment and Transportation Committee.

HB0723 will update the Forest Conservation Act (FCA) of 1991, which has been found to be inadequate to protect Maryland's priority forests or forest canopy goals. HB0273 will strengthen forest goals and definitions, which will preserve more forest land and tree canopy, while giving local governments more flexibility to help meet local development issues.

A study commissioned by the General Assembly in 2021, Maryland suffered a net loss of over 19,000 acres of forests between 2013 and 2018.<sup>1</sup> Forest losses continue as does forest fragmentation. This is particularly acute in suburban counties.

Forests are very important for mitigating the continuing decline in our bird populations. A recent, much-cited, study has shown that North America has lost 3 billion birds, 29% of its total population, since the 1970s.<sup>2</sup> Eastern forest bird populations have fallen by 27% since 1970. Aside from forest clearing, fragmentation is another threat. Many species require large, unbroken blocks of forest. Intact forests also serve to sequester carbon, a major factor in climate change. Climate change is yet another factor threatening our bird populations. Two-thirds of North America's birds face an increasing risk of extinction from global warming, 389 species are at risk.<sup>3</sup>

Birds provide important ecosystem services, such as pollination, pest control, seed dispersal. Meanwhile, birding itself contributes significantly to Maryland's economy. An estimated 900,000 residents and non-residents enjoy birding in the state. While Marylanders generated \$483 million from wildlife-watching activities in 2011, the Total Industrial Output (TIO), which includes, direct, indirect, and induced effects, totaled over \$909 million, produced 10,807 full- and part-time jobs, and generated \$88.4 million in state and local tax revenue. Nationally, Americans who watch and feed birds contribute \$41 billion to the nation's economy every year.<sup>4</sup>

Lastly, retention of forest, and ideally, increase in forest cover, in the Chesapeake Bay watershed has been recommended for over 30 years as one of the most effective means of reducing pollutant runoff to the estuary. Forests also absorb runoff and play a major role in controlling flooding, a growing concern in this time of climate change. Reduction of non-point source pollution will have major benefits



for wildlife, including birds, fisheries, the economy of Bay communities and for Maryland itself.<sup>5</sup> Forested riparian buffers are also low-tech but effective means of reducing runoff from farms.

In conclusion, MOS believes that an update to the FCA, which will better protect Maryland's priority forests and expand our tree canopy to the benefit of our birds, is very much needed. We ask the Committee to issue a favorable report on HB0723.

Sincerely,

Kurt R. Schwarz  
Conservation Chair Emeritus  
Maryland Ornithological Society  
www.mdbirds.org  
7329 Wildwood Ct.  
Columbia, MD 21046  
410-461-1643  
krschwa1@verizon.net

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<sup>1</sup> Wheeler, Timothy, Maryland still losing forest and trees, though at a slower rate, study finds, Bay Journal, Nov. 18, 2022, [https://www.bayjournal.com/news/growth\\_conservation/maryland-still-losing-forests-and-trees-though-at-a-slower-rate-study-finds/article\\_b1ddd3b0-675e-11ed-9ea9-072671365ff9.html](https://www.bayjournal.com/news/growth_conservation/maryland-still-losing-forests-and-trees-though-at-a-slower-rate-study-finds/article_b1ddd3b0-675e-11ed-9ea9-072671365ff9.html)

<sup>2</sup> Rosenberg, et al, Decline of the North American Avifauna, Science, vol 366, issue 6461, pp. 120-124, 4 October 2019, [https://www.researchgate.net/publication/335939269\\_Decline\\_of\\_the\\_North\\_American\\_avifauna](https://www.researchgate.net/publication/335939269_Decline_of_the_North_American_avifauna)

<sup>3</sup> State of the Birds, 2022, Key Findings, <https://www.stateofthebirds.org/2022/state-of-the-birds-at-a-glance/>

<sup>4</sup> US Fish and Wildlife Service, Economic Impact: Birds, Birdwatching and the U.S. Economy, November 16, 2017, <https://www.fws.gov/birds/bird-enthusiasts/bird-watching/valuing-birds.php>

<sup>5</sup> Forest Service, United States Department of Agriculture, Chesapeake Forest Restoration Strategy, September 2020, [https://d18lev1ok5leia.cloudfront.net/chesapeakebay/cst91\\_chesapeake\\_forest\\_restoration\\_strategy\\_web\\_508\\_final.pdf](https://d18lev1ok5leia.cloudfront.net/chesapeakebay/cst91_chesapeake_forest_restoration_strategy_web_508_final.pdf)

# **hb723-forest preservation- E&T 3-1-'23.pdf**

Uploaded by: Lee Hudson

Position: FAV



**Delaware-Maryland Synod**  
**Evangelical Lutheran Church in America**  
God's work. Our hands.

Testimony Prepared for the  
**Environment and Transportation Committee**  
on  
**House Bill 723**  
March 1, 2023  
Position: **Favorable**

Mr. Chairman and members of the Committee, thank you for the opportunity to testify for care of the gifts of creation. I am Lee Hudson, assistant to the bishop for public policy in the Delaware-Maryland Synod, Evangelical Lutheran Church in America. We are a faith community in three judicatories across our State.

We teach that care of creation is an act of devotion and gratitude for the benediction of natural gifts. A consequence of thanksgiving, we believe responsible stewardship of natural gifts is an ethical mandate. We are called to preserve what is, conserve what is needed, and restore what has been spoiled.

Forest integrity and extent in Maryland was a stated interest of our community in 2008 (LOPP/MD testimony before *EHEA*, Feb. 28, 2008 on *SB431*). The environment is a public good that must be protected in all its public spaces.

**House Bill 723** improves present Maryland care of its natural gifts. It strengthens the work of preservation by gathering more trees into the regulatory definition of “forests” and increasing conserved acreage. The benefits of better policy will accrue to the entire land labeled “Maryland;” its air, watersheds, soils, and species including the human one.

We support such a policy. We support care and preservation of created gifts. We support a favorable report.

Lee Hudson

# **HB723 2023 Sierra Club Testimony.pdf**

Uploaded by: Lily Fountain

Position: FAV



P.O. Box 278  
Riverdale, MD 20738

**Committee: Environment and Transportation**

**Testimony on: HB 723 “Natural Resources – Forest Preservation and Retention”**

**Position: Support**

**Hearing Date: March 1, 2023**

The Maryland Chapter of the Sierra Club strongly supports HB 723 “Natural Resources – Forest Preservation and Retention”. This bill updates definitions and goals for the Forest Conservation Act. The goal to increase the retention and sustainable management of forest lands is changed from no net loss of forest to increasing the acreage of forest and tree canopy per the recommendations of the General Assembly mandated study, the Technical Study on Forest Cover and Tree Canopy in Maryland, also known as the Hughes Report.<sup>1</sup>

This report was released just before this General Assembly session and identified changes in the amount of forest and individual trees and clusters (tree canopy):

*-Net loss of forest in 20 counties:* Calvert, Allegheny, Prince George’s, Montgomery, Charles, Anne Arundel, Washington, Howard, Cecil, Baltimore City, St. Mary’s, Caroline, Harford, Baltimore County, Frederick, Dorchester, Kent, Carroll, and Talbot counties. The number of acres lost varied from a high of nearly 6,000 acres in Prince George’s County, to the lowest net loss of 31 acres Talbot. Four counties gained forest: Queen Anne, Wicomico, Worcester, and Somerset, ranging from 2 acres to over 3,100 acres. If tree canopy, or individual trees or clumps over 10 feet tall are included as well as forest, the number of counties with increased forest canopy was 10 (Table 12).

*-Inadequate restoration of forest after development:* When development occurred over the five years studied, forest mitigation banking programs throughout Maryland either planted trees or preserved existing forest. However, following the Attorney General’s decision to no longer permit the establishment of retention banks, the system is in change since those make up the majority (81%) of all reported bank acreage in the state. This contributed to forest loss in the state.

These losses are a critical problem for Marylanders since our forests provide many benefits. Historically, few ecosystem service benefits of forests had clearly established monetary values.<sup>2</sup> If a forest was logged, only the monetary value of the timber was considered; only recently have the goods and services provided by the forests been given a monetary value for the benefits of air pollution that acres of forest provide. It costs \$6000 per ton to filter pollutants that trees removed for free. Even the value of the health benefits from trees has been modeled using the U.S. EPA’s Environmental Benefits Mapping and Analysis Program (U.S. EPA 2012)<sup>3</sup> for each U.S. county. Another difficult-to-replace quality of trees is the quantity of reduced stormwater flow and

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<sup>1</sup> Harry R. Hughes Center for Agro-Ecology, University of Maryland College of Agriculture & Natural Resources, Chesapeake Conservancy, & University of Vermont (November, 2022). [Technical Study on Changes in Forest Cover and Tree Canopy in Maryland.](#)

<sup>2</sup> The Wilderness Society (2001). [Economic Value of Forest Ecosystem Services: A Review.](#)

<sup>3</sup> [Environmental Benefits Mapping and Analysis Program - Community Edition \(BenMAP-CE\).](#)(2022).

pollution as ‘net avoided runoff’, meaning the amount of surface runoff (and associated pollutants) that no longer need to be managed due to the effects of trees.

Using these types of analyses, the state of New Jersey found that the water quality ecological services of forests was valued at 55 million. DNR reported in the Maryland Forest Carbon inventory that forests offset 14.8% of state emissions.<sup>4</sup> And in a review of studies of the economic value of forest, the recreational value of Eastern US wilderness was \$29 million dollars.<sup>5</sup>

Because of the many documented benefits of forests, Bill SB527 designates the following types of forest areas as priority forests that are not to be disturbed unless a project is determined to qualify for a variance:

1. Forest land suitable for forest-interior-dwelling species (FIDS) habitat and forest corridors connecting these forest patches.
2. Forest land located in a targeted ecological area as identified by the Department of Natural Resources.
3. Forest located in a Tier II or Tier III high quality watershed as identified by the Department of the Environment.
4. Forest located in a Water Resource Protection Zone, a reservoir, watershed, or a Wellhead Protection Area as identified by a local jurisdiction.

Importantly, the bill increases the ratio for reforestation required to replace forest lost to development from 1 acre reforested for every 4 acres removed to 1 acre reforested for every acre removed (a 1:1 ratio) unless an alternate management approach is developed by a local government and approved by DNR that maintains the same amount of forest when viewed over a 2-year period. The bill also clarifies the provisions regarding the use of mitigation banks so that only areas with development potential are designated as qualified conservation areas and that their permanent protection only provides 50% credit towards meeting replacement requirements. These measures should enable Maryland to move toward net gain of forest canopy, as well as equalize the differences between counties in forest canopy change over time, while allowing more flexibility to jurisdictions to meet the new parameters. Finally, equity concerns are addressed by identifying measures to increase tree canopy in urban areas.

For all of these reasons, the Maryland Chapter of the Sierra Club strongly supports this bill and highly recommends your favorable report.

Lily Fountain  
Chair, Natural Places Committee  
Lily.Fountain@MDSierra.org

Josh Tulkin  
Chapter Director  
Josh.Tulkin@MDSierra.org

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<sup>4</sup> Maryland Department of the Environment (2017). [Maryland Forest Carbon Inventory](#).

<sup>5</sup> The Wilderness Society (2001). [Economic Value of Forest Ecosystem Services: A Review](#).

# Written support for HB723 - Forest Preservation.pdf

Uploaded by: Marisa Olszewski

Position: FAV



Kim Coble  
Executive Director

February 22, 2023

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Thomas

**SUPPORT: HB723 - Natural Resources - Forest Preservation**

Chairman Barve and Members of the Committee:

Maryland LCV is grateful for Delegate Love's leadership for introducing HB723 in recognition of our need to renew our forest preservation goals and update our methods for protecting and increasing our forest cover. Trees and forests provide an enormous value to our state, however our current policy for forest conservation has been inadequate in accounting for these benefits when permitting the removal of trees and forest acreage. As a result we must update our existing systems as we strive to balance forest conservation amidst the ever present pressures of development. HB723 will improve our ability to preserve forest in Maryland and moves us towards the necessary goal of a net gain of forest acreage. For this reason, Maryland LCV is pleased to support HB723.

Last year, the Harry R. Hughes Center for AgroEcology released the "Technical Study on Changes in Forest Cover and Tree Canopy in Maryland." The study found loss of forests to be greatest in central Maryland, especially in areas adjacent to Washington D.C., and that overall, the state had yet to achieve our state's goal of "no net loss." HB723 offers an appropriate response to this documented forest loss in our state and will provide the necessary update to Maryland's Forest Conservation Law.

