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CHAPTER 189

1 AN ACT concerning

2 **Maryland Agricultural Land Preservation Program - Installment Purchase**
3 **Agreements, Schedule of Installments, and Termination of Easements**

4 FOR the purpose of authorizing the Maryland Agricultural Land Preservation
5 Foundation to purchase agricultural easements through installment purchase
6 agreements; prohibiting the use of the proceeds of the sale of ~~taxable~~,
7 tax-exempt general obligation bonds to purchase easements using installment
8 purchase agreements or a certain schedule of installments; establishing the
9 maximum term of an installment purchase agreement; requiring that the
10 Foundation make certain annual payments; requiring the Foundation to pay a
11 certain amount at the end of the term; requiring the agreement to contain
12 certain information; providing that an easement purchased under an
13 installment purchase agreement cannot be terminated; requiring the
14 Foundation to prepare and submit a certain plan to the Governor and the
15 General Assembly; requiring the Foundation to adopt certain regulations; and
16 generally relating to the Maryland Agricultural Land Preservation Program,
17 installment purchase agreements, schedule of installments, and termination of
18 easements.

19 BY repealing and reenacting, with amendments,
20 Article - Agriculture
21 Section 2-505, 2-509(a), 2-510(k), and 2-514
22 Annotated Code of Maryland
23 (1999 Replacement Volume and 2003 Supplement)

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

3 **Article - Agriculture**

4 2-505.

5 (a) The Maryland Agricultural Land Preservation Fund is created and
6 continued for the purposes specified in this subtitle.

7 (b) The Maryland Agricultural Land Preservation Fund shall comprise:

8 (1) Any money made available to the Fund by general or special fund
9 appropriations; and

10 (2) Any money made available to the Fund by grants or transfers from
11 governmental or private sources.

12 (c) The Comptroller of the Treasury may not disburse any money from the
13 Maryland Agricultural Land Preservation Fund other than:

14 (1) For costs associated with the staffing and administration of the
15 Maryland Agricultural Land Preservation Foundation;

16 (2) For reasonable expenses incurred by the members of the board of
17 trustees of the Maryland Agricultural Land Preservation Foundation in the
18 performance of official duties; and

19 (3) For consideration in the purchase of agricultural land preservation
20 easements beginning with fiscal year 1979 and each fiscal year thereafter.

21 (d) Any money remaining in the Fund at the end of a fiscal year may not
22 revert to the general funds of the State, but shall remain in the Maryland
23 Agricultural Land Preservation Fund to be used for the purposes specified in this
24 subtitle. It is the intent of the General Assembly that, to the extent feasible, the
25 Foundation utilize the full amount of money available for the purchase of easements
26 in any fiscal year so as to minimize the amount of money remaining in the Fund at
27 the end of any fiscal year.

28 (e) If a portion of a local subdivision's allocation of Program Open Space funds
29 is transferred to the Maryland Agricultural Land Preservation Fund pursuant to the
30 provisions of § 5-903 of the Natural Resources Article, the Foundation may utilize
31 such transferred funds only for purchases of easements on land located within the
32 boundaries of the subdivision which requested the transfer of funds. Such transferred
33 open space funds shall be available in addition to any funds which would otherwise be
34 allotted under this subtitle for purchases of easements in the county which requested
35 the transfer of funds; and at the discretion of the local governing body, such
36 transferred open space funds may be used for general purchases, or applied as the
37 local contribution in matching purchases as required in §§ 2-508(a)(3) and
38 2-512(b)(1) of this subtitle.

1 (F) MONEY IN THE FUND FROM THE SALE OF TAX-EXEMPT GENERAL
2 OBLIGATION BONDS MAY NOT BE USED TO PURCHASE EASEMENTS UNDER:

3 (1) AN INSTALLMENT PURCHASE AGREEMENT, AS PROVIDED IN §
4 2-510(K)(2) OF THIS SUBTITLE; OR

5 (2) A SCHEDULE OF INSTALLMENTS FINANCED WITH CERTIFICATES OF
6 DEPOSIT, AS PROVIDED IN § 2-510(K)(1) OF THIS SUBTITLE.

