

## Chapter 645

## (House Bill 991)

AN ACT concerning

~~Natural Resources—Forest Mitigation Banks—Qualified Preservation~~  
~~Conservation~~  
Tree Solutions Now Act of 2021

FOR the purpose of establishing the use of qualified ~~preservation~~ conservation in a forest mitigation bank of all or a part of certain existing forests as a standard for meeting afforestation or reforestation requirements under the Forest Conservation Act; defining the term “qualified ~~preservation~~ conservation” as it applies to the Forest Conservation Act; altering the defined term “forest mitigation banking” as it applies to the Forest Conservation Act to include the qualified ~~preservation~~ conservation of forests for certain purposes; requiring a certain landowner who enrolls in the Conservation Reserve Enhancement Program in certain fiscal years to receive a certain signing bonus; requiring certain signing bonuses to be funded in a certain manner; establishing the policy of the State to support and encourage certain tree-planting efforts, with a goal of planting and helping to maintain in the State a certain number of sustainable trees of species native to the State by the end of a certain year; specifying that this goal is in addition to certain trees projected to be planted under certain programs and includes certain tree plantings accomplished through certain State programs and private efforts; establishing the intent of the General Assembly that a certain minimum number of trees should be planted in certain underserved areas; making the Department of the Environment responsible for tracking the State’s progress toward meeting certain tree-planting goals and requiring the Department of the Environment to serve as the lead agency to receive certain data; establishing a 5 Million Tree Program Coordinator within the Department of the Environment; establishing the responsibilities of the Program Coordinator and requiring the Program Coordinator to consolidate certain data and make a certain report to certain committees of the General Assembly on or before a certain date each year; requiring the Governor to formally pledge the State’s commitment to achieving certain tree-planting goals through the U.S. Chapter of the World Economic Forum’s One Trillion Trees Initiative; requiring a certain amount from the Chesapeake and Atlantic Coastal Bays 2010 Trust Fund to be used for certain purposes in certain fiscal years; requiring the BayStat Subcabinet agencies to distribute certain funds through grants to the Green Shores Program; establishing an Urban Trees Program administered by the Chesapeake Bay Trust; providing for the purpose of the Urban Trees Program; requiring the Trust to make grants to qualified organizations for certain purposes; specifying certain eligible Program expenses for the Urban Trees Program; providing for the funding of the Urban Trees Program; requiring the Trust to seek certain funds, grants, and donations for the purpose of the Urban Trees Program; requiring a certain grant agreement to specify the allowed uses of certain funds and include provisions for the verification of certain information; requiring the Trust to report certain information concerning certain grant awards to

*the Department of Natural Resources and the Department of the Environment on or before a certain date each year; requiring the Department of the Environment to make certain transfers from the Bay Restoration Fund for certain purposes in a certain fiscal year, after funding certain eligible costs; establishing certain authorizations and restrictions regarding the distribution and use of certain funds in the Chesapeake and Atlantic Coastal Bays 2010 Trust Fund; providing that certain funds transferred from the Bay Restoration Fund are supplemental to and may not take the place of certain other funding; establishing the Commission for the Innovation and Advancement of Carbon Markets and Sustainable Tree Plantings; providing for the composition, chair, and staffing of the Commission for the Innovation and Advancement of Carbon Markets and Sustainable Tree Plantings; prohibiting a member of the Commission for the Innovation and Advancement of Carbon Markets and Sustainable Tree Plantings from receiving certain compensation, but authorizing the reimbursement of certain expenses; requiring the Commission for the Innovation and Advancement of Carbon Markets and Sustainable Tree Plantings to study and make recommendations regarding certain matters; requiring the Commission for the Innovation and Advancement of Carbon Markets and Sustainable Tree Plantings to report its findings and recommendations to the Governor and the General Assembly on or before a certain date; requiring the Governor to include certain appropriations in the State budget for certain programs and purposes in certain fiscal years; providing that certain money is supplemental to and may not take the place of certain funding; requiring the Harry R. Hughes Center for Agro-Ecology, in consultation with the Department of Natural Resources, the Department of the Environment, the Department of Planning, the Department of Agriculture, and the Chesapeake Bay Program, to conduct a technical study to review changes in forest cover and tree canopy in the State; providing for the scope of the technical study; requiring the Harry R. Hughes Center for Agro-Ecology to submit a report of its findings to the Governor and the General Assembly on or before a certain date; providing for the termination of certain provisions of this Act; providing for the application of this Act; stating a certain intent of the General Assembly; making certain provisions of this Act subject to a certain contingency; making conforming changes and a stylistic change; and generally relating to the use of qualified ~~preservation~~ conservation in a forest mitigation bank and tree planting in the State.*

BY renumbering

Article – Natural Resources  
 Section 5–1601(gg) through (pp), respectively  
 to be Section 5–1601(hh) through (qq), respectively  
 Annotated Code of Maryland  
 (2018 Replacement Volume and 2020 Supplement)

BY repealing and reenacting, without amendments,

Article – Natural Resources  
 Section 5–1601(a) and (b) and 5–1607(a)  
 Annotated Code of Maryland  
 (2018 Replacement Volume and 2020 Supplement)

BY repealing and reenacting, with amendments,  
Article – Natural Resources  
Section 5–1601(o), 5–1607(b), and 5–1610.1  
Annotated Code of Maryland  
(2018 Replacement Volume and 2020 Supplement)

BY adding to  
Article – Natural Resources  
Section 5–1601(gg)  
Annotated Code of Maryland  
(2018 Replacement Volume and 2020 Supplement)

BY repealing and reenacting, without amendments,  
Article – Natural Resources  
Section 5–1601(hh)  
Annotated Code of Maryland  
(2018 Replacement Volume and 2020 Supplement)  
(As enacted by Section 1 of this Act)

BY adding to  
Article – Agriculture  
Section 8–706  
Annotated Code of Maryland  
(2016 Replacement Volume and 2020 Supplement)

BY adding to  
Article – Environment  
Section 2–1212  
Annotated Code of Maryland  
(2013 Replacement Volume and 2020 Supplement)