HB723 will:

1. **Set clear goals and metrics to reach a net gain forest cover**, as well as tree canopy cover - leaving flexibility for urban and suburban jurisdictions.
2. **Protect priority forests** and reduce forest fragmentation.
3. Establish clear and appropriate definitions of the terms forest and tree canopy.
4. Differentiate replanting ratios for different land uses.
5. Affirm the value of street trees and support gains in urban canopy cover.

Why do we need to protect our forests? Ecologists have found that a single oak tree can provide food for over 500 different types of caterpillars and its acorns are eaten by more than 100 different animals. There is no question trees and forests are essential habitat for wildlife, but they are also essential for people. Trees provide a vast array of ecosystem services, including:



### **Reducing urban heat island effect<sup>1</sup>.**

- Trees provide shade, which can keep temperatures as much as 20–45 degrees F cooler than unshaded surfaces.
- Trees also provide evaporative cooling effect from their ecological process of evapotranspiration<sup>2</sup> (the absorption of heat while releasing water vapor).
- Trees provide much needed cooling, greenspace, and air quality improvements in areas that have faced decades of disinvestment.

### **Removing pollutants from stormwater<sup>3</sup>**

- Both forests, with immense water storage capacity, but also urban street trees, are important for their abilities to move stormwater and the excess nutrients it carries into storage in the soil.<sup>4</sup>

### **Removing pollutants from the air<sup>5</sup>.**

- The US Forest Service reported trees in 11 parks in the National Capital area remove more than 1.1 million metric tons of air pollutants annually.<sup>6</sup>
- A study of tree canopy in New York City determined a tree cover increase of just 10% provided more than a third of the reduction needed to achieve air quality standards.<sup>7</sup>

### **Mitigating greenhouse gas emissions**

- Preserving forests is one of the most effective and least expensive mitigation measures for absorbing greenhouse gas emissions. Ten acres of mature trees sequester about 8-10 tons of carbon annually<sup>8</sup> (or the equivalent carbon dioxide emitted from a gas-powered car driving more than 22,000 miles).

### **Supporting vital human health outcomes**

- A 2022 World Wildlife Fund report investigated the many researched connections between human health and forests. The report found exposure to forests reduced incidences of infectious diseases and noncommunicable diseases like cancer, reduced diabetes and cardiovascular disease, and supported good mental health.<sup>9</sup>

Trees and forests are essential to our health while also supporting a myriad of positive environmental goals. It is imperative that we update our Forest

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<sup>1</sup>Urban heat island effect occurs as hardened surfaces, like pavement and buildings, absorb heat by solar radiation, then radiate that heat back into the air. Temperatures in urban neighborhoods can differ by as much as 20 degrees Fahrenheit due to this effect (<https://www.heat.gov/pages/urban-heat-islands>).

<sup>2</sup> <https://www.epa.gov/heatislands/using-trees-and-vegetation-reduce-heat-islands>

<sup>3</sup> Stormwater is a growing source of pollution to the Chesapeake Bay.

<sup>4</sup> <https://www.nature.com/articles/s41598-021-01804-3>

<sup>5</sup>In 2020, even with traffic reduced due to COVID-19 pandemic restrictions, EPA data showed Baltimore experienced 43 days of elevated air pollution. (<https://insideclimatenews.org/news/19102021/air-pollution-baltimore/>)

<sup>6</sup> <https://www.nps.gov/articles/000/uerla-trees-air-pollution.htm>

<sup>7</sup> [Trees at Work: Economic Accounting for Forest Ecosystem Services in the US South](#). Chapter 4. Forest Ecosystem Services: Carbon and Air Quality. Nowak, David J., Poudyal, Neelam C. and Steven G. McNulty. (51.) Accessed from: [https://www.srs.fs.usda.gov/pubs/gtr/gtr\\_srs226/gtr\\_srs226\\_ch4.pdf](https://www.srs.fs.usda.gov/pubs/gtr/gtr_srs226/gtr_srs226_ch4.pdf)

<sup>8</sup> <https://www.sunjournal.com/2021/06/11/energy-matters-does-your-10-acres-cover-your-carbon-footprint-2>

<sup>9</sup> <https://www.worldwildlife.org/press-releases/new-report-demonstrates-strong-scientific-link-between-forests-and-human-health>

Conservation Law with HB723 to reduce forest fragmentation and work toward a new goal of a net gain of forests in Maryland. Maryland LCV urges a favorable report on this bill.

# **HB 0723 Chesapeake Bay Commission Written Testimon**

Uploaded by: Mark Hoffman

Position: FAV



# CHESAPEAKE BAY COMMISSION

*Policy for the Bay • [www.chesbay.us](http://www.chesbay.us)*

## Written Testimony

Bill Number/Title: HB 723 / Natural Resources – Forest Preservation and Retention  
Committee: Environment and Transportation  
Hearing: March 1, 2023  
Position: Support

The Chesapeake Bay Commission is a tri-state legislative commission created by law in Maryland, Pennsylvania, and Virginia to advise the members of the three general assemblies on matters of watershed-wide concern. Its fundamental purpose is to assist each assembly and the U.S. Congress to develop legislation and policies that foster the collaborative and practical restoration of the Chesapeake Bay and its watershed.

### Position

The Maryland legislative members of the Commission support HB 723, including any amendments offered by the sponsors.

### Background

The protection and expansion of forest and tree canopy are critical to the restoring the health of the Chesapeake Bay for the benefit of the watershed's citizens. Natural forests are the most effective and least expensive means to capture rainwater and limit the pollutant loads from stormwater runoff. Additionally, forests (and tree canopy in non-forested landscapes) are a sink for atmospheric carbon and provide public health benefits. Forests and forest buffers along waterways provide a buffer for the impacts of flooding.

The General Assembly has addressed forest conservation for decades, both in providing incentives to preserve forest, and limitations on their removal. In response to efforts to strengthen the state's Forest Conservation Act, legislation was passed in 2019 and 2021 to require an assessment of forest and tree canopy in Maryland – given what were then disagreement about the status and health of the state's forested land. The results of this analysis, coordinated by the Harry R. Hughes Center for Agro-Ecology were released in late-2022.

The Hughes study made the following key findings:

- Although the rate of forest lost has slowed in recent years, we continue to (net-net) lose acres of forest each year.
- The rate of forest loss is very uneven across the state, with jurisdictions in the central part of Maryland experience much higher rates of forest and tree canopy loss than the state-wide average.
- The fragmentation of existing forests continues to be a significant concern.
- Given the right policy tools and incentives, the potential exists to reverse this trend, and create an environment where forest and tree canopy are increasing each year.

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*Headquarters & Maryland Office* 60 West Street, Suite 406 • Annapolis, Maryland 21401 • Phone 410.263.3420

*Virginia Office* 900 East Main Street, 11th Floor • Richmond, Virginia 23219 • Phone 804.786.4849

*Pennsylvania Office* c/o Senate of Pennsylvania • B63 Main Capitol • Harrisburg, Pennsylvania 17120 • Phone 717.772.3651

Additionally, in recent years multiple counties have taken the policy lead in enacting local ordinances to strengthen forest conservation above the minimums of existing state law. HB 723 builds upon these efforts.

#### Summary of Legislation

HB 723 reflects the findings of the Hughes study by making policy actions that will turn the tide on forest loss in Maryland. Specifically, it does the following:

- Updates our state goal to be one of increasing forest and tree canopy cover over time.
- Makes the formal definitions consistent with the methods used by the Chesapeake Bay Program to assess forest and tree canopy cover.
- Strengthens the requirements of the Forest Conservation Act, while at the same time giving local governments and the development community significantly greater flexibility to pursue solutions that meet local needs and advance equity.
- Increases the protection of priority forest and reduces forest fragmentation.
- Allows for the use of existing forest for mitigation – but only when that forest is under potential threat.
- Narrows utility generation exemption to apply only to transmission infrastructure.
- Makes certain smaller forested areas eligible for forest management plans and associated incentives.

Collectively, these changes will contribute to an increase in forest and tree canopy in Maryland, while at the same time increasing the ability of local governments to structure programs to meet local concerns.

Contact:

Mark Hoffman

Maryland Director

Chesapeake Bay Commission

[mhoffman@chesbay.us](mailto:mhoffman@chesbay.us)

**Arundel Rivers Federation\_FAV\_HB0723.docx.pdf**

Uploaded by: Matthew Johnston

Position: FAV



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**Testimony in SUPPORT of House Bill 723 – Natural Resources – Preservation and Retention**

Environment and Transportation Committee

March 1, 2023

Dear Chair Barve and Members of the Committee,

Thank you for the opportunity to submit testimony in **SUPPORT** of HB723 on behalf of Arundel Rivers Federation. Arundel Rivers is a non-profit organization dedicated to the protection, preservation, and restoration of the South, West and Rhode Rivers with over 3,500 supporters. Our mission is to work with local communities to achieve clean, fishable, and swimmable waterways for present and future generations.

According to the US EPA's Chesapeake Bay Program, an acre of sprawling, suburban roadways and lawns contributes seven times more nitrogen and 30 times more sediment to nearby streams than an acre of forest. Simply put, water quality policy is land use policy, and the best land use policy for water quality is one that halts sprawl and conserves existing forests.

In late 2019, Anne Arundel County passed its own forest conservation bill after losing thousands of acres of forests to sprawl over the previous decade. After a unanimous, bipartisan vote, the new law increased the amount of forest that had to be preserved by an applicant seeking to develop land, prohibited the clearing of large forests greater than 75 acres in size, doubled the mitigation (replanting) requirements, and tripled the fee-in-lieu of mitigation so that applicants had an incentive to mitigate by replanting trees on their site rather than cutting the County a check.

These provisions went a long way in protecting forests and water quality. Applicants are avoiding disturbing larger forests, redevelopment in urban areas is on the rise, and the County is finding ways to get new trees in the ground to replace those that were lost. Moreover, residential development has not ceased. In its *2021 Metropolitan Building Activity Report*, the Baltimore Metropolitan Council stated that "Anne Arundel County led the region by permitting 1,405 new [single-family] units" two years after the new forest protections were passed.

Anne Arundel County is evidence that we do not need to choose between housing and protecting our forests and our waterways. Maryland residents deserve both. For these reasons, Arundel Rivers Federation urges a **FAVORABLE REPORT** on HB723.

Sincerely,

A handwritten signature in black ink that reads "Matt Johnston".

Matthew Johnston  
Executive Director  
Arundel Rivers Federation

# **HB 723 Natural Resources – Forest Preservation and**

Uploaded by: Nancy Soreng

Position: FAV





**TESTIMONY TO THE HOUSE ENVIRONMENT AND TRANSPORTATION  
COMMITTEE**

**HB 723 Natural Resources – Forest Preservation and Retention**

**POSITION: Support**

**BY: Nancy Soreng, President**

**DATE: March 1, 2023**

The League of Women Voters believes that natural resources should be managed as interrelated parts of life-supporting ecosystems. Resources should be conserved and protected to assure their future availability.

At this time when the devastating effects of climate change are becoming more and more noticeable, it is important to take as many defensive steps as we can. At the state level in Maryland this year that means doing more to improve forest conservation.

Consequently, the League of Women Voters of Maryland urges you issue a favorable report on HB 723.

# **Dunn to Chair Barve Vice Chair Stein re HB 723.pdf**

Uploaded by: Reed Perry

Position: FAV

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February 27, 2023

The Honorable Kumar P. Barve  
Chair, Environment and Transportation  
Committee  
Maryland House of Delegates  
251 House Office Building  
Annapolis, MD 21401

The Honorable Dana Stein  
Vice Chair, Environment and Transportation  
Committee  
Maryland House of Delegates  
251 House Office Building  
Annapolis, MD 21401

### **RE: HB 723 – Forest Preservation and Retention - Favorable**

Dear Chair Barve, Vice Chair Stein and members of the Environment and Transportation Committee,

On behalf of Chesapeake Conservancy, I would like offer our strong support for HB 723 concerning Natural Resources – Forest Preservation and Retention.

