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By: **Delegate Weir**

Introduced and read first time: February 4, 2005

Assigned to: Environmental Matters

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A BILL ENTITLED

1 AN ACT concerning

2 **Agricultural Land Preservation - Termination of Agricultural Districts**

3 FOR the purpose of authorizing a landowner to terminate the landowner's property  
4 from an agricultural district within a certain time period after the date of the  
5 agricultural zoning classification under certain circumstances; providing that a  
6 certain termination is not effective until the landowner executes and records the  
7 termination in the land records; providing for the application of certain  
8 provisions of this Act; making stylistic changes; and generally relating to  
9 agricultural land preservation and the termination of agricultural districts.

10 BY repealing and reenacting, with amendments,

11 Article - Agriculture

12 Section 2-509(b)

13 Annotated Code of Maryland

14 (1999 Replacement Volume and 2004 Supplement)

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

17 **Article - Agriculture**

18 2-509.

19 (b) Regulations and procedures adopted by the Foundation for the  
20 establishment and monitoring of agricultural districts shall provide that:

21 (1) One or more owners of land actively devoted to agricultural use may  
22 file a petition with the county governing body requesting the establishment of an  
23 agricultural district composed of the land owned by the petitioners. The petition shall  
24 include maps and descriptions of the current use of land in the proposed district.

25 (2) Upon receipt of a petition to establish an agricultural district the  
26 local governing body shall refer the petition and accompanying materials both to the  
27 agricultural preservation advisory board and to the county planning and zoning body.

1 (i) Within 60 days of the referral of a petition, the agricultural  
2 preservation advisory board shall advise the county governing body as to whether or  
3 not the land in the proposed district meets the qualifications established by the  
4 Foundation under subsection (c) of this section, and whether or not the advisory board  
5 recommends establishment of the district.

6 (ii) Within 60 days of the referral of a petition, the county planning  
7 and zoning body shall advise the local governing body as to whether or not  
8 establishment of the district is compatible with existing and approved county plans  
9 and overall county policy, and whether or not the planning and zoning body  
10 recommends establishment of the district.

11 (3) If either the agricultural preservation advisory board or the planning  
12 and zoning body recommends approval, the county governing body shall hold a public  
13 hearing on the petition. Adequate notice of the hearing shall be given to all  
14 landowners in the proposed district, and to the Foundation.

15 (4) Within 120 days after the receipt of the petition, the county  
16 governing body shall render a decision as to whether or not the petition shall be  
17 recommended to the Foundation for approval.

18 (i) If the county governing body decides to recommend approval of  
19 the petition, it shall so notify the Foundation and forward to the Foundation the  
20 petition and all accompanying materials, including the recommendations of the  
21 advisory board and county planning and zoning body.

22 (ii) If the county governing body recommends denial of the petition,  
23 it shall so inform the Foundation and the petitioners.

24 (5) The Foundation may approve a petition for the establishment of an  
25 agricultural district only if:

26 (i) The land within the proposed district meets the qualifications  
27 established under subsection (c) of this section;

28 (ii) The petition has been approved by the county governing body;  
29 and

30 (iii) The establishment of the district is approved by a majority of  
31 the Foundation board of trustees at-large, by the Secretary, and by the State  
32 Treasurer.

33 (6) The Foundation shall render its decision on a petition to establish an  
34 agricultural district within 60 days of the receipt of the petition, and shall inform the  
35 county governing body and the petitioners of its decision.

36 (7) If the Foundation approves the petition, the agricultural district shall  
37 be established by an ordinance of the county governing body, however, the  
38 establishment shall not take effect until all landowners in the proposed district have  
39 executed and recorded along with land records an agreement with the Foundation

1 stipulating that for a period of [five] 5 years from the establishment of the  
2 agricultural district, the landowner agrees to keep his land in agricultural use and  
3 has the right to offer to sell an easement for development rights on his land to the  
4 Foundation under the provisions of this subtitle.

5 (i) In the event of severe economic hardship the Foundation, with  
6 the concurrence of the county governing body, may release the landowner's property  
7 from the agricultural district. Any person aggrieved by a decision of the Foundation  
8 regarding a determination of severe economic hardship is entitled to judicial review.

9 (ii) Nothing in this section shall preclude the landowner from  
10 selling his property.

11 (8) (I) [At] NOTWITHSTANDING SUBPARAGRAPH (II) OF THIS  
12 PARAGRAPH, AT any time after [five] 5 years from the establishment of a district a  
13 landowner may terminate his property as an agricultural district by notifying the  
14 Foundation [one] 1 year in advance of his intention to do so.

15 (II) AFTER AT LEAST 30 MONTHS AND BEFORE 5 YEARS HAVE  
16 ELAPSED FROM THE ESTABLISHMENT OF AN AGRICULTURAL DISTRICT, A  
17 LANDOWNER MAY TERMINATE THE LANDOWNER'S PROPERTY AS AN AGRICULTURAL  
18 DISTRICT IF:

19 1. THE FOUNDATION HAS NOT PURCHASED AN  
20 AGRICULTURAL PRESERVATION EASEMENT ON THE PROPERTY;

21 2. THE LANDOWNER NOTIFIES THE FOUNDATION OF THE  
22 LANDOWNER'S INTENT TO TERMINATE THE AGRICULTURAL DISTRICT AT LEAST 30  
23 DAYS BEFORE THE TERMINATION;

24 3. THE FOUNDATION HAS MADE AN OFFER TO PURCHASE  
25 THE PROPERTY AND THE LANDOWNER HAS REJECTED THE OFFER;

26 4. THE LANDOWNER REIMBURSES THE STATE FOR ALL  
27 APPRAISAL AND RECORDING COSTS ASSOCIATED WITH ANY EASEMENT PROCESSED  
28 DURING THE TIME THE PROPERTY WAS SUBJECT TO A DISTRICT AGREEMENT; AND

29 5. THE LANDOWNER REIMBURSES THE APPROPRIATE LOCAL  
30 JURISDICTION FOR ANY TAX CREDIT THE LANDOWNER RECEIVED AND ANY  
31 INTEREST AND PENALTIES THAT MAY BE ASSESSED BY THE LOCAL JURISDICTION AS  
32 A RESULT OF HAVING THE PROPERTY ZONED IN AN AGRICULTURAL DISTRICT.

33 (III) A TERMINATION OF A PROPERTY AS AN AGRICULTURAL  
34 DISTRICT UNDER SUBPARAGRAPH (II) OF THIS PARAGRAPH IS NOT EFFECTIVE UNTIL  
35 THE LANDOWNER HAS EXECUTED AND RECORDED THE TERMINATION IN THE LAND  
36 RECORDS.

37 (IV) THIS PARAGRAPH SHALL BE CONSTRUED TO APPLY  
38 RETROACTIVELY AND SHALL BE APPLIED TO AND INTERPRETED TO AFFECT ANY

1 LANDOWNER WHOSE PROPERTY IS ESTABLISHED AS AN AGRICULTURAL DISTRICT,  
2 REGARDLESS OF THE DATE OF ESTABLISHMENT.

3 (9) After the establishment of an agricultural district the county  
4 governing body or the Foundation may review the use of land within the district.

5 (10) The Foundation may approve alteration or abolition of a district only  
6 if:

7 (i) The use of land within the district has so changed as to cause  
8 land within the district to fail to meet the qualifications established under subsection  
9 (c) of this section;

10 (ii) The alteration or abolition of the district has been recommended  
11 by the county governing body; and

12 (iii) The alteration or abolition is approved by a majority of the  
13 Foundation board of trustees at-large, by the Secretary, and by the State Treasurer.

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