MARYLAND Association of COUNTIES

House Bill 617

Natural Resources – Forest Conservation Act – Forest Conservation Thresholds and Reforestation Requirements

MACo Position: **SUPPORT**

To: Environment and Transportation Committee

Date: February 22, 2017

From: Leslie Knapp, Jr. and Kevin Kinnally

The Maryland Association of Counties (MACo) **SUPPORTS** HB 617. The bill clarifies what has generally been understood to be a local government's authority to adopt requirements, including conservation thresholds and reforestation requirements, under its local forest conservation program that are more stringent than the provisions found in the Maryland Forest Conservation Act (FCA).

The FCA statute currently reads: "By April 30, 1992, all units of government with planning and zoning authority shall submit a proposed forest conservation program, which meets or is more stringent than the requirements and standards of this subtitle, to the Department for its review and approval."[1] However, despite what MACo believes to be the obvious and clear meaning of this language, both counties and municipalities have faced challenges to their authority to actually implement a local program with stricter requirements.

The Attorney General upheld the ability of a local government to adopt a local program that is more stringent that the FCA, including conservation thresholds and reforestation requirements, in a 2015 opinion.[2] The opinion was reiterated in a recent letter of advice that upheld the ability of local governments to require greater retention of priority forests (subject to constitutional takings limitations) than the FCA.[3]

HB 617 provides a simple and beneficial clarification to existing law that is consistent with both current statutory language and the interpretation of the Office of the Attorney General. Accordingly, MACo urges the Committee to give HB 617 a **FAVORABLE** report.

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[1] §5-1603(a)(2) of the Natural Resources Article
[2] *See generally* 100 Op. Att'y 120 (2015)
[3] *See generally* Letter of Advice to Maryland Senator Paul Pinsky (February 29, 2016)