Chesapeake Conservancy joined the Harry R. Hughes Center for Agro-Ecology and the University of Vermont to complete a *Technical Study on Changes in Forest Cover and Tree Canopy in Maryland*, released in November 2022. The study is the most comprehensive to date on the state of Maryland's forests, and allowed the research team to make the following conclusions with high confidence:

1. Since the passing of the Forest Conservation Act in 1991, the rate of forest loss across the state has slowed, approaching stabilization, but the trend is still negative - a conclusion that all three data sources agree on. The slowing rate of loss between 2000 and today occurred while the state population grew by 17%.
2. However, trends at the county level show concerning trends and very different patterns of change across the state. The permanent loss of forests to development is concentrated in Central Maryland, where two counties, Prince Georges and Montgomery, represented over 40% of the forest loss to development across the state; and 5 counties (adding Anne Arundel, Charles and Baltimore Counties) had over 70% of the forest loss to development across the state.
3. The study also examined opportunities to increase forest and tree canopy across the state with these key findings:
  - a) The state has accelerated investment in tree planting in recent years, but experts advise it will take 5 to 15 years for those plantings to reach sufficient size to impact tree canopy area.
  - b) Existing mature trees about 15 to 50 years old generate the largest increases in tree canopy area - therefore conserving moderate-aged trees will have the greatest impact on forest area.

- c) We saw tree canopy area increase in two key areas: 1) in protected areas, where we expected forests would be protected but saw a 2,000 acre net gain in tree canopy area, and 2) in agricultural areas where the increased area in riparian forest buffers was clearly visible in the data.

These findings all point towards the positive impact forest conservation legislation has had on Maryland's forests and the potential for policies to achieve no net forest loss and transition to forest gain, a policy we urge the state to adopt. With the impacts of climate change already being felt across the state, including the increase we've seen both in flash flooding and extreme heat in our cities we need the benefits trees provide more than ever. Reasonable measures to tilt the balance from forest loss to gain will provide great benefits to our communities, our environment and our quality of life.

HB 723 will help Maryland to achieve net forest gain and tree canopy gain through several provisions, including those that would protect priority forest areas and reduce forest fragmentation. If passed, this legislation would contribute to the conservation of more forest and tree canopy across Maryland, and importantly it would give local governments greater flexibility to pursue forest conservation in ways that meet local needs and advance equity.

Thank you for considering this testimony. I fully support HB 723 and I urge a favorable report on this important legislation.

Sincerely,



Joel Dunn  
President and CEO  
Chesapeake Conservancy

# **HB 723 - FCA - Love Wttm.pdf**

Uploaded by: Sara Love

Position: FAV



THE MARYLAND HOUSE OF DELEGATES  
ANNAPOLIS, MARYLAND 21401

**HB 723 – Natural Resources – Forest Preservation and Retention**

Chair Barve, Vice Chair Stein, Members of ENT:

In 2019 this body passed legislation, led by Delegate Healey, which required a technical study of changes in Maryland’s forest cover and tree canopy. This study was published by the Harry R. Hughes Center for Agro-Ecology of the University of Maryland and was released in late 2022. It is from this study that we formed HB 723.

The Study states:

Forests represent one of Maryland’s most important natural resources, critical to its economy, sustainability, health and identity. They are vitally important for water filtration, stormwater mitigation, air pollution removal, climate resilience and carbon sequestration. Forest conservation and tree planting have been identified as a central strategy to achieve the goals laid out in the 2014 Chesapeake Bay Agreement. Forests have been recognized as an important climate adaptation strategy, offering protection against storm surges, floods, sea level rise and extreme temperatures. Trees outside forests, including urban trees, serve important functions, mitigating the urban heat island effect, improving air quality, providing natural heating and cooling factors and benefiting human mental and physical health. Tree cover is an important component of “green infrastructure,” and serves a critical environmental justice role in low income and other disadvantaged communities.<sup>1</sup>

**MARYLAND IS LOSING FOREST AND TREE CANOPY**

The study found that Maryland experienced a net statewide forest loss of more than 19,000 acres from 2013 through 2018. Losses to development and forest fragmentation remain significant.

**CURRENT LAW IS INSUFFICIENT**

Maryland's Forest Conservation Act, passed in 1991, introduced a minimum floor for mitigation when forests are cleared for development. But these standards are not equipped to address today's challenges to climate and clean water. An unbalanced reforestation ratio of a quarter acre planted for each acre cleared, combined with other credits, means that nearly two-thirds of a forested site can be felled with no replanting required at all. And without clear definitions and protections for the state's most valuable priority forests, too many are left fragmented and vulnerable to degradation.

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<sup>1</sup> <https://agmr.umd.edu/research/research-and-education-centers-locations/harry-r-hughes-center-agro-ecology>

### **HB 723 WILL:**

- Update forest goals and definitions to provide clarity and reflect new data
- Protect and conserve more forest land and tree canopy
- Give local governments significantly greater flexibility to pursue solutions that meet local needs and advance equity

### **FOREST GOALS AND DEFINITIONS – A gain in forest, with clear metrics.**

- Affirms the Hughes Study potential for a net gain in forest cover
- Sets a companion goal for net gain of tree canopy (*This allows progress in ALL areas, not just suburban and rural areas with better access to large forested areas.*)
- Favors directional goals over numeric thresholds – make forest gain a performance standard
- Makes definitions consistent with state/regional accountability framework

### **FOREST CONSERVATION ACT – A more protective & equitable standard, with added flexibility.**

- Protects priority forest and reduces fragmentation
- Calibrates the replanting ratio and accommodates local priorities and innovation
- Fills gaps & rebalances mitigation banking
- Narrows utility generation exemption to reflect modern and growing energy sources

### **FOREST MANAGEMENT PLANS – Equitable access for suburban & urban forests.**

- Makes certain smaller forested areas eligible for forest management plans and associated incentives

I respectfully request a favorable report on HB 723.

**HB 0723\_IndivisibleHoCoMD\_FAV\_VirginiaSmith.pdf**

Uploaded by: Virginia Smith

Position: FAV





## **HB723 – Natural Resources – Forest Preservation and Retention**

**Testimony before**

**House Environment and Transportation Committee**

**March 1, 2023**

**Position: Favorable**

Mr. Chair, Mr. Vice Chair and members of the committee, my name is Virginia Smith, and I represent the 750+ members of Indivisible Howard County. We are providing written testimony today in **support of HB723**, which would alter the meaning of “qualified conservation” and establish and add different methods for afforestation, reforestation, and preservation requirements. Indivisible Howard County is an active member of the Maryland Legislative Coalition (with 30,000+ members). We appreciate the leadership of Delegate Love in sponsoring this important legislation.

Forests are a necessity. They prevent erosion, enrich and conserve soil and decrease the risk of diseases. They are the second-largest holder of carbon after the oceans. Spending time in forests provides physical and mental health benefits for people. This bill will ensure that we preserve and grow the forests that we currently have in Maryland. It will require that each acre of forest cleared be reforested at a ratio of 1 to 1, except existing priority cover, which will require reforestation at a 2 to 1 ratio. It also allows local jurisdictions to develop and propose alternative plans for afforestation, reforestation, and preservation, which will help different areas be nimble with their preservation.

For these reasons, we support HB723.

Thank you for your consideration of this important legislation.

**We respectfully urge a favorable report.**

Virginia Smith  
Columbia, MD 21044

**HB723\_Testimony\_ShoreRivers\_SUPPORT.pdf**

Uploaded by: Zack Kelleher

Position: FAV



## Testimony in SUPPORT of HB723 – Forest Preservation and Retention

February 27, 2023

Dear Chairman Barve and Members of the Committee,

Thank you for this opportunity to submit testimony in **SUPPORT** of **HB723** on behalf of ShoreRivers. ShoreRivers is a river protection group on Maryland's Eastern Shore with more than 2,000 members. Our mission is to protect and restore our Eastern Shore waterways through science-based advocacy, restoration, and education.

Maryland loses about 3,000 acres of forest every year. Forest clearing contributes to poor water quality, fragmentation and loss of wildlife habitat, reduced carbon sequestration, air pollution, increased temperatures, localized flooding, and lower property values. On the Eastern Shore of Maryland, where more than 60% of all land use is shaped by agricultural activities, the negative impacts of irresponsible forestry on an already under forested landscape are more acute, as are its impacts to local water quality.

**Forests and trees offer tangible benefits to the state's economy by contributing an estimated \$3.1 billion per year in flood prevention and stormwater mitigation, an estimated \$140 million per year in reducing air pollution, and \$246 million per year in surface water protection (Campbell et al. 2019). These are costs that the state would need to pay if it were to develop and apply technologies to serve these functions.**

The outdoor recreation industry is significant to Maryland's economy, contributing \$14 billion per year (Outdoor Industry Association 2017). Currently, the 1.5 million acres of protected land in Maryland (much of which is forested) generates \$4 billion annually (Campbell et al. 2019). At the local individual property level, one large tree can eliminate up to 5,000 gallons of stormwater runoff per year and reduce building energy costs by 15–35% for homes and business owners (State of Maryland 2019).

Trees are one of the most positive long-term investments that can be made to improve water quality in the Chesapeake Bay, and many of our trees are threatened by the ongoing effects of climate change, as well as development activity within our watersheds. **This bill will update forest goals and definitions to provide clarity and reflect new data, protect and conserve more forest land and tree canopy, and give local governments flexibility to pursue solutions that meet local needs and advance equity goals.**

We support this bill for increased forest preservation and retention, and urge the Committee to adopt a **FAVORABLE** report on **HB723**.

Sincerely,

**Zack Kelleher**

Sassafras Riverkeeper, on behalf of ShoreRivers

**ShoreRivers**

Isabel Hardesty, Executive Director

Annie Richards, Chester Riverkeeper | Matt Pluta, Choptank Riverkeeper | Zack Kelleher Sassafras Riverkeeper

[shorerivers.org](http://shorerivers.org) | 443.385.0511 | [info@shorerivers.org](mailto:info@shorerivers.org)

**DNR\_FWA\_HB723**

Uploaded by: David Goshorn

Position: FWA



Wes Moore, Governor  
Aruna Miller, Lt. Governor  
Josh Kurtz, Acting Secretary  
Allan Fisher, Deputy Secretary

March 1, 2023

**BILL NUMBER: House Bill 723 – First Reader**

**SHORT TITLE: Natural Resources - Forest Preservation and Retention**

**DEPARTMENT'S POSITION: SUPPORT WITH AMENDMENTS**

**EXPLANATION OF DEPARTMENT'S POSITION:**

The Department of Natural Resources supports HB 723 with amendments, and the Department welcomes the opportunity to continue working with the sponsors and others on specifics.

HB 723 proposes to address a recent study's analysis of existing tree canopy and forest cover by replacing the no net loss policy with a net increase policy. The Department supports this intent, however the policy statement assumes an indefinite availability of land to plant over an indefinite period of time, should consider natural disasters or electrical reliability clearing, and assumes timely availability of the data sources. It would be worth considering a more quantitative goal and one which addresses changes beyond the control of jurisdictions. Additionally, the definition of forest land should not specify the patch width since widths other than 240 feet are in use and planned by the Chesapeake Bay Program and the United States Forest Service's forest inventory and analysis (FIA). Finally, to help clarify or further define priority areas for conservation, the Department would recommend referencing existing processes like the state-led priority urban tree mapping initiative.

HB 723 addresses the use of existing forest or qualified conservation for mitigation bank purposes. Retention mitigation banking is one of few developed-area conservation strategies for mature forests. Holding on to older forests recognizes the tremendous benefits of carbon storage and sequestration, as well as the potential for carbon markets. The bill narrowly defines the land available for this use by removing specific land types that could be considered priority areas for retention and protection as stated in the Maryland Forest Conservation Act (FCA). The study states that existing forest banks comprise 81% of reported bank acreage with a total of 13,997 acres. These add up to large acres of existing forest ('usually larger trees') that are protected from development by easements and provide landowners with a source of income. With this bill language, qualified conservation banks will be permitted as a mitigation option that has the ability to conserve forests of interest at no cost to the state.

Other provisions authorize the use of forest restoration as required mitigation at two acres restored to one acre of requirement and expand the minimum mitigation requirements. The addition of another mitigation option on top of new tree planting and retention mitigation banking will expand flexibility in meeting mitigation requirements.

HB 723 also reduces the minimum acreage eligibility for the Forest Conservation Management Agreement (FCMA) program from five acres to two acres, which may increase the number of participants.

Contact: Emily Wilson, Director, Legislative and Constituent Services (Acting)  
[emilyh.wilson@maryland.gov](mailto:emilyh.wilson@maryland.gov) ♦ 410-260-8426 (office) ♦ 443-223-1176 (cell)

**BACKGROUND INFORMATION:**

The Harry R. Hughes Center for Agro-Ecology recently released a technical study on Changes in Forest Cover and Tree Canopy in Maryland, November 2022. This study was originally required per 2019 Session Chapter 405, and then extended per 2021 Session Chapter 645. The study looked at existing tree canopy and forest cover and changes in cover, as well as Maryland FCA’s mitigation banking option.