7 [(f)] (G) The estimated budget of the Foundation for the next fiscal year shall
8 be included with the budget of the Department.

9 [(g)] (H) The Fund shall be audited annually by the Legislative Auditor in the
10 manner prescribed by law.

11 2-509.

12 (a) The Foundation shall adopt regulations and procedures for:

13 (1) Establishment and monitoring of agricultural districts;

14 (2) Evaluation of land to be included within agricultural districts; and

15 (3) Purchase of easements, INCLUDING THE PURCHASE OF EASEMENTS
16 UNDER AN INSTALLMENT PURCHASE AGREEMENT.

17 2-510.

18 (k) At the time of settlement of the purchase of an easement, the landowner
19 and the Foundation may agree upon and establish a schedule of payment such that
20 the landowner may receive consideration for the easement in a lump sum, [or] in
21 installments over a period of up to 10 years from the date of settlement, OR AS
22 PROVIDED IN AN INSTALLMENT PURCHASE AGREEMENT UNDER PARAGRAPH (2) OF
23 THIS SUBSECTION. At the time of settlement, the Foundation shall notify in writing
24 each landowner who sells an agricultural easement to the Foundation of the schedule
25 of anticipated ranges of interest rates to be paid on any unpaid balance after the date
26 of settlement.

27 (1) (I) If a schedule of installments is agreed upon, the Comptroller
28 shall retain in the Maryland Agricultural Land Preservation Fund an amount of
29 money sufficient to pay the landowner according to the schedule.

30 [(2)] (II) The landowner shall receive interest on any unpaid balance
31 remaining after the date of settlement. The State Treasurer shall invest the unpaid
32 balance remaining after the date of settlement in a certificate or certificates of
33 deposit at the maximum interest rate offered by a bank servicing the State or at such
34 other institutions which pay the maximum interest rates payable on time and savings
35 deposits at federally insured commercial banks selected by the Treasurer, to mature
36 in accordance with an agreed upon schedule of installments as provided in this

1 section. Any interest earned on the invested unpaid balance shall be paid with the
2 installment when due, less 1/4 of 1 percent.

3 (2) (I) THE FOUNDATION MAY PAY THE LANDOWNER ACCORDING TO
4 A SCHEDULE, UP TO A MAXIMUM TERM OF 15 YEARS, ESTABLISHED IN AN
5 INSTALLMENT PURCHASE AGREEMENT.

6 (II) THE INSTALLMENT PURCHASE AGREEMENT SHALL:

7 1. REQUIRE THAT THE FOUNDATION MAKE ANNUAL EQUAL
8 PAYMENTS TO THE LANDOWNER OF INTEREST ON THE OUTSTANDING BALANCE OF
9 THE PURCHASE PRICE;

10 2. REQUIRE THAT THE FOUNDATION PAY THE LANDOWNER
11 THE REMAINDER OF THE PURCHASE PRICE AT THE END OF THE TERM;

12 3. STATE THE TOTAL AMOUNT OF MONEY THE FOUNDATION
13 WILL PAY THE LANDOWNER, THE INTEREST RATE, AND THE TERMS OF THE
14 AGREEMENT; AND

15 4. REQUIRE THAT THE EASEMENT BE RECORDED WITHIN 30
16 DAYS OF SETTLEMENT.

17 2-514.

18 (a) It is the intent of the General Assembly that the easement purchased
19 under this subtitle be held by the Foundation for as long as profitable farming is
20 feasible on the land under easement, and an easement may be terminated only in the
21 manner and at the time specified in this section.

22 (b) [At] EXCEPT AS PROVIDED IN SUBSECTION (H) OF THIS SECTION, any
23 time after 25 years from the date of purchase of an easement, the landowner may
24 request that the easement be reviewed for possible termination of the easement.

