



House Bill 766

Natural Resources – Forest Conservation Act – Standards and Requirements

MACo Position: **SUPPORT**
WITH AMENDMENTS

Date: February 21, 2018

To: Environment and Transportation
Committee

From: Leslie Knapp, Jr.

The Maryland Association of Counties (MACo) **SUPPORTS** HB 766 **WITH AMENDMENTS**. While the bill seeks to make well-intentioned reforms to Maryland’s Forest Conservation Act (FCA), many of the bill’s current provisions would upend long-term development and redevelopment plans that are consistent with Smart Growth principles.

MACo recognizes the importance of forests and the FCA and has been working with the bill proponents in good faith. However, while there are parts of HB 766 that MACo could support, other parts remain highly problematic and create unintended consequences.

Multiple parts of this bill make sense: providing greater flexibility for local programs to use fee-in-lieu programs, upgrading the Department of Natural Resources Forest Conservation Act Technical Manual, and moving review of the FCA plan earlier in the development process. Several of these provisions need clarifying amendments in order to operate as intended, but MACo’s position reflects optimism that we can reach an agreement with the bill’s proponents on these issues.

However, other parts of the bill combine to potentially shut down growth in areas where growth should go. The bill’s revision and significant expansion of the “priority retention area” definition, written justification requirements, and a mandatory 1-to-1 replanting ratio have effects that pose grave concerns for land use plans developed through public and sensible means.

The bill’s priority retention area definition: (1) revises the contiguous forest section; (2) adds areas either identified in Maryland’s Environmental Resources and Land Information Network (MERLIN) or iMap database as a targeted ecological area or forest interior-dwelling species habitat that meet specified conditions; and (3) adds forests in a drinking water reservoir or wellhead protection area.

The bill’s approach, particularly in these areas, runs directly counter to the core Smart Growth principle of concentrating growth. Whether within a priority funding area (PFA), locally designated growth area, or transit-oriented development area, HB 766 would create new and significant obstacles for projects. The provisions disrupt both long-term local comprehensive planning and water and sewer planning.

The expansion of the priority retention area definition affects a significant portion of Maryland's land area, including at least 24% of land statewide and 17% of land within a PFA based on the proponent's preliminary estimates. The written justification requirements unintentionally allow for a greatly prolonged approval process that are subject to lawsuits from disgruntled parties, including people with a "not in my backyard" mentality.

Given some of the FCA's current limits on reforestation or afforestation projects, the 1-to-1 replanting ratio means loss of density in many Smart Growth projects and added costs to complete these projects. The bill could also prohibit stream restoration projects from occurring in priority retention areas. These are not desirable outcomes for supporters of sensible growth policies.

Finally, MACo remains concerned about the different datasets being used by both the bill's proponents and opponents. If there are going to be comprehensive changes made to the FCA, there should be a clear and uniform understanding of the underlying data driving these changes. MACo does not believe that understanding currently exists.

MACo is committed to working with the bill's sponsor, proponents, and opponents through Session and the 2018 Interim, if necessary, to address the valid concerns and objections raised by the counties. As currently drafted, HB 766 poses many significant planning and land use consequences. Assuming MACo can reach an agreement that resolves these issues, MACo urges the Committee to give HB 766 a report of **FAVORABLE WITH AMENDMENTS**.