Another aspect of the study reports on existing forest mitigation banking practices - both planted and existing forest banks - at the local jurisdiction level across the state, and states that existing forest banks comprise 81% of reported bank acreage with a total of 13,997 acres. These add up to large acres of existing forest (‘usually mature trees’) that are protected from development by easements and provide landowners with a source of income. This is a means of protecting existing forest without cost to the state.

The bill proposes to address a technical issue with the existing qualified conservation bank language as approved during the 2021 Session and following a 2020 Office of the Attorney General opinion determined that new tree planting was the only clearly authorized mitigation for FCA requirements. That language enabled the use of existing forest as a mitigation banking site to meet mitigation requirements under the Maryland FCA but only using banks approved prior to December 30, 2020. This bill clarifies the existing language to enable those retention banks or qualified conservation banks that were submitted or approved before December 31, 2020, to still be utilized, and allows retention mitigation banking to be used going forward where local jurisdictions have authorized. This bill also adds restrictions to where banks can be located.

Lastly HB 723 reduces the acreage eligibility for the FCMA program from five acres to two acres in specific counties. This change will result in a 110% eligibility increase in parcel eligibility by making an additional 17,314 parcels eligible. The FCMA program reduces property tax to the agricultural rate for those who enter the program with five acres. For properties under five acres, which would become eligible for the program via this bill, the assessment value would be frozen at the property’s current rate when it enters the program.

During the 2021 Session, Chapter 645 established qualified conservation banking as an allowable form of FCA mitigation. However, the bill did not address those existing forest retention banks that were established prior to December 31, 2020.

The Maryland FCA (NRA 5-1601–5-1613) applies to any subdivision plan or application for grading or sediment control permit by any person, including local, state and federal government, on areas of 40,000 square feet or greater. The Act requires that mitigation be accomplished for the land disturbance onsite, offsite, by creation of forest land banks, or by fee-in-lieu. The statute provides preferred sequences for afforestation and reforestation, priority areas for retention and protection, and priority areas for afforestation or reforestation. Prior to the Office of the Attorney General opinion, retention of existing forest banks which required preservation at a 2:1 ratio (2 acres of existing forest protected for each 1 acre of required mitigation) was occurring in those approximately 14 counties that adopted the language in their forest conservation ordinances.

**BILL EXPLANATION:**

HB 723 revises the previous no net loss of forest policy language to a net increase every four years.

HB 723 revises the definition of qualified conservation which affects qualified conservation mitigation banking through the Maryland FCA. The bill revises the method for calculating reforestation mitigation and enables the local jurisdiction, if they wish, to propose alternative mitigation requirements to maintain its existing level of forest cover over a two-year period. The department may approve this alternative and if approved, the department can rescind the approval if expected results are not achieved at the end of the two consecutive two-year periods. The bill also adds to the mitigation methods allowed in specifically

designated municipal corporations and adds to the list of priority areas for retention and protection as well as the narrower list of these areas that require a variance if designated for disturbance on the forest conservation plan. Lastly, the bill reduces the eligibility threshold to enter into the FCMA program in specific counties.

**HB0723-ET\_MACo\_SWA.pdf**

Uploaded by: Dominic Butchko

Position: FWA





## House Bill 723

### *Natural Resources – Forest Preservation and Retention*

MACo Position: **SUPPORT**  
**WITH AMENDMENTS**

To: Environment and Transportation  
Committee

Date: March 1, 2023

From: Dominic J. Butchko

The Maryland Association of Counties (MACo) **SUPPORTS HB 723 WITH AMENDMENTS**. The bill updates Maryland’s approach to forest conservation, requiring among other things: no net loss of trees, reauthorizing forest mitigation banking, moving forest conservation goals from the project level to the county level, and expanding tools counties can use to meet expanded forest conservation goals.

In 1991, Maryland passed the Forest Conservation Act (FCA). The Act was an attempt to limit the degradation of Maryland’s forest due to development. According to the Department of Natural Resources (DNR) the purpose of the FCA was to,

“...minimize the loss of Maryland's forest resources during land development by making the identification and protection of forests and other sensitive areas an integral part of the site planning process.”

The 2022 study by the Harry R. Hughes Center for Agro-Ecology outlines that since the FCA was enacted in 1991, Maryland’s overall forest cover has receded at a slower rate and is approaching stabilization. This stabilization varies by region, with more developed areas seeing higher rates of loss and fragmentation. Maryland’s statewide tree landscape has improved since the FCA was enacted, but opportunities for improvement remain.

Forest conservation touches more than just trees. Policies protecting these natural areas also have an impact on development and public health. Counties recognize that one of the value propositions of living in Maryland is its natural landscapes, including its forests. But this must also be valued with economic growth and further development. Counties are not suggesting that these three goals – conservation, growth, and public health – are mutually exclusive. But counties do urge the General Assembly to consider the broader impact of such wide-reaching and comprehensive legislation.

Counties thank both the Senate and House sponsor, as well as the advocates, for their extensive conversations with both individual county leaders and MACo staff regarding ways to strengthen this legislation. MACo has been working with the sponsors and advocates on several technical and clarifying amendments, some of which are highlighted below.

Counties' overall goal is to ensure that the final product is both implementable and has the flexibility to fit the unique contours of Maryland's system of local governance.

1. Exempt tree farms and orchards from the requirements of this legislation.
2. Improve or remove the broad process and requirement for zoning variances.
3. Require DNR to regularly update the forest conservation manual.
4. Instruct that conservation plans should be automatically approved after two years if DNR has not acted on them.
5. Place greater focus and investment on not only the quantity of forests, but also the quality of forests. This bill primarily places focus on the former.
6. Place greater focus on the elimination of invasive species that are harmful to forests and negatively contribute to tree loss and forest health.
7. Fully restore forest mitigation banking. Forest mitigation banking was effectively removed as a tool for counties through legislation several years ago. Counties urge for practical and effective forest mitigation banking to be fully restored with no sunset on the availability of banks.
8. Provide more data regarding the taxation segment of this legislation. This policy places great accountability on counties to meet forest conservation goals while at the same time removes resources to meet those goals.
9. Narrow the scope of replanting requirements. As written, the bill references protections and replanting requirements for trees, shrubs, and plants. Requiring replanting of all vegetation is a major policy shift and an overwhelming charge for almost all jurisdictions.
10. Address definitional concerns, including the definition of "Forest Land" which does not exclude non-native, invasive species. Under the current definition, counties fear a landowner could be penalized for clearing an area that is mainly invasive species.

Counties remain committed to working with the Committee, stakeholders, and staff to address the amendments listed above and to alleviate other concerns shared with the sponsors. Counties firmly believe that the goals of conservation, growth, and public health are not mutually exclusive and policy solutions that address all three goals are very much within reach. Accordingly, MACo urges a **FAVORABLE WITH AMENDMENTS** report for HB 723.

# **MFA Statement on HB 723, Forest Retention and Pres**

Uploaded by: Joe Hinson

Position: FWA



# Maryland Forests Association, Inc.

P.O. Box 332

Linkwood, MD 21835

410-463-1755

*Maryland's voice for forest, wildlife, and natural resource management*

## **Statement of the**

### **Maryland Forests Association**

#### **Regarding**

#### **HB 723, Forest Preservation and Retention**

**March 2, 2023**

#### **To the Chair and Members of the Committee:**

The Maryland Forests Association, representing the forest industry, landowners, and forest enthusiasts from across the state, supports the goals of the Forest Conservation Act. This act requires those clear forest lands with the intent to convert them to another, non-forest use, to either plant an equivalent area of trees on non-forested land, pay into a mitigation fund or protect the perpetual use of other forest lands from conversion.

Occasionally, usually at the county zoning level, we see confusion between commercial logging and forest management where there is no intent to convert the land where this occurs to a non-forest use. In fact, logging is a function of determining what the future forest will be like and protecting or enhancing forest values on that land. While it may temporarily alter the appearance of the forest, logging per se will not convert the land to another use.

When there is confusion between logging and land conversion, regulatory requirements that may be appropriate for the soil disturbances associated with land clearing may be imposed on a commercial logging project. Logging as a part of forest management is already well-regulated by the Maryland Forest Service, Maryland Department of Environment and the local soil conservation district. Additional regulations that might be imposed by a county are redundant and often excessive.

Maryland Forests Association suggests a simple amendment to help clarify the distinction between logging and land clearing for conversion by specifying that the provisions of this chapter do not apply to commercial logging or forest management activities where there is no intent to convert the land to a non-forested use.

With the addition of such language, the Maryland Forests Association supports the legislation. Please feel free to contact Beth Hill, Executive Director, at 410-463-1755 or Joe Hinson, President, at (208) 890-2931 if we can provide any additional information.

**BaltimoreCounty\_FWA\_HB0723.pdf**

Uploaded by: Joshua Greenberg

Position: FWA



JOHN A. OLSZEWSKI, JR.  
*County Executive*

JENNIFER AIOSA  
*Director of Government Affairs*

AMANDA KONTZ CARR  
*Legislative Officer*

JOSHUA M. GREENBERG  
*Associate Director of Government Affairs*

**BILL NO.:**            **HB 723**

**TITLE:**                **Natural Resources – Forest Preservation and Retention**

**SPONSOR:**           **Delegate Love**

**COMMITTEE:**        **Environment and Transportation**

**POSITION:**          **SUPPORT WITH AMENDMENTS**

**DATE:**                **March 1, 2023**

Baltimore County **SUPPORTS WITH AMENDMENTS** House Bill 723 – Natural Resources – Forest Preservation and Retention. HB 723 updates the state’s Forest Conservation Act (FCA) with a goal to slow, and possibly reverse, the continued loss of forest land across the state.

The bill would provide each county the opportunity to develop their own forest conservation program and present that plan to DNR for approval that the plan is sufficient to achieve no-net-loss of forest over a four year period. If a county opts not to create their own plan, or if DNR rejects the plan, then a 1:1 replanting ratio for forest loss would apply to that jurisdiction with a 2:1 replanting ratio within “priority areas” within that jurisdiction. The bill contains many positive provisions toward helping to increase forest cover, protect priority forests, and better account for tree canopy added within urban areas, however there are several areas that Baltimore County believes should be amended to ensure local jurisdictions can implement the legislation, by adding clarification and specificity. The following are issues within the bill we believe should be addressed:

1. This bill changes the definition of “forest land” as it pertains to state goals for forests, separate from the Forest Conservation Act (FCA) itself, but this new definition conflicts with the FCA definition of “Forest” (and “Forest Cover”) stated in 5-1601. As a result, the state goal for “forest land” would not be measured in the same way as the FCA would measure “forest cover” and so the measures of success in meeting the state goal and the FCA goal become disconnected. An amendment to ensure that both are measured similarly would help ensure that forest conservation (under FCA) and forested area are measured the same way.

2. The “Forest Land” definition appears to be an incomplete approximation of the way the Chesapeake Bay Program (CBP) maps forest land use. This change might require the State to modify land use map data for Chesapeake Bay modeling. CBP land use has a number of carve outs from “forest” land such as agricultural windbreaks, natural succession, and canopy over other surfaces. A result of these carve outs is that CBP “forest” land” cover includes patches much smaller than 1 acre in size and more narrow than 240 feet in width. We should ensure comparability among existing State and regional programs and methodologies to ensure data and tracking compatibility.
3. Definitions of “forest” and “reforestation” may impact NPDES MS4 permit (e.g. impervious surface restoration) and TMDL compliance of counties. The existing definitions in Title 5 allow “forest” to be as small as 10,000 sq ft. Excluding tree covered areas between 43,560 (1 acre) and 10,000 sq ft from the definition of forest makes MS4 permit and TMDL compliance more challenging in some jurisdictions. We are concerned this provision could result in reclassification of tree plantings from “reforestation” to “tree canopy expansion” which has lower modeled efficacy for pollutant load reductions, thus increasing costs for pollutant load reductions. At a time when we need all the trees we can get, especially in more developed communities, raising costs associated with doing so is problematic.
4. The bill is not clear regarding whether or how a county must account for losses that qualify for Declarations of Intent, such as clearing for agriculture, single lot intra-family transfers, and forestry activities. Currently, such changes in land use are not required to be mitigated under the FCA. The bill should clarify how these, and potentially other forest losses, are “counted” toward the four-year “no net loss” goal.
5. Amendments to clarify the method for crediting street trees and remediation of degraded forest land toward FCA satisfaction should be added to the bill, to ensure a local jurisdictions understands how to add such measures to its local implementation plan.