BY repealing and reenacting, without amendments,  
Article – Natural Resources  
Section 8–2A–02(a), 8–2A–04(a), and 8–1901  
Annotated Code of Maryland  
(2012 Replacement Volume and 2020 Supplement)

BY repealing and reenacting, with amendments,  
Article – Natural Resources  
Section 8–2A–02(f) and 8–2A–04(c)  
Annotated Code of Maryland  
(2012 Replacement Volume and 2020 Supplement)

BY adding to  
Article – Natural Resources

Section 8-1911  
Annotated Code of Maryland  
(2012 Replacement Volume and 2020 Supplement)

BY repealing and reenacting, without amendments,  
Article – Environment  
Section 9-1605.2(i)(1)  
Annotated Code of Maryland  
(2014 Replacement Volume and 2020 Supplement)

BY repealing and reenacting, with amendments,  
Article – Environment  
Section 9-1605.2(i)(2)(xii) and (xiii)  
Annotated Code of Maryland  
(2014 Replacement Volume and 2020 Supplement)

BY adding to  
Article – Environment  
Section 9-1605.2(i)(2)(xiv) and (11)  
Annotated Code of Maryland  
(2014 Replacement Volume and 2020 Supplement)

BY repealing and reenacting, without amendments,  
Article – Environment  
Section 9-1605.2(i)(1)  
Annotated Code of Maryland  
(2014 Replacement Volume and 2020 Supplement)  
(As enacted by Chapters 366 and 367 of the Acts of the General Assembly of 2017)

BY repealing and reenacting, with amendments,  
Article – Environment  
Section 9-1605.2(i)(2)(xi) and (xii)  
Annotated Code of Maryland  
(2014 Replacement Volume and 2020 Supplement)  
(As enacted by Chapters 366 and 367 of the Acts of the General Assembly of 2017)

BY adding to  
Article – Environment  
Section 9-1605.2(i)(2)(xiii) and (10)  
Annotated Code of Maryland  
(2014 Replacement Volume and 2020 Supplement)  
(As enacted by Chapters 366 and 367 of the Acts of the General Assembly of 2017)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,  
That Section(s) 5-1601(gg) through (pp), respectively, of Article – Natural Resources of the

Annotated Code of Maryland be renumbered to be Section(s) 5–1601(hh) through (qq), respectively.

SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland read as follows:

### **Article – Natural Resources**

5–1601.

(a) In this subtitle the following words have the meanings indicated.

(b) “Afforestation” means the establishment of a tree cover on an area from which it has always or very long been absent, or the planting of open areas which are not presently in forest cover.

(c) “Forest mitigation banking” means the intentional restoration [or creation], **CREATION, OR QUALIFIED ~~PRESERVATION~~ CONSERVATION** of forests undertaken expressly for the purpose of providing credits for afforestation or reforestation requirements with enhanced environmental benefits from future activities.

**(GG) “QUALIFIED ~~PRESERVATION~~ CONSERVATION” MEANS THE ~~PRESERVATION~~ CONSERVATION OF ALL OR A PART OF AN EXISTING FOREST THAT IS:**

**(1) ~~APPROVED~~ WAS APPROVED ON OR BEFORE DECEMBER 31, 2020, BY THE APPROPRIATE STATE OR LOCAL FOREST CONSERVATION PROGRAM FOR THE PURPOSE OF ESTABLISHING A FOREST MITIGATION BANK; AND**

**(2) ~~ENCUMBERED~~ IS ENCUMBERED IN PERPETUITY BY A RESTRICTIVE EASEMENT, COVENANT, OR ANOTHER SIMILAR MECHANISM RECORDED IN THE COUNTY LAND RECORDS TO ~~PRESERVE~~ CONSERVE ITS CHARACTER AS A FOREST.**

(hh) (1) “Reforestation” or “reforested” means the creation of a biological community dominated by trees and other woody plants containing at least 100 trees per acre with at least 50% of those trees having the potential of attaining a 2 inch or greater diameter measured at 4.5 feet above the ground, within 7 years.

(2) “Reforestation” includes landscaping of areas under an approved landscaping plan that establishes a forest that is at least 35 feet wide and covering 2,500 square feet of area.

(3) “Reforestation” for a linear project which involves overhead transmission lines may consist of a biological community dominated by trees and woody shrubs with no minimum height or diameter criteria.

5-1607.

(a) The preferred sequence for afforestation and reforestation shall be established by the State or local authority in accordance with the following after all techniques for retaining existing forest cover on-site have been exhausted:

(1) Those techniques that enhance existing forest and involve selective clearing or supplemental planting on-site;

(2) On-site afforestation or reforestation may be utilized where the retention options have been exhausted. In those cases, the method shall be selected in accordance with subsection (b) of this section, and the location shall be selected in accordance with subsection (d) of this section;

(3) (i) Off-site afforestation or reforestation in the same watershed or in accordance with an approved master plan may be utilized where the applicant has demonstrated that no reasonable on-site alternative exists, or where:

1. Any on-site priority areas for afforestation or reforestation have been planted in accordance with subsection (d) of this section; and

2. The applicant has justified to the satisfaction of the State or local jurisdiction that environmental benefits associated with off-site afforestation or reforestation would exceed those derived from on-site planting;

(ii) In these cases, the method shall be selected in accordance with subsection (b) of this section, and the location shall be selected in accordance with subsection (d) of this section; and

(iii) Off-site afforestation or reforestation may include the use of forest mitigation banks which have been so designated in advance by the State or local forest conservation program which is approved by the Department; and

(4) The State or local jurisdiction may allow an alternative sequence for a specific project if necessary to achieve the objectives of a local jurisdiction’s land use plans or policies or to take advantage of opportunities to consolidate forest conservation efforts.

(b) Standards for meeting afforestation or reforestation requirements shall be established by the State or local program using one or more of the following methods:

(1) Forest creation in accordance with a forest conservation plan using one or more of the following:

- (i) Transplanted or nursery stock;
- (ii) Whip and seedling stock; or
- (iii) Natural regeneration where it can be shown to adequately meet the objective of the forest conservation plan.

