

HB 1470 Written Testimony Critical Area Commission

Uploaded by: Erik Fisher

Position: FAV

Wes Moore
Governor
Aruna Miller
Lt. Governor



Erik Fisher
Chair
Nick Kelly
Acting Executive Director

**STATE OF MARYLAND
CRITICAL AREA COMMISSION
CHESAPEAKE AND ATLANTIC COASTAL BAYS**

March 20, 2025

BILL NUMBER: HOUSE BILL 1470 – First Reader

SHORT TITLE: Prince George’s County – Chesapeake and Atlantic Coastal Bays Critical Area Protection Program – Cutting or Clearing Trees

COMMISSION’S POSITION: FAVORABLE WITH DELEGATION AMENDMENTS

EXPLANATION OF COMMISSION’S POSITION

The Critical Area Commission (the Commission) is favorable to HB 1470 with the amendments adopted by the Montgomery County and Prince George’s County’s Delegations. The Commission is solely focused on ensuring that any amendments to the Critical Area Law still allow for consistent application of the enforcement provisions within the County’s program and across all Critical Area jurisdictions. The amendments adopted by the Delegations, including a sunset date and provisions limiting applicability, address a unique enforcement scenario in Prince George’s County while also ensuring consistency.

BACKGROUND INFORMATION

The Critical Area Law was enacted in 1984 to establish a Resource Protection Program for the Chesapeake Bay and its tributaries by fostering more sensitive development activity for certain shoreline areas to minimize damage to water quality and natural habitats. The General Assembly established the Critical Area program to be implemented on a cooperative basis between state and local governments, with local governments implementing their programs in a “consistent, uniform, and equitable manner” subject to state criteria and oversight.¹

Local jurisdictions have the primary responsibility for enforcement when there is a violation of the law. The Chair of the Commission may act or refer the case to the Attorney General at the request of the local government or when enforcement actions are not taken in accordance with the law. NR §8-1815 and §8-1815.1 establish parameters and procedures to ensure consistent enforcement across the 64 local jurisdictions within the Critical Area.

BILL EXPLANATION

The bill, as amended by the Delegations, would require Prince George’s County to place a lien on a property within 90 days of issuing a notice of violation for tree

cutting or clearing. If a lien is not recorded, the County would not be able to enforce a violation on a current property owner. Uncodified language also requires the County to: vacate an enforcement action for a certain violation that occurred prior to November 7, 2018; reimburse a current property owner for their costs associated with resolving the previous property owner's violation; and perform the necessary mitigation. The bill would sunset on September 30, 2027.

Contact: Lisa Hoerger at (410) 271-6522 or by email at lisa.hoerger@maryland.gov

ⁱ NR §8-1801(b)(2)

Support HB 1470 - Kelsey Mizeur & Mallory McCormic

Uploaded by: Kelsey Mizeur

Position: FAV

Testimony in Support HB 1470 (MC/PG 113-25)
Kelsey Mizeur & Mallory McCormick

We own McLiving Stables, a small horse farm in the Broad Creek historic district of Ft Washington, MD. It is also located just inside the Chesapeake Bay Critical Area. We purchased this property in late 2020.

We are dealing firsthand with the issue at the heart of this bill, as we are being held liable for the wrongs committed on our property by the previous owners. This ordeal has brought on us immense financial burden as well as untold mental stress and many sleepless nights as we try to find a resolution, that may yet be several years into the future.

Approximately 2 years prior to our purchase, sometime in 2018, the previous owners (seller) performed some land clearing and fence installations without receiving permits from Prince George's County. This activity resulted in the seller receiving stop work orders, fines, and corrective action orders from DPIE in November 2018.

As it turned out, the facts of this situation were grossly misrepresented during the sale process. The issues were vaguely described to us as a "misunderstanding with the county" over "deforestation" that occurred *when trees fell during a storm*. As part of the sale agreement, the sellers were supposed to resolve the issues with the county. During the sale process, we were under the impression they were doing their part, and because *our title search revealed no liens or other issues* that would lead us to believe otherwise, our sale went through.

A couple months later, in early 2021, we began inquiring with DPIE to ensure that the sellers had resolved or were actively working to resolve the issues, but that was unsuccessful. After some initial discussions and being told by a DPIE inspector that more information would be provided, we stopped receiving responses. The last correspondence, received in late March 2021, stated that the issue had been elevated to a DPIE supervisor and was being handled by them. *Despite continued inquiries, we received no further responses*, so we assumed the issue had been resolved by the supervisor.

About a year later in January 2022, we applied for a permit to add a small run-in barn shelter on our property. Red flags went up at the County regarding the former violations. We received a stop work order and were quite surprised and upset to learn that the violations of the former owners had never been resolved in the more than three years since they'd been issued, and that they were now our problem as the violation was reissued in our names.