Baltimore County lauds the intent of HB 723 to increase flexibility for local jurisdictions responsible for FCA implementation while raising expectations for forest replacement associated with losses due to regulated activities. Further clarification and additional specificity, however, are necessary to ensure local jurisdictions can implement the new requirements.

Accordingly, Baltimore County requests a **FAVORABLE WITH AMENDMENTS** report on HB 723. For more information, please contact Jenn Aiosa, Director of Government Affairs at [jaiosa@baltimorecountymd.gov](mailto:jaiosa@baltimorecountymd.gov).

# **HB 723 - Forest Retention - FWA - REALTORS.pdf**

Uploaded by: Lisa May

Position: FWA





**House Bill 723 – Natural Resources – Forest Preservation and Retention**

**Position: Support with Amendments**

Maryland REALTORS® supports efforts to conserve forest land in the state and to provide additional options for developers to meet their forest retention requirements. However, given the severe housing shortage in Maryland, those efforts must also be balanced against the need for additional housing and housing affordability.

In order to protect both of those goals, Maryland must maintain a robust off-site forest banking program. This is particularly true for areas designated for higher-density development, like those near transit areas and in priority funding districts. If off-site forest banking is not readily available or is severely restricted, housing developers will be subject to higher in lieu fee payments, which will raise the costs for any homes that result. We also have concerns that the increased mitigation ratios for forest clearing will have a similar impact on housing affordability.

Finally, REALTORS® recommend that projects within the existing development pipeline be grandfathered into any new forest retention requirements. Requiring these changes on developers which have already incurred substantial time and expense in meeting the current requirements should not be faced with changing standards in the middle of their projects.

With the above amendments, Maryland REALTORS® requests support for HB 723.

**For more information contact**  
**[lisa.may@mdrealtor.org](mailto:lisa.may@mdrealtor.org) or [christa.mcgee@mdrealtor.org](mailto:christa.mcgee@mdrealtor.org)**

**HB 723 - MoCo\_Elrich\_SWA (GA 23 ).pdf**

Uploaded by: Marc Elrich

Position: FWA



OFFICE OF THE COUNTY EXECUTIVE

Marc Elrich  
County Executive

March 1, 2023

TO: The Honorable Kumar P. Barve  
Chair, Environment and Transportation Committee

FROM: Marc Elrich  
County Executive

RE: House Bill 723, *Natural Resources – Forest Preservation and Retention*  
Support with Amendments

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I am writing to express my support for House Bill 723, *Natural Resources – Forest Preservation and Retention*. The intent of the bill is to increase forest and canopy cover across Maryland beyond a no-net-loss threshold. This is a very timely and appropriate goal that aligns with many of Montgomery County's long-term goals for environmental protection, climate change, carbon emissions, and livable communities. The bill recognizes that retention of forests and canopy is needed in addition to reforestation and other plantings. It aims to increase forest retention and planting requirements to maintain, at a minimum, no net loss and move towards increasing forests and canopy across the state over time.

I note that the Forest Conservation Act (FCA) is a complex law and that the Montgomery County Department of Environmental Protection (DEP) recommends a number of clarifying and technical changes to facilitate smooth implementation and avoid unintended circumstances. I have attached specific comments developed by DEP that identify issues that could be addressed in technical and clarifying amendments.

I respectfully request that the Environment and Transportation Committee give House Bill 723 a favorable report with amendments that address the attached issues.

cc: Members of the Environment and Transportation Committee

**Comments regarding HB 723**  
**Developed by the Montgomery County Department of Environmental Protection**  
**3/1/2023**

1. Section 5-101(e)(1) Section 5-101(e)(1) of the Natural Resources Article, changing the definition of ‘forest.’ Montgomery County understands this change is to parts of the Natural Resources Articles that do not impact the definition of ‘forest’ within the Forest Conservation Act (FCA) or programs with local jurisdictions. However, there needs to be some assurance that this definition will not be used to determine forest or canopy coverage for the baseline or subsequent analysis to determine compliance with FCA.
2. Section 5-1606.1(b) Section 5-101(e)(1) of the Natural Resources Article, approving local programs. The methods for determining baseline forest cover and changes in forest cover must be clarified and include only what is required to be reported in each jurisdiction’s annual report. The annual report only includes those properties subjected to the FCA. If all forest cover is included in the baseline and subsequent analysis, then forest cover will most likely decline due to forest lost to activities not regulated by the FCA.

Additionally, flexibility for local programs to adopt provisions specific to their jurisdiction’s conditions that would allow them to meet state requirements is essential and should be maintained. For example, pending amendments in Montgomery County propose a tiered approach with four levels of ratios paired with increases in the thresholds that should provide incentives to retain forests, as well as increases in forest cover on lands subject to the local program.

3. Section 5-1607(b)(3)(iii) Section 5-101(e)(1) of the Natural Resources Article, enhancement of existing forest and supplemental planting. This option for mitigation is great. It has always been in the law and should be used more to increase the health and vigor of forests under stress from the over-abundance of deer, non-native invasive species, climate change, and use by people. The local programs should continue to have flexibility on establishing parameters based on local conditions.
4. Section 5-1607(c)(2) Section 5-101(e)(1) of the Natural Resources Article, variance review of certain trees and conditions. Broadening the trees, forests, buffers, and other conditions subject to variances before disturbance can occur without improving the variance review procedures and strengthening mechanisms to implement protections will result in more application requirements and slower reviews without much to show for the effort. Another option for discouraging disturbance to these priority trees and forests would be to increase mitigation ratios for these specific conditions. For example, disturbance to any parcel with historic significance or rare, threatened, and endangered species would be subject to a 2:1 or 3:1 ratio. This is less subjective and onerous than current variance procedures.
5. Section 5-1602(b)(5) of the Natural Resources Article, removing exemption clearing or cutting forests on land outside of rights-of-way for electric generating stations. These bills would remove the exemption from certain parts of the FCA, requiring development activity for electric generating stations to fully comply with the FCA. This aims to

enhance incentives to find alternative sources of electricity and is consistent with Montgomery County's Climate Action Plan.

6. Section 8-211 of the Tax Property Article, tax incentive for retaining forested land. Given fragmentation and parcelization, this change is helpful.

**HB 723 FAV DPP Testimony MW LS23.2-27-23.pdf**

Uploaded by: Michael Wilkins

Position: FWA



# FREDERICK COUNTY GOVERNMENT

Jessica Fitzwater  
County Executive

## DIVISION OF PLANNING & PERMITTING

Department of Development Review & Planning

Steven C. Horn, Division Director

Michael L. Wilkins, Director

### **HB 0723 - Natural Resources – Forest Preservation and Retention**

**DATE:** March 1, 2023  
**COMMITTEE:** House Environment and Transportation Committee  
**POSITION:** Favorable  
**FROM:** Michael Wilkins, Frederick County Department of Development Review and Planning Director

As the Director of the Frederick County Department of Development Review and Planning, within the Division of Planning and Permitting, I respectfully request a favorable report on HB 0723 - Natural Resources – Forest Preservation and Retention with the inclusion of our attached amendments.

In my role, I manage Frederick County's compliance with the Forest Conservation Act and work closely with stakeholders impacted by state and local forest conservation policies. I am proud of the strong conservation policies Frederick County has enacted and commend the state's effort to study and improve statewide conservation practices.

To help ensure that statewide forest conservation policies are feasible for county and local governments, I believe there are a few minor amendments (see attached) that should be made to HB 723. First, we believe changes should be made to the exemptions to "qualified conservation," listed on pages 3 and 4. With the current bill language, we would be prohibiting the protection of priority retention areas based on a property's development potential. Instead, we recommend the state identify specific target areas that are included in the forest banking program as a way to prioritize conservation in high-need habitats while not unduly limiting what projects qualify. These target areas should include forests that are buffers for streams, creeks, and floodplains, as well as critical or vulnerable habitats. This is a policy Frederick County has adopted and has been a successful tool in maximizing the impact of our conservation efforts. Prior to the adoption of the "Trees Solution Now Act of 2021", Frederick County permanently preserved 2,500 acres of existing forest in priority conservation areas, including stream buffers, floodplains, and habitat for rare, threatened, and endangered species. Regardless of a property's development potential, the best way to protect priority conservation areas is through a permanent easement program.

Second, the deadlines for use of monies in the Forest Conservation Fund should be adjusted to provide localities sufficient time to effectively use these funds for planting projects. Frederick County Government supports legislation (HB 530) to extend the timeframe that local jurisdictions have to use forest conservation funds for reforestation or afforestation from two years (or three growing periods) to five years (or six growing periods). We ask that those changes be made in HB 723 as well.

Third, the proposed revisions to the definition of "Forest land" is in conflict with the definition of "forest" in 5-1601 of the Forest Conservation Act. The definition of "forest" in 1-1601 includes a minimum area of 10,000 square feet, and Frederick County's definition includes a

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minimum width of 35 feet. If the definition of “forest lands” is interpreted to be more restrictive than the definition of forest under 5-1601, it could require a forest to be a minimum of 1 acre (43,560 square feet) in size with a minimum width of 240 feet to be considered forest for FCA. This means that an area of trees and other woody plants that is less than 1 acre in size is not considered to be forest and can be cleared without penalty or mitigation. This will result in a net loss of forest and is contrary to the goals of this legislative effort. If the proposed definition is to be used only for the purpose of measuring forest canopy, then it will exclude areas that are considered forest for the purpose of meeting FCA requirements. We recommend the state adopt a definition that will better meet the purpose of the Forest Conservation Act.

Furthermore, to better fulfill the intent of the Forest Conservation Act, I believe that the definition of “Forest lands” should include the qualifier “native”, or “predominantly native.” This is an important distinction to ensure that our policies are not requiring the protection of non-native, invasive species that threaten the well-being of our ecosystems. Requiring conservation easements, or, penalizing a property owner for clearing an area comprised of 100% invasive tree species would be an unfortunate consequence of the language as currently drafted.

Finally, to balance the needs of our conservation efforts with adjacent economic industries, we recommend exempting Christmas tree farms and orchards from the “tree canopy” definition. Regular or occasional clearing or tree removal is a crucial component of these businesses, and the intent of the Forest Conservation Act is not to stifle those industries.

Once again, thank you for your consideration of HB 723. With these amendments, I believe the Forest Conservation Act will meet the needs of Frederick County Government and the communities across the state. I urge the committee to give HB 723 a favorable with amendments report.

Respectfully,

Michael Wilkins  
Director, Development Review and Planning  
Frederick County, MD Division of Planning and Permitting  
30 North Market Street,  
Frederick, MD 21701  
301-600-2329  
mwilkins@FrederickCountyMD.gov



**Requested Amendments**

AMENDMENT 1:

Page 3 – 4 section 5-1601. (gg)

**(2) Replace IS NOT LOCATED ON LAND FOR WHICH and subsections (I) through (IV) with:**

**(2) WILL PROVIDE BUFFERS FOR STREAMS, CREEKS, FLOODPLAINS, WETLANDS OR OTHER HYDROLOGICALLY SENSITIVE AREAS, HABITATS FOR RARE, THREATENED, OR ENDANGERED SPECIES, HABITATS FOR INTERIOR DWELLING BIRD SPECIES, AND OTHER AREAS DETERMINED BY THE DEPARTMENT THAT FURTHER THE JURISDICTIONS FOREST CONSERVATION AND ECOLOGICAL ENHANCEMENT GOALS.**

AMENDMENT 2:

5-1610.

(b) There is a Forest Conservation Fund in the Department.

(e) (1) The Department shall accomplish the reforestation or afforestation for which the money is deposited within [2] **5** years or [3] **6** growing seasons, as appropriate, after receipt of the money.

(2) Money deposited in the Fund under subsection (c) of this section shall remain in the Fund for a period of [2] **5** years or [3] **6** growing seasons, and at the end of that time period, any portion that has not been used **OR ENCUMBERED** to meet the afforestation or reforestation requirements shall be returned to the person who provided the money to be used for documented tree planting in the same county or watershed beyond that required by this subtitle or other applicable statutes.