**(2) THE USE OF QUALIFIED ~~PRESERVATION~~ CONSERVATION COMPLETED IN A FOREST MITIGATION BANK, IN WHICH CASE, THE AFFORESTATION OR REFORESTATION CREDIT GRANTED MAY NOT EXCEED 50% OF THE FOREST AREA ENCUMBERED IN PERPETUITY.**

**(3)** The use of street trees in a municipal corporation with a tree management plan, in an existing population center designated in a county master plan that has been adopted to conform with the Economic Growth, Resource Protection, and Planning Act of 1992, or in any other designated area approved by the Department as part of a local program, under criteria established by the local program, subject to the approval of the Department, using:

- (i) Street trees as a permissible step in the priority sequence for afforestation or reforestation and, based on a mature canopy coverage, may grant full credit as a mitigation technique; and
- (ii) Acquisition as a mitigation technique of an off-site protective easement for existing forested areas not currently protected in perpetuity, in which case the afforestation or reforestation credit granted may not exceed 50% of the area of forest cover protected.

**[(3)] (4)** When all other options, both on-site and off-site, have been exhausted, landscaping as a mitigation technique, conducted under an approved landscaping plan that establishes a forest at least 35 feet wide and covering at least 2,500 square feet of area.

5-1610.1.

(a) The Department shall develop standards and adopt regulations for the creation and use of forest mitigation banks, including criteria for tracking, crediting, maintaining, bonding, and reporting mitigation bank activities.

(b) A local jurisdiction may develop procedures for establishing forest mitigation banks as part of its forest conservation program.

(c) Mitigation banks may be **[permitted] ALLOWED** only in priority areas as identified in § 5-1607(d) of this subtitle or as identified in a comprehensive plan adopted by a local jurisdiction.

(d) The establishment of mitigation banks and their use may not alter the sequence for retention, reforestation, or afforestation on a development site as outlined in § 5–1607 of this subtitle.

(e) Criteria established by local or State programs for the use and establishment of forest mitigation banks shall include protection and conservation in perpetuity of forest mitigation banks consistent with reasonable management plans, through methods that include easements, covenants, or similar mechanisms that shall be in place at the time credits are withdrawn.

(f) This section may not be construed to require the Department or a local jurisdiction to:

- (1) Establish or fund State or local mitigation banks;
- (2) Fund the establishment of forest mitigation banking by the private sector; or
- (3) Use State or local government land for forest mitigation banking.

(g) (1) Credits in a mitigation bank may not be approved for debiting until construction **OR QUALIFIED ~~PRESERVATION~~ CONSERVATION** of the mitigation bank is complete.

(2) A mitigation bank **THAT REQUIRES CONSTRUCTION** shall maintain sufficient credits in reserve to cover anticipated expenses of completion of the mitigation bank.

SECTION 3. AND BE IT FURTHER ENACTED, That the Laws of Maryland read as follows:

**Article – Agriculture**

**8–706.**

**(A) TO MAXIMIZE PARTICIPATION IN THE CONSERVATION RESERVE ENHANCEMENT PROGRAM, IN FISCAL YEARS 2023 THROUGH 2031, INCLUSIVE, A LANDOWNER WHO ENROLLS LAND PLANTED WITH A FORESTED STREAMSIDE BUFFER SHALL RECEIVE A ONE–TIME SIGNING BONUS OF UP TO \$1,000 PER ACRE OF LAND ENROLLED.**

**(B) SIGNING BONUSES PROVIDED UNDER THIS SECTION SHALL BE FUNDED WITH:**



(1) MONEY APPROPRIATED UNDER SUBSECTION (C) OF THIS SECTION; AND

(2) THE AMOUNT SPECIFIED IN § 9-1605.2(i)(11)(i) OF THE ENVIRONMENT ARTICLE.

(C) (1) FOR FISCAL YEARS 2024 THROUGH 2031, IN EACH YEAR THE GOVERNOR SHALL APPROPRIATE \$2,500,000 IN THE ANNUAL STATE BUDGET TO FUND TREE PLANTING UNDER THIS SECTION AND OTHER TREE PLANTING PROGRAMS ON AGRICULTURAL LAND.

(2) MONEY APPROPRIATED UNDER THIS SUBSECTION IS SUPPLEMENTAL TO AND MAY NOT TAKE THE PLACE OF FUNDING THAT WOULD OTHERWISE BE APPROPRIATED FOR TREE PLANTINGS UNDER THIS SECTION AND OTHER TREE PLANTING PROGRAMS ON AGRICULTURAL LAND.

Article – Environment

2-1212.

(A) (1) IT IS THE POLICY OF THE STATE TO SUPPORT AND ENCOURAGE PUBLIC AND PRIVATE TREE-PLANTING EFFORTS, WITH A GOAL OF PLANTING AND HELPING TO MAINTAIN IN THE STATE 5,000,000 SUSTAINABLE TREES OF SPECIES NATIVE TO THE STATE BY THE END OF CALENDAR YEAR 2031.

(2) THIS GOAL:

(I) IS IN ADDITION TO ANY TREES PROJECTED TO BE PLANTED UNDER PROGRAMS DESCRIBED IN THE 2019 DRAFT GREENHOUSE GAS EMISSIONS REDUCTION PLAN; AND

(II) INCLUDES NATIVE TREE PLANTINGS ACCOMPLISHED THROUGH STATE PROGRAMS AND THROUGH THE EFFORTS OF NONPROFIT AND PRIVATE ORGANIZATIONS.

(3) IT IS THE INTENT OF THE GENERAL ASSEMBLY THAT AT LEAST 500,000 OF THE 5,000,000 TREES CALLED FOR BY THIS SUBSECTION SHOULD BE PLANTED IN AN “UNDERSERVED AREA”, AS DEFINED IN § 8-1911 OF THE NATURAL RESOURCES ARTICLE.

