



# CHESAPEAKE BAY FOUNDATION

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*Environmental Protection and Restoration  
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## **Senate Bill 737**

### Comprehensive Conservation Finance Act

Date: March 4, 2021

To: Senate Education, Health and Environmental  
Affairs Committee

Position: Support

From: Robin Clark, Maryland Staff Attorney

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Chesapeake Bay Foundation **SUPPORTS SB 737 WITH AMENDMENTS**. This bill considers changes and updates to various elements of the State's environmental laws and financing and envisions new avenues for private investment of environmental policy and programs in Maryland. Leveraging private investment may speed environmental outcomes that help restore the Chesapeake Bay.

This legislation draws several subject matters to the foreground that are worthy of consideration and update. For example, the creation of a Maryland-based carbon market could support environmental work in key areas – including providing ongoing financial resources for conservation practices in agriculture, and stormwater management practices, such as tree plantings in developed areas. The State should investigate and determine what updates to the law, if any, are needed to help that market develop.

The development of an interstate trading program between Pennsylvania and Maryland in the Susquehanna Basin, envisioned in this legislation could help Bay's recovery efforts. While water quality benefits might accrue more substantially to the state where the best management practices is installed, as long as the benefit is in the same basin, the Chesapeake Bay will benefit.

This legislation also seeks to define concepts currently lacking definition. These include blue and green infrastructure. In drafting these definitions, consideration must be made of the ways that blue and green infrastructure fit in current laws, and also the way that they may be emphasized in the future. For example, the definition of green infrastructure includes engineered elements that protects communities from flooding or storm surge or sequesters carbon. Green infrastructure, even when partly engineered, requires a natural tie. And while flood mitigation and carbon sequestration are co-benefits of green infrastructure, they may not merit standalone inclusion in the definitions.

The legislation expanded uses for the Drinking Water Revolving fund may allow the fund to support non-point source pollution reduction, forest and wetland protection and restoration so long as they can be tied to drinking water quality. Precedent for this extension may be found in New York's acquisition of the Catskills and Adirondack parks to protect drinking water quality for New York City. This concept seems worthy of exploration, including the dynamic it would create between existing sources of funding for the Bay's restoration.

Others areas of this legislation that demand further review and consideration include the provisions relating to hydroelectric power and forest conservation. On the latter, the legislation's mandated priorities and contribution rates are piecemeal changes that may create disincentives to forest preservation without broader updates across the Forest Conservation Act. Additionally, allowing

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landowners to use forests on state properties as the buffer or insurance requirements for private forest transactions should not be permitted. If the markets require additional acreage set aside for insurance reasons that should be done in an area controlled by the credit creator.

The challenge with such a broad set of environmental outcomes that can be traded and the complicated blending of funds that could include state grants and loans includes tracking the transactions to make sure environmental outcomes are achieved and loaned money is repaid by offset payments. The “stacking” of several types of environmental outcomes into a single instrument also invites the potential for confusion. If a single action such as planting trees can reduce nitrogen and sequester carbon, stacking is appropriate. However, definitions of commodities in the legislation list multiple environmental outcomes which could be conflated, and if paid for with a grant and reimbursed by offset credits, could lead to miscounting or double dipping.

**CBF urges the Committee’s FAVORABLE WITH AMENDMENTS report on SB 737.**