AMENDMENT 3:

Page 3

(e) (1) “Forest land” means [a biological community dominated by trees and other woody plants that are capable of producing timber or other wood products with a stocking of at least 100 trees per acre with at least 50% of those trees having a 2–inch or greater diameter at 4.5 feet above the ground] **A CONTIGUOUS PATCH OF NATIVE (or predominantly native) TREES THAT IS AT LEAST 10,000 SQUARE FEET IN SIZE EXHIBITING AT LEAST ONE TRANSECT OF AT LEAST 35 FEET IN WIDTH**

AMENDMENT 4:

Page 3

(M) “TREE CANOPY” MEANS THE CROWNS OF DECIDUOUS AND EVERGREEN WOODY VEGETATION THAT IS:

(1) THE PRODUCT OF NATURAL GROWTH OR HUMAN PLANTING; AND

(2) GREATER THAN 3 FEET IN HEIGHT.

**(3) IS NOT A COMMERCIAL CHRISTMAS TREE FARM**

**(4) IS NOT A COMMERCIAL ORCHARD**

**HB 723, FWA, OCE Testimony, JF, LS23.pdf**

Uploaded by: Victoria Venable

Position: FWA



**FREDERICK COUNTY GOVERNMENT**  
**OFFICE OF THE COUNTY EXECUTIVE**

Jessica Fitzwater  
*County Executive*

**HB 0723 - Natural Resources – Forest Preservation and Retention**

**DATE:** March 1, 2023  
**COMMITTEE:** House Environment and Transportation Committee  
**POSITION:** Favorable  
**FROM:** The Office of Frederick County Executive Jessica Fitzwater

As the County Executive of Frederick County, I respectfully request a favorable report on HB 0723 - Natural Resources – Forest Preservation and Retention with the inclusion of our attached amendments.

Improving state forest conservation programs including the Forest Conservation Act and the Forest Conservation Fund is a priority of Frederick County Government. In my previous role as a councilperson, I worked hard with stakeholders across the county to enact a strong and balanced local forest conservation ordinance. Balancing economic growth with sustainability and conservation has been a core ethos of mine and will be a cornerstone of my administration. I am proud of the strong conservation policies Frederick County has enacted and commend the State's effort to study and improve statewide conservation practices.

Based on robust conversations with my staff in multiple divisions including the Division of Planning and Permitting and the Division of Energy and Environment, as well as the bill sponsor, I believe this bill will be a strong step forward for statewide forest conservation efforts. To help ensure that statewide forest conservation policies are feasible for county and local governments, I believe there are a few minor amendments (see attached) that should be made to HB 723.

First, we believe changes should be made to the exemptions to “qualified conservation,” listed on pages 3 and 4. It is understandable that the bill sponsor and the advocates do not want land that is not at risk for development to be included in the forest banking program, with the current bill language, the protection of priority retention areas would be prohibited. Our amendments would identify specific target areas that are included in the forest banking program as a way to prioritize conservation in high-need habitats while not unduly limiting what projects qualify. This is a policy Frederick County has adopted and has been a successful tool in maximizing the impact of our conservation efforts.


Second, based on feedback from leaders in several municipalities in Frederick County, the deadlines for use of monies in the Forest Conservation Fund should be adjusted to provide sufficient time to effectively use these funds for reforestation or afforestation projects. While we understand the need to provide a timeframe for these funds to ensure they are used properly and efficiently, the current 2-year timeline has been problematic for smaller municipalities that want to invest in conservation projects but need more time to accrue the necessary funds and plan and execute qualifying projects. Frederick County Government supports legislation (HB 530) to extend the timeframe that local jurisdictions have to use forest conservation funds from two

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years (or three growing periods) to five years (or six growing periods). We ask that those changes be made in HB 723 as well.

You will see other technical amendments included in the testimony of Michael Wilkins, Director of the Frederick County Department of Development Review and Planning, within the Division of Planning and Permitting. These amendments include stronger definitions of “forest land” and minor exemptions to accommodate businesses that rely on tree removal for the ecological health of their crop or core purpose of their business. Please consider the inclusion of the amendments described in this testimony, as well as the amendments enumerated in Director Wilkins’ testimony.

Thank you for your consideration of HB 723. I urge the committee to give this bill with a favorable report.

  
\_\_\_\_\_  
Jessica Fitzwater, County Executive  
Frederick County, MD

**HB 723 - UNF - MML.pdf**

Uploaded by: Angelica Bailey Thupari

Position: UNF



## Maryland Municipal League

*The Association of Maryland's Cities and Towns*

# TESTIMONY

March 1, 2023

**Committee:** House Environment & Transportation

**Bill:** \_\_\_\_\_ HB 723 – Natural Resources – Forest Preservation and Retention

**Position:** Oppose

**Reason for Position:**

The Maryland Municipal League respectfully opposes HB 723, which makes significant changes to the Forest Conservation Act. We join our local government partners at the Maryland Association of Counties (MACo) and echo many of their concerns, but the following points are particularly significant to our members:

- Forest Con Thresholds. This bill establishes forest conservation thresholds for agricultural and resource areas, medium, high-density, mixed-use and planned unit development areas, commercial and industrial use areas, and institutional development areas. The forest conservation threshold changes to a ratio of 2 acres planted for every 1 acre removed. Municipalities are still challenged by the urban, dense nature of most of our jurisdictions and are unsure whether a 2:1 ratio is achievable, especially given the value and cost of land located inside a municipality, which is primarily designated for residential and commercial development. While municipalities go to great lengths to protect urban forests and maintain tree canopies in their cities and towns, due to the urban nature of most municipalities, it becomes more challenging to identify and site larger tracts of land to be designated for reforestation. It has been suggested by our membership that instead, there should be a demarcation between urban and rural land use and utilize a 1:1/4 acre reforestation standard in place for areas located inside Priority Funding Areas (PFAs).
- Mitigation Banking. The Harry Hughes study removed mitigation banking. This bill reauthorizes it, which we appreciate, but our members are concerned about how much forest will quality.
- Quantity Over Quality. This bill places a focus on the quantity of trees, rather than the quality of forests. The pervasiveness of invasive species, for example, is a significant factor in forest health. Clear cutting and development play a part in deforestation, but we also need to address the presentation/eradication of invasive species. The definition of “forest land” would need to be reexamined as well; the current definition does not exclude invasive species, so local governments would be required to replant invasive species under the current draft.

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- FCA Manual. Although the Forest Service within the Department of Natural Resources administers the FCA, it is primarily implemented on the local level. Some municipalities have established their own municipal FCA, while others have elected to follow their county FCA regulations. However, the state FCA manual has not been reviewed since 1997. The League supports the updating of the FCA technical manual every ten years.

For these reasons, the Maryland Municipal League opposes HB 723. However, we are confident that further discussions will generate workable solutions that will enable us to change our position. We look forward to working with the Sponsors and this Committee towards a mutual goal of effective and pragmatic forest conservation in Maryland.

**FOR MORE INFORMATION CONTACT:**

Theresa Kuhns

Angelica Bailey Thupari, Esq.

Bill Jorch

Justin Fiore

Chief Executive Officer

Director of Advocacy & Public Affairs

Director of Public Policy

Manager of Government Relations



# **MBIA Letter of Opposition HB 723.pdf**

Uploaded by: Lori Graf

Position: UNF

March 1, 2023

The Honorable Kumar P. Barve  
Environment & Transportation Committee  
House Office Building, Room 251,  
6 Bladen St., Annapolis, MD, 21401

**RE: MBIA Letter of Opposition HB 723 Natural Resources – Forest Preservation and Retention**

Dear Chairman Barve:

The Maryland Building Industry Association, representing 100,000 employees statewide, appreciates the opportunity to participate in the discussion surrounding **HB 723 Natural Resources – Forest Preservation and Retention**. MBIA **Opposes** the Act in its current version.

This bill amends the definition of “Priority Forest” to add thousands of additional forest acres 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 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 that impact priority forest which includes “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 while Maryland struggles to bring down prices and make housing more accessible to residents of the state.

The bill also amends the location requirements for new mitigation banks based on preservation. 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 for tree banking 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 counties where the majority of the state population resides even though the recently released forest technical study showed that the forest has stabilized statewide 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 these reasons, MBIA respectfully requests the Committee adopt the proposed amendment and give this measure a favorable report. Thank you for your consideration.

For more information about this position, please contact Lori Graf at 410-800-7327 or [lgraf@marylandbuilders.org](mailto:lgraf@marylandbuilders.org).

cc: Members of the House Environment & Transportation Committee

# **MJW HB723 Testimony.pdf**

Uploaded by: Matthew Wessel

Position: UNF

March 1, 2023

Matthew Wessel, PLA, ISA Certified Arborist

Testimony for SB526/HB723

(Natural Resources- Forest Preservation and Retention)

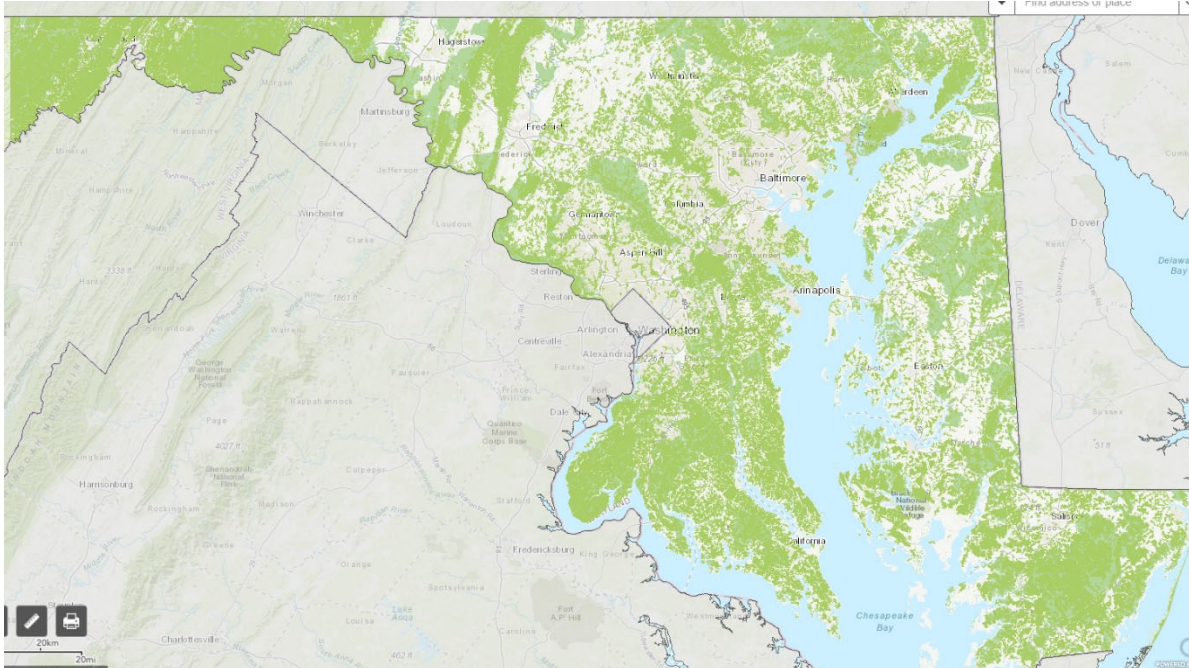
My name is Matthew Wessel. I chair the Environmental Committee for the Maryland Building Industry Association (MBIA). I'm a landscape architect and ISA Certified Arborist with 23 years of experience entitling projects and implementing the forest conservation act in several Maryland counties and municipalities. I am writing this letter at the request of the MBIA and NAIOP to discuss the proposed changes to the Forest Conservation Act (FCA).

#### Our Concerns:

In November 2022 the state released a forest technical study showing that statewide forest is approaching “no net loss” despite the population having grown 17% during the timeframe studied. As a result, this bill revises the state goal of “no net loss” of forest to a “net gain” of forest. This bill puts a disproportionate burden of increasing forest on entities regulated by the forest conservation act, primarily projects that provide employment, institutions, and homes. The bill does not regulate forest impacts from other entities or activities not subject to or exempt from the forest conservation act. The proposed bill does this to such an extent it is plausible that this bill could circumvent the zoning and planning approval processes typically administered by local jurisdictions and limit development by making it difficult to obtain a variance and/or meet mitigation requirements.

#### *Priority Forest- Variance and Increased Mitigation*

This bill **redefines “Priority Forest” to add thousands of acres of forest and requires a variance from the law to impact those forest**. This would result in numerous projects planned for growth by local governments to obtain a variance from the law. The “unwarranted hardship” standard of review makes obtaining a variance prohibitively difficult and time consuming to obtain. Variances also open projects up to litigation and project delays. The following is a map of GIS delineated FIDS habitat and DNR Targeted Ecological Areas which are two of the four areas newly defined as priority forest requiring a variance. Source MERLIN- Maryland Environmental Resource & Land Information Network.