(B) (1) THE DEPARTMENT:

(I) IS RESPONSIBLE FOR TRACKING THE STATE’S PROGRESS TOWARD MEETING THE GOALS ESTABLISHED UNDER SUBSECTION (A) OF THIS SECTION; AND

(II) SHALL SERVE AS THE LEAD AGENCY TO RECEIVE DATA FROM:

1. THE MARYLAND DEPARTMENT OF AGRICULTURE REGARDING TREE PLANTINGS ACCOMPLISHED THROUGH THE CONSERVATION RESERVE ENHANCEMENT PROGRAM AND OTHER AGRICULTURAL INITIATIVES;

2. THE DEPARTMENT OF NATURAL RESOURCES REGARDING TREE PLANTINGS ACCOMPLISHED THROUGH THE CHESAPEAKE AND ATLANTIC COASTAL BAYS 2010 TRUST FUND, THE MEL NOLAND WOODLAND INCENTIVES FUND, AND OTHER FORESTRY INITIATIVES; AND

3. THE CHESAPEAKE BAY TRUST REGARDING TREE PLANTINGS ACCOMPLISHED THROUGH THE URBAN TREES PROGRAM.

(2) (I) THERE IS A 5 MILLION TREE PROGRAM COORDINATOR WITHIN THE DEPARTMENT.

(II) THE PRIMARY RESPONSIBILITY OF THE PROGRAM COORDINATOR IS TO PROMOTE, FACILITATE, AND ALIGN THE STATE’S EFFORTS TO ACHIEVE THE GOALS ESTABLISHED UNDER SUBSECTION (A)(1) OF THIS SECTION.

(III) ON OR BEFORE DECEMBER 1 EACH YEAR, THE PROGRAM COORDINATOR SHALL:

1. CONSOLIDATE DATA ON TREE PLANTINGS FROM MULTIPLE SOURCES; AND

2. REPORT, IN ACCORDANCE WITH § 2-1257 OF THE STATE GOVERNMENT ARTICLE, TO THE SENATE EDUCATION, HEALTH, AND ENVIRONMENTAL AFFAIRS COMMITTEE AND THE HOUSE ENVIRONMENT AND TRANSPORTATION COMMITTEE ON THE STATE’S PROGRESS TOWARD MEETING THE GOALS ESTABLISHED UNDER SUBSECTION (A) OF THIS SECTION.

(C) THE GOVERNOR SHALL FORMALLY PLEDGE THE STATE’S COMMITMENT TO ACHIEVING THE GOALS ESTABLISHED UNDER SUBSECTION (A) OF THIS SECTION THROUGH THE U.S. CHAPTER OF THE WORLD ECONOMIC FORUM’S ONE TRILLION TREES INITIATIVE.

**Article – Natural Resources**8-2A-02.

(a) There is a Chesapeake and Atlantic Coastal Bays 2010 Trust Fund.

(f) (1) The Fund may be used only for the implementation of nonpoint source pollution control projects to:

(i) Support State and local watershed implementation plans by targeting limited financial resources on the most effective nonpoint source pollution control projects; and

(ii) Improve the health of the Atlantic Coastal Bays and their tributaries.

(2) It is the intent of the General Assembly that, when possible, moneys in the Fund shall be granted to local governments and other political subdivisions for agricultural, forestry, stream and wetland restoration, and urban and suburban stormwater nonpoint source pollution control projects, including up to 25% in matching funds to local governments and other political subdivisions that have enacted a stormwater remediation fee under § 4-202.1 of the Environment Article.

(3) (1) IN EACH FISCAL YEAR FROM 2023 THROUGH 2031, INCLUSIVE, \$1,250,000 FROM THE FUND SHALL BE USED TO FUND:

1. THE 5 MILLION TREE PROGRAM COORDINATOR POSITION IN THE DEPARTMENT OF THE ENVIRONMENT; AND

2. SUBJECT TO SUBPARAGRAPH (II) OF THIS PARAGRAPH, 13 CONTRACTOR POSITIONS IN THE FOREST SERVICE OF THE DEPARTMENT TO PROVIDE TECHNICAL ASSISTANCE, PLANNING, AND COORDINATION RELATED TO TREE PLANTINGS, TREE BUFFER MANAGEMENT, AND FOREST MANAGEMENT, INCLUDING INVASIVE VINE REMOVAL, ON PUBLIC, PRIVATE, AND AGRICULTURAL LANDS AND IN “UNDERSERVED AREAS” AS DEFINED IN § 8-1911 OF THIS ARTICLE.

(II) THE DEPARTMENT SHALL MAKE REASONABLE EFFORTS TO ENSURE THAT CONTRACTORS HIRED UNDER SUBPARAGRAPH (I)2 OF THIS PARAGRAPH REFLECT THE GEOGRAPHIC AND DEMOGRAPHIC DIVERSITY OF THE STATE.

(4) (I) IN EACH FISCAL YEAR FROM 2024 THROUGH 2031, INCLUSIVE, THE GOVERNOR SHALL INCLUDE IN THE ANNUAL STATE BUDGET AN APPROPRIATION OF \$2,500,000 TO THE FUND, TO BE USED, SUBJECT TO THE

REQUIREMENTS OF SUBPARAGRAPH (II) OF THIS PARAGRAPH, FOR TREE PLANTINGS ON PUBLIC AND PRIVATE LAND.

(II) THE MONEY APPROPRIATED UNDER THIS PARAGRAPH:

1. MAY BE DISTRIBUTED IN ACCORDANCE WITH § 8-2A-04(C)(2) OF THIS SUBTITLE;

2. MAY BE USED TO COVER THE COSTS OF:

A. SITE PREPARATION, LABOR, AND MATERIALS FOR TREE-PLANTING PROJECTS;

B. MAINTAINING TREES FOLLOWING A TREE-PLANTING PROJECT; AND

C. LANDOWNER INCENTIVE PAYMENTS OR SIGNING BONUSES OF UP TO \$1,000 PER ACRE OF TREES PLANTED;

3. MAY NOT BE USED TO PLANT TREES INTENDED FOR TIMBER HARVEST; AND

4. MAY BE USED ONLY FOR TREE PLANTINGS ON PRIVATE LAND IF THE LANDOWNER ENTERS INTO A BINDING LEGAL AGREEMENT TO MAINTAIN THE PLANTED AREA IN TREE COVER FOR AT LEAST 15 YEARS.

(III) MONEY APPROPRIATED UNDER THIS PARAGRAPH IS SUPPLEMENTAL TO AND MAY NOT TAKE THE PLACE OF FUNDING THAT OTHERWISE WOULD BE APPROPRIATED FOR TREE PLANTINGS ON PUBLIC AND PRIVATE LAND.

