

Department of Legislative Services

Maryland General Assembly

2002 Session

FISCAL NOTE

House Bill 1384

(Delegates W. Baker and Stocksdale)

(Task Force to Study the Maryland Agricultural Land
Preservation Foundation)

Appropriations

**Maryland Agricultural Land Preservation Foundation - Proposed Agricultural
Districts**

This bill relates to the Maryland Agricultural Land Preservation Foundation (MALPF). In general, the bill modifies provisions relating to the approval of proposed agricultural districts by MALPF, the number of lots that may be released free of easement restrictions for residential purposes, and the repayment by a landowner to the State for such lots.

Fiscal Summary

State Effect: Special fund revenues could increase significantly as a result of the bill's changes regarding the repayment of funds to MALPF by landowners for lots released free of easement restrictions. The bill's changes could be handled with existing budgeted resources.

Local Effect: The bill would not directly affect local jurisdictions.

Small Business Effect: Potential meaningful.

Analysis

Bill Summary: With respect to land that is contiguous to a proposed agricultural district, owned by the applicant, and is either being excluded from the proposed district or was subdivided from the proposed district after January 1, 2001, the bill prohibits MALPF from approving a petition for the establishment of an agricultural district unless MALPF

determines that development of land that has been subdivided or excluded from the proposed district will not result in an amount or type of development that will compromise the potential for production of agricultural commodities in the district. The bill provides for the approval of proposed districts by MALPF under specified conditions that generally restrict the uses of the land excluded. Regulations adopted by MALPF relating to such land must be designed to protect the State's investment in easements for agricultural production.

The bill also reduces the number of lots (and associated density allowances) that may be released free of easement restrictions for the purpose of constructing a dwelling house. The bill also increases the amount a landowner must repay the State for lots released free of easement restrictions. Instead of the landowner paying the State for any acre or portion released at the price per acre that the State paid the owner for the easement, the bill requires that the landowner pay the State one-half of the value that the State paid the owner for each residential development right extinguished by the easement purchase.

The bill also repeals the provision of current law allowing a subsequent landowner to exclude from easement restrictions one acre per each dwelling that existed at the time of the sale of the easement. The bill provides that a landowner may use one acre of land for each single dwelling that existed at the time of district formation or at the time of the sale of the easement for any residential purpose allowed under local zoning. The landowner may not convey the one acre or dwelling separately from the district or the easement.

Current Law: The Maryland General Assembly created MALPF in 1977 to, among other things, protect agricultural land in the State. Agricultural preservation districts are formed when qualifying landowners sign voluntary agreements to keep their land in agricultural or woodland use for a minimum of five years. MALPF may approve a petition for the establishment of an agricultural district only under specified conditions. Once a district is established, the landowner is eligible to apply to sell a development rights easement on that property to MALPF. Subject to some limitations, once an easement has been sold, the property is protected from further development.

A landowner who sells an easement to MALPF is allowed, subject to specified conditions, to exclude as many as ten one-acre lots up to a maximum density of one lot per 20 acres for the purpose of constructing a house for the landowner or the landowner's children. The landowner is required to pay the State for any acre or portion released at the price per acre that the State paid the owner for the easement. Upon request to MALPF, a subsequent landowner may exclude from the easement restrictions one acre per each single dwelling that existed at the time of the sale of the easement. An owner must agree not to subdivide further for residential purposes any acreage allowed to be

released. The landowner must pay the State for any acre or portion released in excess of the one acre per single dwelling that existed at the time of easement.

Background: Chapter 634 of 2000 created a task force to study MALPF. The task force was required to: (1) study the current program and practices of the foundation; (2) study the financial standing of the foundation; (3) review and make recommendations on legislation affecting the foundation considered by the General Assembly in the 2000 session; and (4) make recommendations to improve the program, practices, and financial standing of the foundation. In its August 2001 report to the Governor and the General Assembly, the task force recommended, among other things: (1) landowners should be allowed to reserve development rights for residential lots by excluding land with limited development potential prior to enrolling in the program; and (2) to protect the State's investment in easements on recently subdivided parcels, the potential impact of development on the land withheld from the easement should be evaluated before the property is accepted.

State Revenues: The bill's provision that modifies the repayment by landowners to MALPF for lots excluded could result in a significant increase in special fund revenues. Under current law, a landowner that excludes lots from the easement for the purpose of constructing a house must pay the State for any acre or portion released at the price per acre that the State paid the owner for the easement. Although it varies significantly by county, the statewide average price per acre is approximately \$2,000. On average, MALPF approves 60 lots annually for release from easement restrictions. Accordingly, on average, MALPF is repaid about \$120,000 annually for lots released free of easement restrictions.

Under this bill, however, the landowner must pay one-half of the value that the State paid the owner for each residential development right extinguished by the easement purchase. According to MDA, the average easement value is about \$200,000 per 100-acre farm, and the average 100-acre farm has approximately 5 development rights. Based on that information, one-half of the value of a development right is approximately \$20,000. Under the bill's new repayment formula, MALPF would generate an estimated \$1.2 million, or an increase of over \$1 million. However, the bill could also decrease the number of lots released, making a reliable estimate of the bill's increase in special fund revenues difficult.

Small Business Effect: Most farms are small businesses. The bill aims to protect the State's investment in agricultural easements by ensuring that activities on adjacent lands excluded from the program will not compromise the agricultural productivity of land within the program. The bill requires landowners applying for district status that wish to withhold land from the MALPF program to make pledges to restrict uses of the land that

is withheld. The extent to which this will have an economic impact on landowners is unknown. However, it is possible that some landowners will choose not to participate in the program as a result.

The bill also reduces the number of lots a landowner may release free of easement restrictions and increases the amount of money a landowner must repay the State for such lots, as described above.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Maryland Department of Agriculture, Maryland Department of Planning, Frederick County, Montgomery County, Prince George's County, Department of Legislative Services

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