

SENATE BILL 626

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2003 Regular Session
3lr2073
CF 3lr1893

By: **Senators Middleton and Dyson, Dyson, and Colburn**

Introduced and read first time: February 7, 2003

Assigned to: Rules

Re-referred to: Education, Health, and Environmental Affairs, February 12, 2003

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 18, 2003

CHAPTER 258

1 AN ACT concerning

2 **Maryland Agricultural Land Preservation Foundation - Easements - Lot**
3 **Exclusions and Allowable Economic Activity**

4 FOR the purpose of clarifying the range of uses and activities allowed on property
5 with an agricultural land preservation easement; reducing the number of
6 certain lots allowed to be excluded from an agricultural land preservation
7 easement; authorizing a certain number of unrestricted lots to be excluded from
8 an agricultural land preservation easement; establishing certain criteria and
9 conditions for excluding an unrestricted lot from an agricultural land
10 preservation easement; authorizing the exclusion of certain existing dwellings
11 as a certain lot; and generally relating to the Maryland Agricultural Land
12 Preservation Foundation.

13 BY repealing and reenacting, with amendments,
14 Article - Agriculture
15 Section 2-513
16 Annotated Code of Maryland
17 (1999 Replacement Volume and 2002 Supplement)

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

1

Article - Agriculture

2 2-513.

3 (a) Agricultural land preservation easements may be purchased under this
 4 subtitle for any land in agricultural use which meets the minimum criteria
 5 established under § 2-509 of this subtitle if the easement and county regulations
 6 governing the use of the land include the following provisions:

7 (1) Any farm use of land is permitted.

8 (2) Operation at any time of any machinery used in farm production or
 9 the primary processing of agricultural products is permitted.

10 (3) All normal agricultural operations performed in accordance with
 11 good husbandry practices which do not cause bodily injury or directly endanger
 12 human health are permitted including, but not limited to, sale of farm products
 13 produced on the farm where such sales are made.

14 (b) (1) ~~Except as otherwise provided in this section, a landowner, whose land~~
 15 ~~is subject to an easement, may not use the land for any commercial, industrial, or~~
 16 ~~residential purpose, EXCEPT FOR FARM AND FOREST RELATED USES AND HOME~~
 17 ~~OCCUPATIONS AS DETERMINED BY THE FOUNDATION. A LANDOWNER WHOSE LAND~~
 18 ~~IS SUBJECT TO AN EASEMENT MAY NOT USE THE LAND FOR ANY COMMERCIAL,~~
 19 ~~INDUSTRIAL, OR RESIDENTIAL PURPOSE EXCEPT:~~

20 (I) AS DETERMINED BY THE FOUNDATION, FOR FARM AND FOREST
 21 RELATED USES AND HOME OCCUPATIONS; OR

22 (II) AS OTHERWISE PROVIDED UNDER THIS SECTION.

23 (2) Except as provided in [paragraph (5)] PARAGRAPHS (3) AND (6) of this
 24 subsection, on written application, the Foundation shall release free of easement
 25 restrictions only for the landowner who originally sold an easement, 1 acre or less for
 26 the purpose of constructing a dwelling house for the use only of that landowner or
 27 child of the landowner, UP TO A MAXIMUM OF THREE LOTS, subject to the following
 28 conditions:

29 (i) The ~~total~~ number of lots allowed to be released under this
 30 section, except as provided in paragraph [(5)] (6) of this subsection, may not exceed
 31 [10] ~~3 lots of 1 acre or less at a maximum of not more than 1 lot for [each] THE FIRST~~
 32 ~~FULL 20 acres [or portion thereof] AND 1 LOT FOR EACH ADDITIONAL FULL 50 ACRES;~~

33 1. 1 LOT IF THE SIZE OF THE EASEMENT PROPERTY IS 20
 34 ACRES OR MORE BUT FEWER THAN 70 ACRES;

35 2. 2 LOTS IF THE SIZE OF THE EASEMENT PROPERTY IS 70
 36 ACRES OR MORE BUT FEWER THAN 120 ACRES; OR

1 (II) AN UNRESTRICTED LOT MAY BE SUBDIVIDED BY THE
2 LANDOWNER FROM THE EASEMENT AND SOLD TO ANYONE TO CONSTRUCT ONE
3 RESIDENTIAL DWELLING;

4 (III) THE SIZE OF AN UNRESTRICTED LOT SHALL BE 1 ACRE OR LESS,
5 EXCEPT AS PROVIDED IN PARAGRAPH (6) OF THIS SUBSECTION;

6 (IV) THE LANDOWNER SHALL AGREE NOT TO SUBDIVIDE FURTHER
7 FOR RESIDENTIAL PURPOSES ANY ACREAGE ALLOWED TO BE RELEASED, AND THE
8 AGREEMENT SHALL BE RECORDED AMONG THE LAND RECORDS WHERE THE LAND IS
9 LOCATED AND SHALL BIND ALL FUTURE OWNERS;

10 (V) THE RIGHT TO THE LOT IS TAKEN INTO CONSIDERATION IN THE
11 APPRAISAL OF FAIR MARKET VALUE AND DETERMINATION OF EASEMENT VALUE;

12 (VI) THE LOT CAN BE SUBDIVIDED AT ANY TIME AND THE
13 LOCATION OF THE LOT TO BE SUBDIVIDED IS SUBJECT TO THE APPROVAL OF THE
14 LOCAL AGRICULTURAL ADVISORY BOARD AND THE FOUNDATION; AND

15 (VII) IF THE PROPERTY IS TRANSFERRED BEFORE THE RIGHT TO
16 EXCLUDE THE LOT HAS BEEN EXERCISED, THE RIGHT MAY BE TRANSFERRED WITH
17 THE PROPERTY.

18 [(3)] (4) A landowner may construct housing for tenants fully engaged in
19 operation of the farm, but this construction may not exceed 1 tenant house per 100
20 acres. The land on which a tenant house is constructed may not be subdivided or
21 conveyed to any person. In addition, the tenant house may not be conveyed separately
22 from the original parcel.

23 [(4)] (5) Except as provided in paragraph [(5)] (6) of this subsection, on
24 request to the Foundation, an owner may exclude from the easement restrictions 1
25 acre per each single dwelling, which existed at the time of the sale of the easement, AS
26 AN OWNER'S, CHILDREN'S, OR UNRESTRICTED LOT TO WHICH THE OWNER IS
27 ENTITLED UNDER PARAGRAPH (2) OF THIS SUBSECTION, by a land survey and
28 recordation provided at the expense of the owner. However, before any exclusion is
29 granted, an owner shall agree with the Foundation not to subdivide further for
30 residential purposes any acreage allowed to be released. This agreement shall be
31 recorded among the land records where the land is located and shall bind all future
32 owners.

33 [(5)] (6) (i) The restrictions of paragraphs (2) and [4] (5) of this
34 subsection concerning maximum lot sizes are altered so that the maximum lot size is
35 2 acres if:

36 1. Regulations adopted by the Department of the
37 Environment require a minimum lot size for a dwelling house of not less than 2 acres
38 in areas where there is less than 4 feet of unsaturated and unconsolidated soil
39 material below the bottom of an on-site sewage disposal system or in areas located
40 within 2,500 feet of the normal water level of an existing or proposed water supply
41 reservoir; or

