

The Honorable Westley Moore
Governor
State of Maryland
100 State Circle
Annapolis, MD 21401-1925

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

Dear Governor Moore:

The Prince George's County Council is deeply concerned with enacting HB1470 into law, and we strongly request that you veto this bill.

When the bill was initially introduced, it established that a person, who in good faith purchased 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 required 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.

At the time of the bill's introduction, the Prince George's County Council recognized 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 those reasons, the Prince George's County Council initially supported MC/PG 113-25; HB1470. However, the bill was subsequently and significantly amended and now requires the Prince George's County Department of Permitting Inspections and Enforcement (DPIE), when a person has cut or cleared trees in the Critical Area in violation of an approved local critical area program or Critical Area Commission (CAC) regulations, to record a lien on the property that is the subject of the violation within 90 days after issuing notice of the violation to the property owner.

The bill also establishes that a properly recorded lien (recorded within 90 days of issuing notice of the violation) is required to enforce and hold a current property owner liable for the cutting or clearing of trees by a previous property owner or user who performed the act that caused the violation. If a lien is not recorded as required, the local jurisdiction (1) may pursue an enforcement action against only the previous owner or user that performed the act that caused the violation; (2) may not seek remedies against the current property owner; (3) must perform any required restoration or mitigation that is not performed by the previous owner or user; and (4) may enter the property that is the subject of the violation, in accordance with specified existing law, for restoration or mitigation purposes.

Most significantly, the bill requires the Prince George's County government to reimburse a current property owner for all costs and fees associated with any administrative enforcement actions taken for such a violation, including civil penalties, bonds, reforestation costs, fees for attorneys, engineers, foresters, and landscape architects, and any other costs and fees.

While we recognize the need to hold harmless current property owners who purchased property from a previous owner who may have done things on the property that would be in violation of CAC rules, we believe that this bill goes too far to address, in this case, one affected property owner. Other remedies are available that do not significantly burden and potentially place fiscal hardship on the county, such as seeking legal redress through a law suit and make the offending party bear the cost of making the injured party whole.

For these reasons, we respectfully request that you veto HB 1470.

Sincerely,

Edward P. Burroughs III
Chair