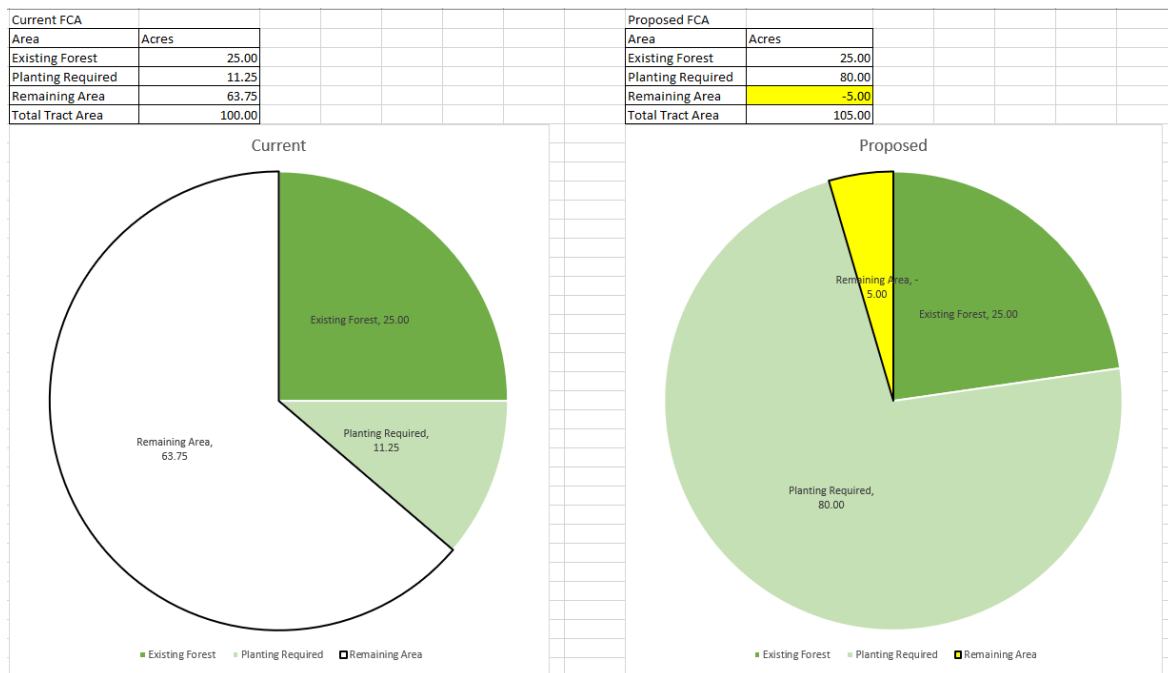


<https://gisapps.dnr.state.md.us/coastalatl2019/MERLIN/index.html>

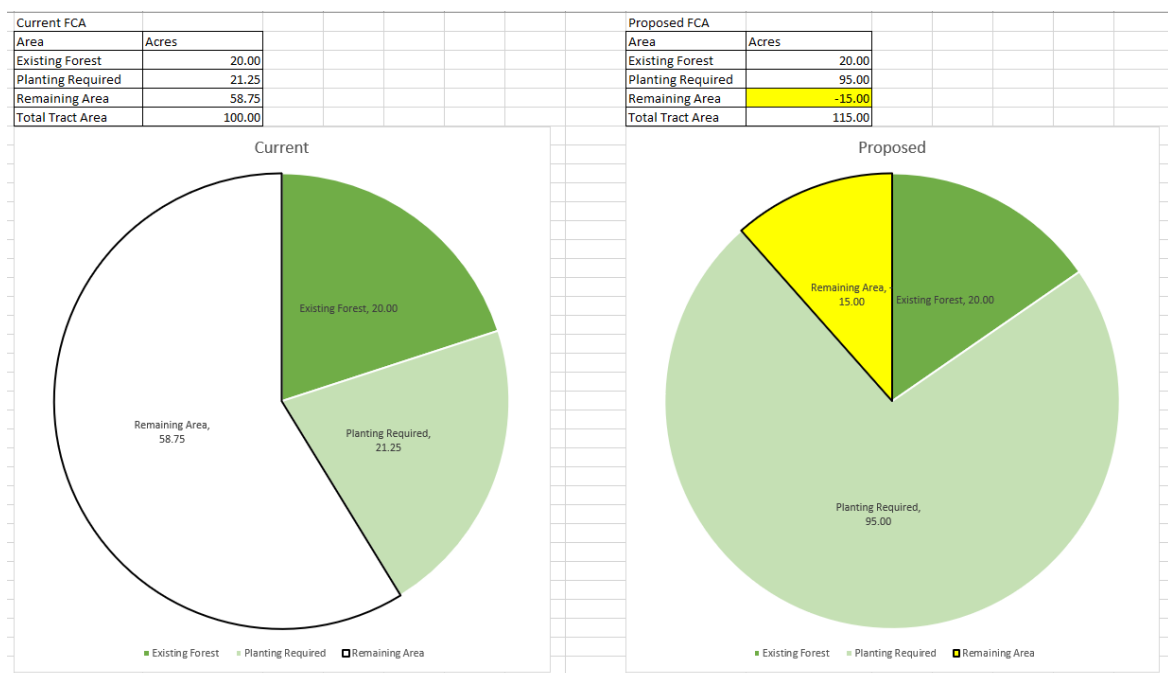
Additionally, the bill **requires 2:1 Mitigation for impacts to priority forest** including “contiguous forest”. This would result in instances where more mitigation would be required than area available to meet on-site.

The following chart illustrates the impact of SB526/HB723 using the examples in the State Forest Conservation Technical Manual. The example uses a 100-acre site with 70 acres of existing forest and a conservation threshold of 25%. Yellow highlights are the amount of mitigation required above the total area of the 100-acre site. Only clearing above the conservation threshold leaves some room for development although in this example 58% less than under the current regulations.

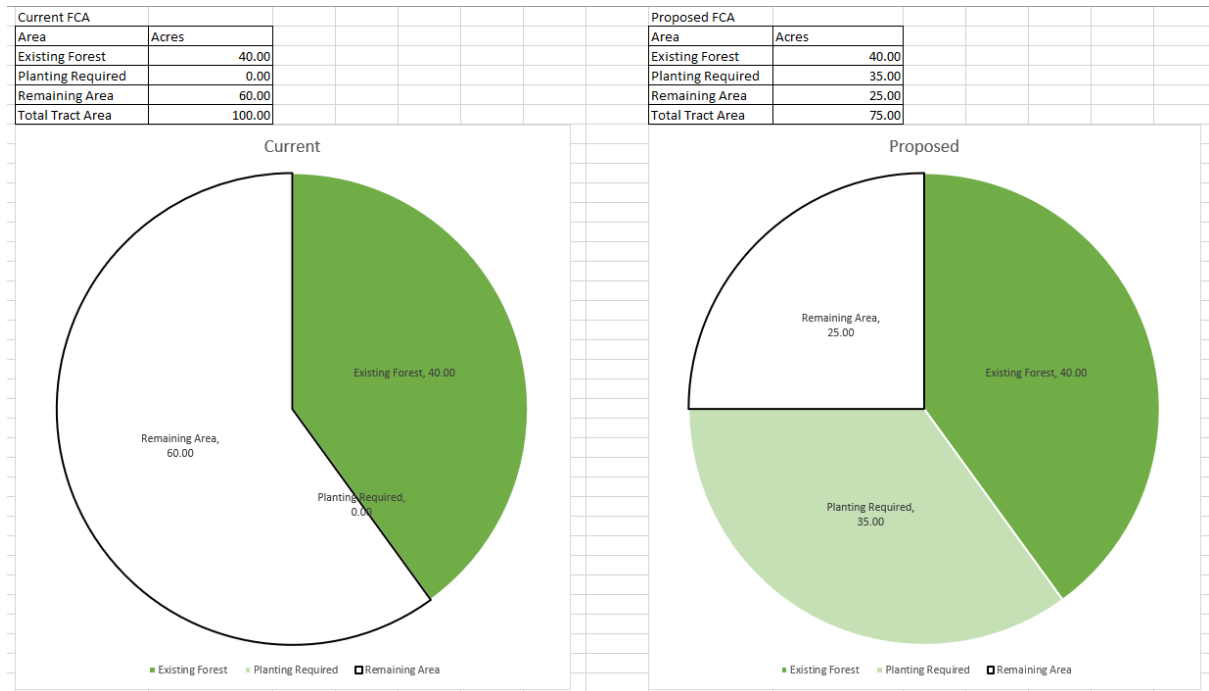
### Clearing Down to the Conservation Threshold



### Clearing Below Conservation Threshold



## Clearing Above the Conservation Threshold



This will require mitigation banking to be utilized as off-site planting opportunities are usually limited. If mitigation banking is not feasible in lieu fee is the last resort for the project to move forward.

### Mitigation Banking

In 2021, HB 991 put limits on banking based on the preservation of large tracts of contiguous forest. This bill **puts further constraints on mitigation banking by adding further restriction on where this banking can occur and maintains a phase out date for its use.** This bill removes the limits HB 991 placed on the supply and instead limits the demand by only allowing projects submitted before December 31, 2020, to utilize banking based on preservation. Even if the date were eliminated, new banks based on preservation are limited to growth areas, taking an income source away from entities that used to conserve forest that were otherwise not regulated by the FCA and instead can only occur on land in areas planned for growth.

### Threatens Mature Projects

This bill contains no transition or grandfathering provisions. This proposed bill would impact numerous projects that have already spent significant resources obtaining approvals that are not yet through the entire development process.

### Conclusion

This bill would result in projects tied up over the variance requirement, projects that cannot meet their mitigation requirements onsite, depleted mitigation banking opportunities, and increased in lieu fee payments not necessarily resulting in more forested land.

Only minor changes would be needed to meet the “net forest gain” goal of the state without adding more complexity and uncertainty. We would appreciate the opportunity to work with sponsors and stakeholders within a timeframe that respects the complexity of this issue to improve forest cover in the State of Maryland.

Thank you for the opportunity to provide testimony.

# **HB 723 - Natural Resources - Forest Preservation an**

Uploaded by: Tom Ballentine

Position: UNF



February 27, 2023

The Honorable Kumar P. Barve, Chair  
House Environment and Transportation Committee  
House Office Building, Room 251  
6 Bladen St., Annapolis, MD 21401

**Unfavorable: HB 723 – Natural Resources – Forest Preservation and Retention**

Dear, Chair Barve and Committee Members:

The NAIOP Maryland Chapters representing more than 700 companies involved in all aspects of commercial, industrial, and mixed-use real estate, recommend your unfavorable report on House Bill 723.

House Bill 723 proposes major changes to the Forest Conservation Act that will significantly reduce the buildable area on land zoned for development and further reduce the remaining development capacity in Maryland's Priority Funding Areas. NAIOP's specific concerns include:

- The definition of Priority Forest is significantly broadened to include tree stands, shrubs, tree canopy and other environmental features. The definition is broad enough to include most existing forest.
- Priority Forest cannot be cleared during development without approval of a variance. The standard of review to approve a variance is, by design, difficult or impossible to meet meaning that most forest cannot be cleared even it were to be replanted.
- Replanting requirements for forest cleared during development are sharply increased. The expanded use of 2:1 mitigation ratios results in more land area dedicated to on-site replanting and reduced buildable area.
- The siting and use of forest mitigation banks is limited making off-site mitigation difficult. There is currently no forest banking capacity in Montgomery County and limited availability in any of the Central Maryland Counties.

As currently written, the Forest Conservation Act uses a sliding scale of conservation and replanting values that are designed to preserve forest but also allow land designated for development to perform as intended under its zoning and use classification. House Bill 723 would make the presence of forest – not zoning - the most important factor in the form and density of future development. Its passage would further deplete the remaining development capacity in Maryland's Priority Funding Areas and make it extremely difficult for these areas to function as the location for future employment and household growth.

The recently released Technical Study on the Changes in Forest Cover and Tree Canopy in Maryland found that the state's forest cover has been stabilizing over the last 10 years and that tree canopy has increased. The results of the study show potential to close remaining gaps through means that will not have the negative land use implications presented by House Bill 723.

**For these reasons, NAIOP respectfully recommends your unfavorable report on House Bill 723.**

Sincerely,

A handwritten signature in blue ink that reads "Tom Ballentine".

Tom Ballentine, Vice President for Policy  
NAIOP Maryland Chapters -*The Association for Commercial Real Estate*

cc: House Environment and Transportation Committee Members  
Nick Manis – Manis, Canning Assoc.



