



# 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.**

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*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.**

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