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By: **Delegates Morhaim and Kach**  
Introduced and read first time: January 21, 2005  
Assigned to: Environmental Matters

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A BILL ENTITLED

1 AN ACT concerning

2 **Program Open Space - Conversion of Land - Easements**

3 FOR the purpose of providing that an easement placed on land acquired or developed  
4 under a State grant from Program Open Space does not constitute a conversion  
5 restricted under law; and generally relating to Program Open Space.

6 BY repealing and reenacting, with amendments,  
7 Article - Natural Resources  
8 Section 5-906  
9 Annotated Code of Maryland  
10 (2000 Replacement Volume and 2004 Supplement)

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

13 **Article - Natural Resources**

14 5-906.

15 (a) Each local project shall conform to a comprehensive plan the local  
16 governing body approves and have the approval of official planning agencies having  
17 jurisdiction, including comprehensive planning agencies.

18 (b) Every acquisition and development project funded by the State in whole or  
19 in part shall meet needs identified in the Maryland Land Preservation and  
20 Recreation Plan prepared and revised every 6 years by the Department of Planning in  
21 cooperation with the Department. The document shall identify and recommend for  
22 State acquisition efforts those resource areas facing the most intense or immediate  
23 development pressure. These resource areas shall be designated as targeted areas.  
24 The document and any changes to it shall be distributed to every local governing body.

25 (c) The Department shall administer the local projects portion of Program  
26 Open Space and promulgate and adopt rules and regulations governing submission of  
27 applications and allowable project costs.

1 (d) As provided in § 5-905(a) of this subtitle, beginning on December 1, 1973,  
2 local projects shall not be considered or approved for a grant until the annual program  
3 of the subdivision has been submitted.

4 (e) The applicant shall certify on each application that:

5 (1) The project conforms to the annual program of the local governing  
6 body as provided for in § 5-905(a) of this subtitle;

7 (2) A governmental agency is charged to manage and administer an  
8 outdoor public recreation and open space program;

9 (3) Funds are available or will be available within 12 months of the date  
10 of submission of the application to pay the local share of the project cost;

11 (4) The value or interest in the land proposed for acquisition has been  
12 established by qualified appraisers;

13 (5) The applicant has applied for federal funds and has received  
14 notification of federal approval or disapproval, or the applicant has applied for federal  
15 funds and has not received notification of a grant approval or disapproval within 120  
16 days of submission of an official federal grant application, or has verified that the  
17 project is not eligible for federal funds;

18 (6) The Department's rules and regulations have been complied with;

19 (7) (I) Land acquired or developed under a State grant from Program  
20 Open Space may not be converted, without written approval of the Secretary, the  
21 Secretary of the Department of Budget and Management, and the Secretary of the  
22 Department of Planning from outdoor public recreation or open space use to any other  
23 [use.] USE; AND

24 (II) Any conversion in land use may be approved only after the local  
25 governing body replaces the land with land of at least equivalent area and of equal  
26 recreation or open space value; and

27 (8) (i) For any conversion of land acquired or developed under a State  
28 grant from Program Open Space as provided in paragraph (7) of this subsection, the  
29 appraised monetary value of the land proposed for acquisition shall be equal to or  
30 greater than the appraised monetary value of the land to be converted, under the  
31 proposed new use of the converted land.

32 (ii) The State shall consider these funds in excess of the  
33 encumbered Program Open Space funds to the local jurisdiction.

34 (F) PLACING AN EASEMENT ON LAND ACQUIRED OR DEVELOPED UNDER A  
35 STATE GRANT FROM PROGRAM OPEN SPACE DOES NOT CONSTITUTE A CONVERSION  
36 RESTRICTED UNDER SUBSECTION (E)(7) AND (8) OF THIS SECTION.

1 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take  
2 effect October 1, 2005.