Following a joint call with members of MNCPPC and DPIE in March 2022, we were finally able to learn the full extent of the previous owner's infractions, and begin to look at how to resolve the violation. The problem for us is that this property lies almost entirely in the Chesapeake Bay Critical Area (CBCA), and therefore the penalties for

deforestation are much harsher. Despite acknowledging that we did not commit this violation, members of Parks and Planning in conjunction with the CBCA Commission determined that we would be held accountable for the full mitigation and replanting requirements as dictated by county and state regulations.

What this means is that we are being made to replant nearly 3,000 trees both on and off our property, due to sometimes 3:1 and 4:1 replanting *penalties*. We had to hire an engineer to help with a very complicated Conservation Plan and mitigation/replanting plan, hire a lawyer to liaise between us and the various entities required to get to administrative approval (for which we are still not there), and ultimately hire a landscaping company to help purchase and plant the thousands of trees. To date, we have spent close to \$40,000 just on the administrative engineer and lawyer parts of this project and have been quoted to expect another \$23,000-\$73,000 for the purchase of the trees and the replanting by the certified landscaping company.

That's potentially well over \$100,000 and 6-7 years of hassle to clean up *someone else's mess...while they move on free and clear*. To say that's not right would be an immense understatement.

The problem with the current state of the law, is that violations (such as illegal clearing) remain with the property, which leads to the wrong people getting penalized. Prior to purchase, we did our due diligence, the title search came up clean, and so our sale went through. Buyers such as us end up in situations we did not know about and then become subject to immense financial burden and more to try and resolve a situation we didn't create. In addition to being financially handcuffed while the violation exists, our property remains frozen in time with no ability to get new permits approved for repairs, renovations or upgrades...save for emergency situations. Think about the ramifications and domino effect of that, as we now enter our 5th year of ownership of this property, with this cloud continuing to hang over us.

We came to the table wanting to be good partners with the county and we have asked repeatedly for compromise and offered a variety of more than fair alternatives. But MNCPPC insists on enforcing the full penalty of the law as if we were the ones who broke the law.

We get that the idea is to discourage illegal clearing...but this penalty doesn't achieve that. *Violations should go with the people not the property!!* Holding buyers harmless AND achieving mitigation/reforestation can BOTH happen.

Offsite mitigation happens all the time. That could and *should be the responsibility of the perpetrator, both financially and practically*. That is how you will deter future unlawful clearing acts...NOT by subjecting innocent citizens to tens or even possibly hundreds of thousands of dollars of work and years of stress and hassle.

The absence of adequate policy and processes to force the resolution of these types of issues before sales, and the fact that these violations took place in 2018 but

were still unresolved in 2020 (and now into 2025), is unacceptable. We have learned though, that the county is now able to place liens and prohibit the sale of property if violations are present. That is a step in the right direction for all those that come after us. But it doesn't help our current situation that was created by the sellers, and the fact that we are being unfairly held accountable for someone else's mismanagement of this land. Buyers should be protected against having to deal with infractions created by the sellers, and the violators themselves should be the ones held accountable for their infractions. Otherwise, there is no recourse to deter recidivism, as we are sure you are well aware.

We *support* HB 1470 (MC/PG 113-25) and hope you will too.
Thank you for your time!

Kind Regards,
Kelsey Mizeur & Mallory McCormick
(808) 779-1106 (574) 870-5333

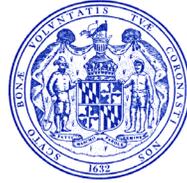
McLiving Stables
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HB 1470 Written Testimony Critical Area Commission

Uploaded by: Lisa Hoerger

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ⁱ NR §8-1801(b)(2)

HB1470:113-25- PG Co Ste (1).pdf

Uploaded by: Lorenzo Bellamy

Position: FAV



THE PRINCE GEORGE'S COUNTY GOVERNMENT

(301) 952-3700
County Council

February 25, 2025

POSITION STATEMENT

HB1470/MC/PG 113-25- Prince George's County - Chesapeake and Atlantic Coastal Bays Critical Area Protection Program - Cutting or Clearing

This bill establishes that a person who in good faith purchases property in the Critical Area in Prince George's County may not be held liable for the cutting or clearing of trees by previous owners or users of the property. The bill also requires the Critical Area Commission (CAC) to adopt regulations authorizing a person to appeal an action brought by the CAC chair, a local jurisdiction, or the Attorney General (1) for cutting or clearing trees within the Critical Area in violation of an approved local critical area program or commission regulations or (2) to restrain a planned violation.

The Prince George's County recognizes the inequity in holding a bona fide owner of a property liable for the wrongful acts by a previous owner, in this case the cutting down of trees in the CAC in violation of an approved local critical area program or ordinance. A good faith purchaser should not be held liable for such acts committed by the previous owner, whether intentional or not.

For these reasons, the Prince George's County Council supports MC/PG 113-25; HB1470 and urges a FAVORABLE vote.

Prepared by: The Bellamy Genn Group, LLC on behalf of Prince George's County Council

County Administration Building – Upper Marlboro, Maryland 20772