8-2A-04.

(a) The BayStat Program shall direct the administration of the Trust Fund in accordance with this section.

(c) (1) The BayStat Program shall distribute funds from the Trust Fund to the BayStat Subcabinet agencies in accordance with the final work and expenditure plans.

(2) The BayStat Subcabinet agencies shall administer the funds in accordance with the final work and expenditure plans, including the distribution of funds:

(i) Through grants to:

1. Counties;

2. Bicounty agencies;

3. Municipalities;

4. Forest conservancy district boards;

5. Soil conservation districts;

6. Academic institutions; and

7. Nonprofit organizations having a demonstrated ability to implement nonpoint source pollution control projects;

(ii) To the Chesapeake and Atlantic Coastal Bays Nonpoint Source Fund established under § 9-1605.3 of the Environment Article;

(iii) To the Maryland Agricultural Cost-Share Program established under Title 8, Subtitle 7 of the Agriculture Article for nonpoint source pollution control projects; [and]

(iv) **TO THE GREEN SHORES PROGRAM ESTABLISHED UNDER § 5-429 OF THIS ARTICLE; AND**

(v) To the Mel Noland Woodland Incentives Fund established under § 5-307 of this article.

8-1901.

(a) In this part the following words have the meanings indicated.

(b) “Board” means the Board of Trustees of the Chesapeake Bay Trust.

(c) “Trust” means the Chesapeake Bay Trust.

8-1911.

(A) (1) **IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.**

(2) **“PROGRAM” MEANS THE URBAN TREES PROGRAM.**

(3) **“QUALIFIED ORGANIZATION” MEANS:**

(I) **A NONPROFIT ORGANIZATION;**

(II) A SCHOOL;

(III) A COMMUNITY ASSOCIATION;

(IV) A SERVICE, YOUTH, OR CIVIC GROUP;

(V) AN INSTITUTION OF HIGHER EDUCATION;

(VI) A COUNTY OR MUNICIPALITY; OR

(VII) A FOREST CONSERVANCY DISTRICT BOARD.

(4) “UNDERSERVED AREA” MEANS AN AREA OF THE STATE FALLING WITHIN THE BOUNDARIES OF:

(I) AN URBAN AREA, AS DELINEATED BY THE UNITED STATES CENSUS BUREAU; AND

(II) 1. A NEIGHBORHOOD THAT WAS, AT ANY POINT IN TIME, REDLINED OR GRADED AS “HAZARDOUS” BY THE HOME OWNERS’ LOAN CORPORATION;

2. A CENSUS TRACT WITH AN AVERAGE RATE OF UNEMPLOYMENT FOR THE MOST RECENT 24-MONTH PERIOD FOR WHICH DATA ARE AVAILABLE THAT EXCEEDS THE AVERAGE RATE OF UNEMPLOYMENT FOR THE STATE;

3. A CENSUS TRACT WITH A MEDIAN HOUSEHOLD INCOME FOR THE MOST RECENT 24-MONTH PERIOD FOR WHICH DATA ARE AVAILABLE THAT IS EQUAL TO OR LESS THAN 75% OF THE MEDIAN HOUSEHOLD INCOME FOR THE STATE DURING THAT PERIOD; OR

4. A HOUSING PROJECT AS DEFINED IN § 12-101 OF THE HOUSING AND COMMUNITY DEVELOPMENT ARTICLE.

(B) THERE IS AN URBAN TREES PROGRAM ADMINISTERED BY THE TRUST.

(C) THE PURPOSE OF THE PROGRAM IS TO PLANT NATIVE SPECIES OF TREES IN UNDERSERVED AREAS, IN FURTHERANCE OF THE GOALS ESTABLISHED UNDER § 2-1212 OF THE ENVIRONMENT ARTICLE.

(D) (1) BEGINNING IN FISCAL YEAR 2023, THE TRUST SHALL MAKE GRANTS TO QUALIFIED ORGANIZATIONS FOR TREE-PLANTING PROJECTS IN UNDERSERVED AREAS.

(2) ELIGIBLE PROGRAM EXPENSES INCLUDE PERSONNEL COSTS, SUPPLIES, SITE PREPARATION, AND OTHER EXPENSES AND MATERIALS RELATED TO PLANNING, IMPLEMENTING, AND MAINTAINING TREE-PLANTING PROJECTS IN UNDERSERVED AREAS.

(3) IN AWARDING PROGRAM GRANTS UNDER THIS SECTION, THE TRUST SHALL PRIORITIZE:

(I) GRANT APPLICATIONS FROM QUALIFIED ORGANIZATIONS LOCATED IN THE UNDERSERVED AREAS WHERE THE PROPOSED TREE-PLANTING PROJECTS WILL BE IMPLEMENTED; AND

(II) GRANT APPLICATIONS THAT INCLUDE PLANS FOR ENGAGING INDIVIDUALS, ORGANIZATIONS, OR BUSINESSES LOCATED IN UNDERSERVED AREAS TO IMPLEMENT AND MAINTAIN TREE-PLANTING PROJECTS IN THEIR COMMUNITIES.

(E) (1) THE PROGRAM SHALL BE FUNDED WITH:

(I) THE AMOUNT SPECIFIED IN § 9-1605.2(I)(11)(I) OF THE ENVIRONMENT ARTICLE; AND

(II) ANY ADDITIONAL FUNDS THAT MAY BE ALLOCATED BY THE TRUST THROUGH ITS ANNUAL BUDGET PROCESS.

(2) THE TRUST SHALL SEEK FEDERAL FUNDS AND GRANTS AND DONATIONS FROM PRIVATE SOURCES TO BE MADE TO THE TRUST FOR THE PURPOSE OF THE PROGRAM.

(F) A GRANT AGREEMENT REGARDING FUNDS FROM THE TRUST FOR THE PROGRAM SHALL:

(1) SPECIFY THE ALLOWED USE OF THE FUNDS PROVIDED UNDER THE GRANT; AND

(2) INCLUDE PROVISIONS FOR VERIFICATION THAT TREE-PLANTING PROJECTS ARE BEING IMPLEMENTED AND MAINTAINED AS PLANNED.

