

# HOUSE BILL 874

M1, R2  
HB 238/15 – ENV

7lr3275

---

By: **Delegates Cassilly and Szeliga**

Introduced and read first time: February 6, 2017

Assigned to: Environment and Transportation

---

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 15, 2017

---

## CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Air Navigation Protection From Hazards Act of 2017**

3 FOR the purpose of creating an exemption under the Forest Conservation Act for the  
4 cutting or clearing of trees to comply with a certain provision of law relating to  
5 obstructions to air navigation, under certain circumstances; providing that the  
6 exemption does not apply to the cutting or clearing of trees to facilitate the expansion  
7 or extension of the boundaries of any airport or runway; and generally relating to  
8 the applicability of the Forest Conservation Act.

9 BY repealing and reenacting, with amendments,  
10 Article – Natural Resources  
11 Section 5–1602  
12 Annotated Code of Maryland  
13 (2012 Replacement Volume and 2016 Supplement)

14 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,  
15 That the Laws of Maryland read as follows:

16 **Article – Natural Resources**

17 5–1602.

18 (a) Except as provided in subsection (b) of this section, this subtitle shall apply to  
19 any public or private subdivision plan or application for a grading or sediment control

---

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 permit by any person, including a unit of State or local government on areas 40,000 square  
2 feet or greater.

3 (b) The provisions of this subtitle do not apply to:

4 (1) Any construction activity that is subject to § 5–103 of this title;

5 (2) Any cutting or clearing of forest in areas governed by the Chesapeake  
6 Bay Critical Area Protection Law (Title 8, Subtitle 18 of this article);

7 (3) Commercial logging and timber harvesting operations, including any  
8 harvesting conducted under the forest conservation and management program under §  
9 8–211 of the Tax – Property Article:

10 (i) That were completed before July 1, 1991; or

11 (ii) That were completed on or after July 1, 1991 on property that is  
12 not the subject of an application for a grading permit for development within 5 years after  
13 the logging or harvesting operation. However, after this 5–year period, the property shall  
14 be subject to this subtitle;

15 (4) Any agricultural activity that does not result in a change in land use  
16 category, including agricultural support buildings and other related structures built using  
17 accepted best management practices;

18 (5) The cutting or clearing of public utility rights–of–way or land for  
19 electric generating stations licensed pursuant to § 7–204, § 7–205, § 7–207, or § 7–208 of  
20 the Public Utilities Article, provided that:

21 (i) Any required certificates of public convenience and necessity  
22 have been issued in accordance with § 5–1603(f) of this subtitle; and

23 (ii) The cutting or clearing of the forest is conducted so as to  
24 minimize the loss of forest;

25 (6) Any routine maintenance of public utility rights–of–way;

26 (7) Any activity conducted on a single lot of any size or a linear project  
27 provided that:

28 (i) The activity does not result in the cutting, clearing, or grading of  
29 more than 20,000 square feet of forest; and

30 (ii) The activity on the lot or linear project will not result in the  
31 cutting, clearing, or grading of any forest that is subject to the requirements of a previous  
32 forest conservation plan prepared under this subtitle;

1 (8) Any strip or deep mining of coal regulated under Title 15, Subtitle 5 or  
2 Subtitle 6 of the Environment Article and any noncoal surface mining regulated under Title  
3 15, Subtitle 8 of the Environment Article;

4 (9) Any activity required for the purpose of constructing a dwelling house  
5 intended for the use of the owner, or a child of the owner, if the activity does not result in  
6 the cutting, clearing, or grading of more than 20,000 square feet of forest;

7 (10) A county that has and maintains 200,000 acres or more of its land area  
8 in forest cover;

9 (11) The cutting or clearing of trees to comply with the requirements of:

10 (I) 14 C.F.R. § 77.25 relating to objects affecting navigable airspace,  
11 provided that the Federal Aviation Administration has determined that the trees are a  
12 hazard to aviation; OR

13 (II) SUBJECT TO SUBSECTION (C) OF THIS SECTION, § 5-703 OF  
14 THE TRANSPORTATION ARTICLE RELATING TO OBSTRUCTIONS TO AIR NAVIGATION,  
15 PROVIDED THAT, IF A DISPUTE ARISES REGARDING THE CUTTING OR CLEARING OF  
16 TREES, THE MARYLAND AVIATION ADMINISTRATION HAS DETERMINED THAT THE  
17 TREES ARE A HAZARD TO AIR NAVIGATION MAKES THE FINAL DETERMINATION  
18 WHETHER THE TREES SHOULD BE CUT OR CLEARED;

19 (12) Any stream restoration project for which the applicant for a grading or  
20 sediment control permit has executed a binding maintenance agreement of at least 5 years  
21 with the affected property owner; and

22 (13) Maintenance or retrofitting of a stormwater management structure  
23 that may include clearing of vegetation or removal and trimming of trees, so long as the  
24 maintenance or retrofitting is within the original limits of disturbance for construction of  
25 the existing structure, or within any maintenance easement for access to the structure.

26 (c) AN EXEMPTION UNDER SUBSECTION (B)(11)(II) OF THIS SECTION DOES  
27 NOT APPLY TO THE CUTTING OR CLEARING OF TREES TO FACILITATE THE  
28 EXPANSION OR EXTENSION OF THE BOUNDARIES OF ANY AIRPORT OR RUNWAY.

29 (D) For an application for subdivision or sediment and erosion control or grading  
30 for a site with more than 50% of the net tract area governed by Title 8, Subtitle 18 of this  
31 article, the Department or local authority may allow an applicant to extend critical area  
32 forest protection measures instead of meeting the requirements of this subtitle.

33 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
34 October 1, 2017.