25 (c) Upon a request for review of an easement for termination, an inquiry shall
26 be conducted by the Foundation to determine the feasibility of profitable farming on
27 the subject land. The inquiry shall be concluded and a decision reached by the
28 Foundation within 180 days after the request for termination, and shall include:

29 (1) On-site inspection of the subject land; and

30 (2) A public hearing conducted by the Foundation board within the
31 county containing the subject land after adequate public notice.

32 (d) An easement may be terminated only with the approval of the governing
33 body of the county containing the subject land. In deciding whether to approve the
34 request for termination, the county governing body shall receive the recommendation
35 of the county agricultural preservation advisory board established under § 2-504.1 of
36 this subtitle. The decision of the county governing body shall be made after the public
37 hearing required in paragraph (c). The county governing body shall notify the

1 Foundation of its decision within 30 days after the conclusion of the public hearing
2 required in paragraph (c).

3 (e) Upon the affirmative vote of a majority of the Foundation members
4 at-large, and upon the approval of the Secretary and the State Treasurer, the request
5 for termination shall be approved, and the landowner shall be notified.

6 (f) (1) If the request for termination is approved, an appraisal of the subject
7 land shall be ordered by the Foundation at the expense of the landowner requesting
8 termination of the easement.

9 (2) (i) No more than 180 days following the appraisal required under
10 paragraph (1) of this subsection, the landowner may repurchase the easement by
11 paying to the Foundation the difference between the fair market value and the
12 agricultural value of the subject land, as determined by the appraisal.

13 (ii) For purposes of this paragraph, the agricultural value is the
14 price as of the valuation date which a vendor, willing but not obligated to sell, would
15 accept, and which a purchaser, willing but not obligated to buy, would pay for a farm
16 unit with land comparable in quality and composition to the property being
17 appraised, but located in the nearest location where profitable farming is feasible.

18 (iii) 1. In the case of the termination of an easement that was
19 originally purchased under a matching allotted purchase, the Foundation shall
20 distribute to the contributing county a portion of the repurchase payment received
21 under subparagraph (i) of this paragraph that is equal to the percentage of the
22 original easement purchase price contributed by the county.

23 2. A. From the funds distributed to a county under this
24 subparagraph, the county shall deposit in the county's special account for its
25 agricultural land preservation program an amount that is at least equal to the
26 percentage of the original easement purchase price that was paid out of the special
27 account.

28 B. If any of the funds deposited in the county's special
29 account have not been expended or committed within 3 years from the date of deposit
30 into the special account, the county collector shall remit those funds to the
31 Comptroller for deposit in the Maryland Agricultural Land Preservation Fund as
32 provided in § 13-306(c) of the Tax - Property Article.

33 3. The county shall deposit the balance of the funds
34 distributed to it under this subparagraph in the county's general fund.

35 (g) If the request for termination is denied, or if the landowner fails to
36 repurchase the easement within 180 days of the appraisal, the landowner may not
37 again request termination of the easement until five years after his last request for
38 termination.

1 (H) A LANDOWNER MAY NOT TERMINATE AN EASEMENT PURCHASED USING
2 AN INSTALLMENT PURCHASE AGREEMENT, AS PROVIDED IN § 2-510(K) OF THIS
3 SUBTITLE.

4 SECTION 2. AND BE IT FURTHER ENACTED, That the Maryland
5 Agricultural Land Preservation Foundation, in consultation with the Treasurer, shall
6 prepare a plan to purchase easements using installment purchase agreements with a
7 term of 25 years. The plan shall include identification of a revenue source to be
8 dedicated to the purchase of easements using installment purchase agreements. The
9 Foundation shall present its plan to the Governor and the General Assembly on or
10 before November 1, 2004, in accordance with § 2-1246 of the State Government
11 Article.

12 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
13 October 1, 2004.