(G) ON OR BEFORE OCTOBER 1 EACH YEAR, THE TRUST SHALL REPORT TO THE DEPARTMENT AND THE DEPARTMENT OF THE ENVIRONMENT ON THE GRANTS AWARDED BY THE PROGRAM DURING THE IMMEDIATELY PRECEDING FISCAL YEAR, INCLUDING:

(1) THE NAMES AND DESCRIPTIONS OF GRANT RECIPIENTS;

(2) THE NUMBER AND LOCATION OF TREES PLANTED BY GRANT RECIPIENTS; AND

(3) ANY OTHER INFORMATION REQUIRED BY THE DEPARTMENT OR THE DEPARTMENT OF THE ENVIRONMENT.

(H) (1) FOR FISCAL YEARS 2024 THROUGH 2031, IN EACH YEAR THE GOVERNOR SHALL INCLUDE IN THE ANNUAL STATE BUDGET AN APPROPRIATION OF \$10,000,000 FOR THE PROGRAM.

(2) MONEY APPROPRIATED UNDER THIS SUBSECTION IS SUPPLEMENTAL TO AND MAY NOT TAKE THE PLACE OF FUNDING THAT OTHERWISE WOULD BE APPROPRIATED FOR THE PROGRAM.

SECTION 4. AND BE IT FURTHER ENACTED, That the Laws of Maryland read as follows:

Article – Environment

9-1605.2.

(i) (1) In this subsection, “eligible costs” means the additional costs that would be attributable to upgrading a wastewater facility to enhanced nutrient removal, as determined by the Department.

(2) Funds in the Bay Restoration Fund shall be used only:

(xii) For costs associated with the implementation of alternate compliance plans authorized in § 4-202.1(k)(3) of this article; [and]

(xiii) After funding any eligible costs identified under item (iv)1 and 2 of this paragraph, for costs associated with the purchase of cost-effective nitrogen, phosphorus, or sediment load reductions in support of the State’s efforts to restore the health of the Chesapeake Bay, not to exceed \$4,000,000 in fiscal year 2018, \$6,000,000 in fiscal year 2019, and \$10,000,000 per year in fiscal years 2020 and 2021; AND

(XIV) AFTER FUNDING ANY ELIGIBLE COSTS IDENTIFIED UNDER ITEM (IV)1 AND 2 OF THIS PARAGRAPH, FOR THE TRANSFERS REQUIRED UNDER PARAGRAPH (11) OF THIS SUBSECTION.

(11) (I) IN FISCAL YEAR 2023 THE DEPARTMENT SHALL TRANSFER FROM THE BAY RESTORATION FUND:



1. \$10,000,000 TO THE CHESAPEAKE BAY TRUST FOR THE URBAN TREES PROGRAM ESTABLISHED UNDER § 8-1911 OF THE NATURAL RESOURCES ARTICLE;

2. \$2,500,000 TO THE CHESAPEAKE AND ATLANTIC COASTAL BAYS 2010 TRUST FUND IN THE DEPARTMENT OF NATURAL RESOURCES, TO BE USED, SUBJECT TO THE REQUIREMENTS OF SUBPARAGRAPH (II) OF THIS PARAGRAPH, FOR TREE PLANTING ON PUBLIC AND PRIVATE LAND; AND

3. \$2,500,000 TO THE MARYLAND DEPARTMENT OF AGRICULTURE TO FUND TREE PLANTINGS UNDER THE CONSERVATION RESERVE ENHANCEMENT PROGRAM IN ACCORDANCE WITH § 8-706 OF THE AGRICULTURE ARTICLE AND OTHER TREE-PLANTING PROGRAMS ON AGRICULTURAL LAND.

(II) FUNDS TRANSFERRED TO THE CHESAPEAKE AND ATLANTIC COASTAL BAYS 2010 TRUST FUND UNDER SUBPARAGRAPH (I)2 OF THIS PARAGRAPH:

1. MAY BE DISTRIBUTED IN ACCORDANCE WITH § 8-2A-04(C)(2) OF THE NATURAL RESOURCES ARTICLE;

2. MAY BE USED TO COVER THE COSTS OF:

A. SITE PREPARATION, LABOR, AND MATERIALS FOR TREE-PLANTING PROJECTS;

B. MAINTAINING TREES FOLLOWING A TREE-PLANTING PROJECT; AND

C. LANDOWNER INCENTIVE PAYMENTS OR SIGNING BONUSES OF UP TO \$1,000 PER ACRE OF TREES PLANTED;

3. MAY NOT BE USED TO PLANT TREES INTENDED FOR TIMBER HARVEST; AND

4. MAY BE USED ONLY FOR TREE PLANTINGS ON PRIVATE LAND IF THE LANDOWNER ENTERS INTO A BINDING LEGAL AGREEMENT TO MAINTAIN THE PLANTED AREA IN TREE COVER FOR AT LEAST 15 YEARS.

(III) FUNDS TRANSFERRED FROM THE BAY RESTORATION FUND UNDER THIS PARAGRAPH ARE SUPPLEMENTAL TO AND MAY NOT TAKE THE PLACE OF FUNDING THAT OTHERWISE WOULD BE APPROPRIATED FOR THE PROGRAMS AND INITIATIVES SPECIFIED IN SUBPARAGRAPH (I) OF THIS PARAGRAPH.

SECTION 5. AND BE IT FURTHER ENACTED, That the Laws of Maryland read as follows:

**Article – Environment**

**9-1605.2.**

(i) (1) In this subsection, “eligible costs” means the additional costs that would be attributable to upgrading a wastewater facility to enhanced nutrient removal, as determined by the Department.

(2) Funds in the Bay Restoration Fund shall be used only:

(xi) Subject to the allocation of funds and the conditions under subsection (h) of this section, for projects related to the removal of nitrogen from on-site sewage disposal systems and cover crop activities; [and]

(xii) For costs associated with the implementation of alternate compliance plans authorized in § 4-202.1(k)(3) of this article; AND

(XIII) AFTER FUNDING ANY ELIGIBLE COSTS IDENTIFIED UNDER ITEM (IV)1 AND 2 OF THIS PARAGRAPH, FOR THE TRANSFERS REQUIRED UNDER PARAGRAPH (10) OF THIS SUBSECTION.

