



House Bill 723

Natural Resources – Forest Preservation and Retention

MACo Position: **SUPPORT**
WITH AMENDMENTS

To: Environment and Transportation
Committee

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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.