

# Maryland's Forest Conservation Act

A brief overview of the most impactful changes.

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Maryland Forest Service

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Photo Credit:  
Montgomery County Planning

# Topics

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# Bills

- SB526
  - Passed in the latter half of 2023
  - Is responsible for the majority of the changes to FCA
  - More to come on that.
- HB1511
  - Passed spring 2024
  - Adjusted the implementation of SB526 changes predominantly the timeline
  - Made figuring out what happens when very confusing to figure out but allows for increases the State's ability to support local programs

# Milestones

- Before July 1st 2024 Approved FCPs proceed under old FCA unless there's a material alteration to LOD
- On July 1st 2024 The first wave of changes hit
- Before December 31st 2024 State Technical Manual Update
- Before July 1st 2025 Revised State Model Ordinance
- Before July 1st 2026 State and Local programs must have their regulations and ordinances updated
- On July 1st 2026 It's on! The rest/bulk of the changes are in effect
- Early 2028 Local program biennial reviews will assess new FCA implementation compliance

# Impacts – July 1st 2024

- §5-1606 Solar photovoltaic facilities are not subject to afforestation
- §5-1601 The applicable FCA program can once again approve Qualified Conservation as a mitigation technique.
- §5-1607
  - Half of a project's needed mitigation may be met using Qualified Conservation. If a local program proposes a higher ratio this percentage can be increased up to 60% after the public comment period.
  - Minimum stream buffers are defined as 50 feet from stream channel for intermittent and 100 feet from stream channel for perennial.
  - Green infrastructure that is beyond §4-203 of the Environment Article requirements may be granted full mitigation credit.
  - Priority urban forests are established and mapped: <https://arcg.is/PrbOr>
- §5-1610.1 Mitigation banks and Qualified Conservation are only allowed in priority retention, afforestation, and reforestation areas.

# Impacts – July 1st 2026

- §5-102 The State policy changes from no net forest loss to net forest gain as measured every four years. And the crowd goes wild!!!
- §5-101 changes the following definitions:
  - “Forest land” means a contiguous patch of trees that is at least 1 acre in size exhibiting at least one transect of at least 120 feet in width.
  - “Tree Canopy” means the crowns of deciduous and evergreen woody vegetation that is the product of natural growth or human planting and is greater than 3 meters in height.
- §5-1602 Exceptions have been tweaked please go read for yourself.
  - Some noteworthy shout outs are: orchards, tree farm, and forest management.
  - Also, Construction of a new Federal government facility that houses the employment of at least 2,500 persons are exempt from FCA.

# Impacts – July 1st 2026 Continued

- Multifamily housing (25 or more units) and Transit Oriented Development
  - Reforested at at ratio of 0.25 acres planted for every 1 acre removed.
  - Mitigated via preservation at 0.5 acres for every 1 acre removed.
- §5-1606 Forestation Level Requirements
  - No more conservation threshold, just a simple 1:1 reforestation except:
    - If the forest is located in a priority funding area **and not** in a priority retention area then the reforestation ratio is 0.5 acres for every 1 removed.
  - After all afforestation and reforestation is done onsite, all unforested riparian buffers must be afforested or reforested. TLDR you gotta plant those streams.
    - 50' from stream channel for intermittent and 100' for perennial.

# Impacts – July 1st 2026 Continued

- §5-1605 Proposed Forest Conservation Plans
  - Proposed Forest Conservation Plans need to provide notification to adjacent and abutting property owners.
    - Properties that are separated by a public right-of-way are considered adjacent.
    - Notice is to be consistent with local authority notice requirements.
  - If 75% or more of the priority retention area is cleared an opportunity for verbal comments must be given.
  - A provision has been added to allow for judicial review of an approved FCP.
    - Petitions for judicial review must be filed no later than 30 days after the FCP approval.

# Impacts – July 1st 2026 Continued

- Local program specifics
  - If the Department finds that the proposed alternative Requirements aren't expected to maintain the current level of forest cover then the Department will reject them and inform the local jurisdiction of what needs to be changed. Some factors of this determination are:
    - How the program accounts for and allows for the usage of street trees.
    - How the program utilizes the protection of existing off site forests.
    - The annual reports from local jurisdictions.
    - In making this determination the Department may not consider the effects brought on by any project that is not subject to the changes made to FCA.

# Impacts – July 1st 2026 Final Continuation

- More local program specifics
  - Local programs that are unable to increase their forest cover must at a minimum maintain their forest cover, as measured every 4 years.
  - On or before December 31, 2028 the Department will provide written notice to a local authority if they need to modify their alternative Requirements. This will be triggered by the:
    - The local authority failing to maintain or expand its forest cover over two consecutive 2-year periods; or
    - They fail to submit their annual reports.
    - On or after January, 2029 the Department may rescind the approval of alternative requirements if the above requirements aren't met.

# Questions?



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