# **Chesapeake Conservancy**

Uploaded by: Chesapeake Conservancy Chesapeake Conservancy

Position: INFO



**TO:** The Honorable Kumar Barve, The Honorable Dana Stein and the House Committee on Environment and Transportation  
**CC:** The Honorable Sarah Elfreth, The Honorable Sara Love, Mr. Jeremy Baker, Mr. Patrick O'Leary Chesapeake Bay Commission, Chesapeake Bay Foundation, Potomac Conservancy, Harry Hughes Center for Agro-Ecology  
**FROM:** Chesapeake Conservancy  
**RE:** HB 723 / SB 526 - Forest Preservation and Retention

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**Executive Summary:** Chesapeake Conservancy is submitting this memorandum to provide clarification regarding the memo submitted to your Committee by Tom Ballentine, VP for Policy, NAIOP Maryland with the subject, "HB 723 / SB 526 – Forest Preservation and Retention – Comments on 3-7-23 ENT Reprint." We have included certain text (italicized) quoted from Mr. Tom Ballentine, NAIOP and we have provided our response (bulleted) to clarify these statements based on the Harry Hughes study findings.

**Background:** Chesapeake Conservancy is a Chesapeake Bay watershed conservation organization and is a non-profit organization. Chesapeake Conservancy's Conservation Innovation Center (CIC) is a leader in the field of conservation technology, cultivating a community centered around collaboration and visionary thinking. Harnessing the power of data and technology—particularly Geographic Information Systems (GIS) and Artificial Intelligence (AI)—the CIC empowers the conservation community by supporting data-driven decision-making.

**Harry Hughes Study:** In recent years the state government identified a need to improve its inventory of forest and tree canopy cover, assess near- and long-term change and assess the effectiveness of forest and tree planting programs operating in the state. The Maryland General Assembly enacted legislation in 2019 (HB 735 / SB 729) and in 2021 (HB 991, Tree Solutions Now Act of 2021) to direct and fund the Harry Hughes Center for Agro-Ecology at the University of Maryland to conduct a statewide assessment of forest cover and tree canopy changes in Maryland.

In November 2022, the Harry Hughes Center published the Technical Study on Changes in Forest Cover and Tree Canopy in Maryland. Chesapeake Conservancy served as the lead author of the report and co-led the geospatial analysis provided in the report along with the University of Vermont.

**Response to NAIOP statements:**

*"The bill as amended does not align well with the findings of the Hughes Center Technical Study On Forest"*

- Counter to NAIOP's statement, Chesapeake Conservancy believes that HB 723 / SB 526 aligns with the findings of the Hughes Study, as clarified in the below responses.

The NAIOP memo states *"The study found that since 2009, Maryland's forest and tree canopy cover **has stabilized**"*

- The forest study does not conclude that Maryland's forest and tree canopy has stabilized, but rather states in the Executive Summary on p. 9 "Forest area has shown a slightly decreasing trend over 5- and 20-year intervals but with **a trend toward stabilization** in the past 10 years." Table ES-1 below shows, in the numbers framed in orange, that all three datasets analyzed for the study agree that forest extent in Maryland continues to decrease, providing high confidence in the direction of the trend.
- **The important distinction is that while the state has made significant progress in reducing the rate of forest loss, the trend remains negative and the no net forest loss goal has not yet been achieved.**

Table ES-1. Forest and tree canopy extent estimates from key data sources.

Source	Initial Year	Extent (thousand acres)	End Year	Extent (thousand acres)	Total % Change (Annual % Change)
<b>Forest<sup>1</sup></b>					
FIA <sup>2</sup>	1999	2,566 (+/- 770)	2019	2,448 (+/- 108)	-4.6% (-0.23%)
CBPO	2013	2,584	2018	2,566	-0.70% (- 0.14%)
<b>Tree Canopy</b>					
Total Tree Canopy (NLCD)	2001	2,802	2019	2,791	-0.39% (-0.022%)
Within Forest (CBPO)	2013	2,584	2018	2,566	-0.70% (- 0.14%)
Outside Forest (CBPO)	2013	523	2018	529	+1.15% (+0.23%)
Total Tree Canopy (CBPO) <sup>3</sup>	2013	3,107	2018	3,095	-0.39% (-0.077%)

- The NAIOP memo cites the study’s notation of progress made while population grew by 17%, but omits the following sentence in the study executive summary, that “This represents an opportunity for the state to achieve a net gain of forests and tree canopy in the near future, given continued investment in forest conservation measures and tree planting.” Based on this statement in the study, Chesapeake Conservancy finds that the legislation would follow these findings.

The memo next states: “Despite the Hughes Study findings, HB 723 / SB 526 requires a replanting rate for priority forest double the rate proposed in the 2018 legislation and the replanting of non-priority forest is three times higher in the 2023 bill than in 2018.”

- The forest study executive summary states “While forests exhibit modest recent net change statewide, there are greater amounts of gain and loss and higher local variability than the statewide balance suggests. Some regions demonstrate modest amounts of forest cover gain and others experienced substantial loss...Other observed statewide trends include forest fragmentation and conversion of existing forests for development.” **Chesapeake Conservancy finds that there is substantial evidence provided by the study that additional mitigation would be needed to counteract forest loss to development, given the regional findings of continued extensive loss of forest due to development in central Maryland.**

NAIOP states that, “no net loss” goal broadened to “increase” both forest land and tree canopy.

“In 2013, in response to recommendations from the Task Force to study a No Net Loss of Forest Policy the General Assembly adopted a statewide goal to achieve a no net loss of forest which it defined as 40% of land in Maryland is covered by tree canopy. (Chapter 384 of 2013) According to the Hughes study (page 26) total tree canopy in Maryland varies based on the data set used but the Chesapeake Bay Program Office estimates that forest covers 42% of the state’s land area and total tree canopy represents 50% of land area.”

- The study found that the extent of forest in Maryland ranges from 39-42%, with estimates of total tree canopy of 50% from the high resolution CBPO dataset. Assessing achievement of the 40% target in the study was complicated by unclear wording with respect to definitions of “forest” and “tree canopy” in the Forest Preservation Act of 2013. Advances in technology, especially with the 1-meter resolution CBPO data, have greatly improved our ability to detect and quantify forest and tree canopy but **do not represent an increase in forest area or total tree canopy since 2013.**
- As cited in table ES-1 above, forest extent numbers in green for the initial measurements from FIA, NLCD, and CBPO datasets vary widely with more recent technological improvements “seeing” far greater forest and tree canopy area than older methods. Due to this we recommend focusing on continued measurements within the same data stream rather than comparisons across them. While the high resolution CBPO data estimated 42% forest and 50% tree canopy in 2018, we believe this does not represent an increase in forest or tree canopy area. In fact, each data stream shows forest area and total tree canopy area decreasing over time. The sole data stream in this set that was available to the state, the FIA data found that the state had 39.7% forest cover in 2013 when the goal was set, and has 39.4% forest cover today.

- A helpful analogy to explain the increased forest and tree canopy extent seen in improving technologies is the public education about our understanding of the universe through improving telescope technology. We have all heard about how the Hubble telescope and now the Webb Space Telescope can observe thousands or millions of new galaxies in the universe, but we know they have already been there. It may be surprising that our ability to measure forest and trees in our state is similarly experiencing rapid technological improvements, but we should keep in mind that this **new technology improves our ability to quantify our forest resources, but does not represent an increase in the extent of forests and tree canopy.**

**Summary:** Chesapeake Conservancy believes that the findings of the Harry Hughes study indicate a clear need and an opportunity to adjust Maryland law on forest preservation and retention, in accordance with HB 723 under consideration by the Committee. If the Committee has additional questions about the Harry Hughes study, please contact Susan Minnemeyer (202-907-6271 / [susan@natureplussolutions.org](mailto:susan@natureplussolutions.org)).

**HB723\_ SB526 M-NCPPC FINAL\_LOI\_(3.1.2023).pdf**

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## LETTER OF INFORMATION

**Bill:** HB723/SB526 Natural Resources – Forest Preservation and Retention

**Date:** March 1, 2023

**Contact:** Debra Borden, General Counsel  
Jordan Baucum Colbert, Government Affairs Liaison

**What The Bill Does:** This bill proposes major changes to the Natural Resources Article Title 5 (Forests and Parks), Subtitles 1 (In General) and 16 (Forest Conservation). All of the proposed changes will have widespread implications for Forest Conservation and Tree Canopy programs in both Montgomery and Prince George’s Counties, which in turn will affect the counties’ master plan goals, specifically for economic development and affordable housing. At its core, the bill seeks to significantly increase required mitigation for forest conservation; it does so while inviting potential negative unintended consequences.

The amendment proposes the following major changes: 1) up to an 8-fold increase in the minimum replacement requirement for forest cleared; 2) add sweeping location requirements to limit the use of qualified conservation (retention tree banks); 3) revised variance criteria which makes it more difficult to obtain.

**Our Concerns:** The Commission is concerned about this bill because the proposed changes have the potential to negatively impact both Montgomery and Prince George’s Counties in ways that are significant and, we believe, unintended.

The proposed amendments would make it difficult for development projects to: reasonably replace forest cleared on-site or off-site, establish and/or use off-site mitigation credits (forest conservation bank) to mitigate for forest cleared, and obtain approval of a variance. The amendments may appear to provide flexibility, but the alternatives proposed contain several impediments that would significantly limit the ability to build on property in accordance with the zoning and allowable uses. It would be very difficult to establish a “reasonable developed area”, and because off-site mitigation is a private market, the feasibility of establishing tree banks would significantly decrease.

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### Office of the General Counsel

221 Prince George Street, First Floor, Annapolis, Maryland 21401  
410.263.1930 tel.

6611 Kenilworth Avenue, Suite 200, Riverdale, Maryland 20737  
301.454.1670 tel.

The **location criteria for the banks** are problematic. Specifically, qualified conservation must be established in areas where subdivisions are not allowed and where state or local laws prohibit subdivisions. For Prince George's County, this includes areas within SGA Tier IV, Sewer Category 6. This location criteria puts **almost all** of the Rural and Agricultural area of Prince George's County out of bounds for tree banking, and this area is precisely where a majority of the county's retention banks (approximately 4800 total) are located. **The Rural and Agricultural area is the most significant to maintaining the county's rural character, preserving/protecting large tracts of contiguous forest, and protecting the county's most sensitive ecological areas. The banking program has for decades been very effective and successful at meeting these goals.**

The sunset clause to use or establish the banks by June 30, 2024, remains in the text of the law and should be removed. **If these banks cannot be used after 2024, property owners are incentivized to seek other options to profit from their large tracts of wooded land, including, but not limited to solar arrays which require a significant amount of vegetation removal.**

The notion that tree preservation is only useful if it utilizes property which is "at risk" for imminent development is not one that holds true from county to county. Every county is different in this regard. The developed areas in Prince George's and Montgomery County have all but been determined at this point in their evolution. Our focus is on protecting our Rural and Agricultural areas by giving property owners **income-generating choices** that don't involve clearing forest, or that affirmatively and perpetually protect existing forest.

The **increase in the replacement ratio** is also problematic. The bill will increase forest conservation minimum replacement requirements in the county from 0.25:1 to 1:1 (in general) and 2:1 (for newly defined priority forests) unless DNR approves a decreased rate as an alternative method that achieves a no net loss. Most, if not all, pending development projects in Prince George's County will experience either a 4-fold or 8-fold increase in their mitigation requirement. It should be noted that priority forest, which consists of forest that contain various environmental features, **encompass most of the forest** in the county. As a result, a significant number of projects will be subject to the 2:1 replacement ratio (a 8-fold increase over today's ratio). Montgomery County is already close to "no net loss", and updates to the reforestation ratios for the proposed FCA legislation currently before the Montgomery County Council were analyzed, we found that this approach had the potential to make development extremely expensive. The proposed amended definition of priority forest will also require more preservation and planting of stream buffers. This seems an excessive and abrupt increase for projects that may already be in the development pipeline.

In addition to the significant increase in forest conservation replacement requirements, the bill adds new criteria for impacts to priority forest areas that will trigger **a required variance** for clearing. The variances must meet strict findings in order to be approved, which may prove to be difficult if not impossible to meet. The counties have other regulations that protect environmental features in the same location as forest that must go through a separate process to request and justify impacts to those features. This revision would make the process redundant and time-consuming.

For these and other reasons, the Commission urges the legislature to consider a summer study so that the counties can have the opportunity to collaborate on a comprehensive update of the State's Forest Conservation Act that allows flexibility and reflects the State's commitment to protecting our forests.