(10) (I) IN FISCAL YEAR 2023 THE DEPARTMENT SHALL TRANSFER FROM THE BAY RESTORATION FUND:

1. \$10,000,000 TO THE CHESAPEAKE BAY TRUST FOR THE URBAN TREES PROGRAM ESTABLISHED UNDER § 8-1911 OF THE NATURAL RESOURCES ARTICLE;

2. \$2,500,000 TO THE CHESAPEAKE AND ATLANTIC COASTAL BAYS 2010 TRUST FUND IN THE DEPARTMENT OF NATURAL RESOURCES, TO BE USED, SUBJECT TO THE REQUIREMENTS OF SUBPARAGRAPH (II) OF THIS PARAGRAPH, FOR TREE PLANTING ON PUBLIC AND PRIVATE LAND; AND

3. \$2,500,000 TO THE MARYLAND DEPARTMENT OF AGRICULTURE TO FUND TREE PLANTINGS UNDER THE CONSERVATION RESERVE ENHANCEMENT PROGRAM IN ACCORDANCE WITH § 8-706 OF THE AGRICULTURE ARTICLE AND OTHER TREE-PLANTING PROGRAMS ON AGRICULTURAL LAND.

(II) FUNDS TRANSFERRED TO THE CHESAPEAKE AND ATLANTIC COASTAL BAYS 2010 TRUST FUND UNDER SUBPARAGRAPH (I)2 OF THIS PARAGRAPH:

1. MAY BE DISTRIBUTED IN ACCORDANCE WITH § 8-2A-04(C)(2) OF THE NATURAL RESOURCES ARTICLE;

2. MAY BE USED TO COVER THE COSTS OF:

A. SITE PREPARATION, LABOR, AND MATERIALS FOR TREE-PLANTING PROJECTS;

B. MAINTAINING TREES FOLLOWING A PLANTING PROJECT; AND

C. LANDOWNER INCENTIVE PAYMENTS OR SIGNING BONUSES OF UP TO \$1,000 PER ACRE OF TREES PLANTED;

3. MAY NOT BE USED TO PLANT TREES INTENDED FOR TIMBER HARVEST; AND

4. MAY BE USED ONLY FOR TREE PLANTINGS ON PRIVATE LAND IF THE LANDOWNER ENTERS INTO A BINDING LEGAL AGREEMENT TO MAINTAIN THE PLANTED AREA IN TREE COVER FOR AT LEAST 15 YEARS.

(III) FUNDS TRANSFERRED FROM THE BAY RESTORATION FUND UNDER THIS PARAGRAPH ARE SUPPLEMENTAL TO AND MAY NOT TAKE THE PLACE OF FUNDING THAT OTHERWISE WOULD BE APPROPRIATED FOR THE PROGRAMS AND INITIATIVES SPECIFIED IN SUBPARAGRAPH (I) OF THIS PARAGRAPH.

SECTION 6. AND BE IT FURTHER ENACTED, That:

(a) There is a Commission for the Innovation and Advancement of Carbon Markets and Sustainable Tree Plantings.

(b) The Commission consists of the following members:

(1) the Secretary of the Environment, or the Secretary's designee;

(2) the Secretary of Natural Resources, or the Secretary's designee;

(3) the Secretary of Agriculture, or the Secretary's designee;

(4) the State Treasurer, or the State Treasurer's designee;

(5) one representative of the Maryland Association of Counties, selected by the Maryland Association of Counties;

(6) one representative of the Maryland Municipal League, selected by the Maryland Municipal League;

(7) one representative of the Commission on Environmental Justice and Sustainable Communities, appointed by the Commission on Environmental Justice and Sustainable Communities;

(8) one representative of the Chesapeake Bay Foundation, appointed by the Chesapeake Bay Foundation;

(9) one representative of the Maryland League of Conservation Voters, appointed by the Maryland League of Conservation Voters;

(10) one representative of Blue Water Baltimore, appointed by Blue Water Baltimore;

(11) one representative of the Maryland Chapter of the Nature Conservancy, selected by the Maryland Chapter of the Nature Conservancy;

(12) one representative of the Maryland Farm Bureau, selected by the Maryland Farm Bureau;

(13) one researcher from the University of Maryland, College Park, who has expertise in forestry-based carbon sequestration, selected by the President of the University of Maryland, College Park;

(14) one representative of Patapsco Heritage Greenway, selected by Patapsco Heritage Greenway; and

(15) the President of the Maryland Forestry Foundation, or the President's designee.

(c) The Secretary of the Environment, or the Secretary's designee, shall chair the Commission.

(d) The Department of the Environment and, as necessary, the Department of Natural Resources shall provide staff for the Commission.

(e) A member of the Commission:

(1) may not receive compensation as a member of the Commission; but

(2) is entitled to reimbursement for expenses under the Standard State Travel Regulations, as provided in the State budget.

(f) (1) The Commission shall develop:

(i) a plan to achieve the State's carbon mitigation goal of planting 5,000,000 native trees by 2030 in accordance with § 2-1212 of the Environment Article, as enacted by Section 4 of this Act;

(ii) a plan to ensure that trees planted under this Act are properly maintained;

(iii) recommendations regarding the establishment of a Maryland-based carbon offset market to support the State's tree-planting goals; and

(iv) recommendations on reviewing State policies to reduce and fully mitigate the clearing of trees during the construction of State highways and other transportation projects.

(2) The plans and recommendations shall include:

(i) science-based guidelines to inform a State strategy for using trees to maximize carbon sequestration, mitigate heat deserts, and improve water and air quality;

(ii) recommendations regarding potential planting sites, including the impact that planting trees at these sites will have on agricultural and other private land and associated ecological services;

(iii) a strategy for ensuring that at least 500,000 trees are planted in underserved areas, in accordance with § 2-1212 of the Environment Article, as enacted by Section 4 of this Act;

(iv) a list of native tree species that will be planted;

(v) a review of existing programs and current resource capacity for tree plantings;

(vi) a plan for expanding or creating new capacities necessary to achieve the State's tree-planting goals;

(vii) an analysis of trees scheduled to be cut down and the impact that will have on carbon sequestration;

(viii) an overview and analysis of logistical and policy barriers to achieving the State's tree-planting goals;

(ix) a plan for seeking private capital to support tree plantings and forest conservation in the State;

(x) a plan for establishing a State-based carbon offset market to support the State's tree-planting goals;

(xi) recommendations for policy changes necessary to facilitate the use of the Water Quality Revolving Loan Fund and Environmental Impact Bonds for tree plantings; and

(xii) a plan for reviewing future transportation procurement to minimize and fully mitigate tree clearing.

(g) On or before October 31, 2022, the Commission shall report its plan and recommendations to the Governor and, in accordance with § 2-1257 of the State Government Article, the General Assembly.

SECTION ~~3~~ 7. AND BE IT FURTHER ENACTED, That:

(a) (1) The Harry R. Hughes Center for Agro-Ecology, in consultation with the Department of Natural Resources, the Department of the Environment, the Department of Planning, the Department of Agriculture, and the Chesapeake Bay Program, as appropriate, shall conduct a technical study to review changes in forest cover and tree canopy in the State.

(2) The technical study required under paragraph (1) of this subsection shall, to the extent practicable, include:

(i) a survey and mapping of:

1. existing forest cover and tree canopy in the State; and

2. potential afforestation and reforestation locations in the State;

(ii) an analysis of the health and quality of forests in the State;

(iii) an analysis of the progress toward the State's commitments to expand urban tree canopy acres and plant riparian forest buffers under the 2014 Chesapeake Bay Agreement;

(iv) an analysis of observed and projected changes in land cover and the amount of forest cover in the State due to development or other causes, using the Chesapeake Bay Phase 6 Model, Chesapeake Assessment Scenario Tool (CAST), and county and municipal forest conservation annual reports and land use plans, including the extent and nature of:

1. mitigation activities involving existing forest conserved, tree planting, reforestation, or afforestation under the Forest Conservation Act;

2. forest clearing, planting, and mitigation activity inside and outside priority funding areas and locally designated growth areas; and

3. the clearing and mitigation of forest considered to be a priority for retention and protection under § 5–1607(c) of the Natural Resources Article and in State-identified targeted ecological areas and greenways, hubs, and corridors and the zoned density and sewer status of those areas;

(v) an analysis of observed and projected changes in the amount of forest cover in the State based on:

1. relevant State or local programs involving tree planting, reforestation, or afforestation; and

2. the amount of forest preserved through federal, State, and local programs, including agricultural preservation, open space, conservation easement, and other land preservation programs;

(vi) a review of forest mitigation banking in the State, including:

1. capacity and location of active banks;

2. regulation of siting and creation of new banks;

3. geographic limitations on the use of mitigation banks;

4. the relationship between fee-in-lieu rates under the Forest Conservation Act and the market for forest mitigation banks; ~~and~~

5. whether expanding the use of forest mitigation banks could provide water quality improvements and other beneficial results; ~~and~~

6. the extent to which existing forest mitigation banks are composed of forests that have been created or restored versus forests that are under qualified conservation; and

7. the effect of using qualified conservation completed in a forest mitigation bank to meet afforestation or reforestation requirements under State or local programs on the State's policy of achieving no net loss of forest; and

(vii) a programmatic and funding review of federal, State, and local tree and forest planting programs such as:

1. Marylanders Plant Trees;

2. Lawn to Woodland;
3. Backyard Buffers;
4. Conservation Reserve Enhance Program; and
5. other programs used to further TMDL Watershed Implementation Plans and MS4 permit compliance.

(b) On or before December 1, 2023, the Harry R. Hughes Center for Agro-Ecology shall submit a report of the findings of the technical study required under subsection (a) of this section to the Governor and, in accordance with § 2-1257 of the State Government Article, the General Assembly.

SECTION ~~4~~ 8. AND BE IT FURTHER ENACTED, That:

(a) Subject to subsection (b) of this section, *Section 1 of this Act* shall be construed to apply retroactively and shall be applied to and interpreted to affect any qualified conservation completed, and any resulting afforestation or reforestation credits given, to the extent they were approved in good faith under a State or local program as a forest mitigation bank before the effective date of this Act.

(b) Nothing in this section requires a State or local program to reevaluate or alter any of its final determinations related to the granting or denial of afforestation or reforestation credits for qualified conservation made before the effective date of this Act.

SECTION ~~5~~ 9. AND BE IT FURTHER ENACTED, That it is the intent of the General Assembly to review the findings in the technical study on changes in forest cover and tree canopy in Maryland required under Section ~~3~~ 7 of this Act and, based on the findings, to consider any legislative or other changes necessary to improve the implementation and effectiveness of the Forest Conservation Act, including any changes to the forest mitigation banking program in the State.

SECTION 10. AND BE IT FURTHER ENACTED, That *Section 5 of this Act* shall take effect on the taking effect of the termination provision specified in Section 5 of Chapters 366 and 367 of the Acts of the General Assembly of 2017. If that termination provision takes effect, Section 4 of this Act, with no further action required by the General Assembly, shall be abrogated and of no further force and effect. This Act may not be interpreted to have any effect on that termination provision.

SECTION ~~3~~ ~~6~~ 11. AND BE IT FURTHER ENACTED, That , *except as provided in Section 10 of this Act*, this Act shall take effect ~~October~~ June 1, 2021. ~~Section 3~~ Sections 1, 2, and 7 of this Act shall remain effective for a period of 3 years *and 1 month* and, at the end of ~~May 31~~ June 30, 2024, ~~Section 3~~ Sections 1, 2, and 7 of this Act, with no further action required by the General Assembly, shall be abrogated and of no further force and effect. *Subject to Section 10 of this Act, Sections 3, 4, and 5 of this Act shall remain effective*



for a period of 10 years and 1 month and, at the end of June 30, 2031, Sections 3, 4, and 5 of this Act, with no further action required by the General Assembly, shall be abrogated and of no further force and effect. Section 6 of this Act shall remain effective for a period of 2 years and 1 month and, at the end of June 30, 2023, Section 6 of this Act, with no further action required by the General Assembly, shall be abrogated and of no further force and effect.

**Enacted under Article II, § 17(c) of the Maryland Constitution, May 30, 2021.**