

## Chapter 108

(House Bill 378)

AN ACT concerning

### Maryland Agricultural Land Preservation Fund – Easement Restriction – Reimbursement

FOR the purpose of authorizing the Comptroller to disburse money from the Maryland Agricultural Land Preservation Fund ~~to reimburse a landowner for the release of an easement restriction under a certain circumstance, subject to the prior approval of the board of trustees of the Maryland Agricultural Land Preservation Foundation~~ for the reimbursement of certain money paid by a landowner to the Fund for a certain release of a certain lot in accordance with certain requirements; authorizing the Maryland Agricultural Land Preservation Foundation, subject to certain approval and in accordance with certain regulations, to reimburse certain money paid into the Fund under certain circumstances; and generally relating to the Maryland Agricultural Land Preservation Fund.

BY repealing and reenacting, with amendments,  
Article – Agriculture  
Section 2–505(c)(1)  
Annotated Code of Maryland  
(2007 Replacement Volume and 2012 Supplement)

BY adding to  
Article – Agriculture  
Section 2–505(c)(5)  
Annotated Code of Maryland  
(2007 Replacement Volume and 2012 Supplement)

BY repealing and reenacting, without amendments,  
Article – Agriculture  
Section 2–513(b)(2)  
Annotated Code of Maryland  
(2007 Replacement Volume and 2012 Supplement)

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

#### Article – Agriculture

2–505.

(c) (1) The Comptroller of the Treasury may not disburse any money from the Maryland Agricultural Land Preservation Fund other than:

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

(ii) For reasonable expenses incurred by the members of the board of trustees of the Maryland Agricultural Land Preservation Foundation in the performance of official duties;

(iii) For consideration in the purchase of agricultural land preservation easements beginning with fiscal year 1979 and each fiscal year thereafter; [and]

(iv) For costs associated with acquisition of agricultural land preservation easements approved by the Foundation through the Critical Farms Program, as provided in § 2-517 of this subtitle; AND

~~(v) FOR, SUBJECT TO THE PRIOR APPROVAL OF THE BOARD OF TRUSTEES OF THE MARYLAND AGRICULTURAL LAND PRESERVATION FOUNDATION, THE PURPOSE OF REIMBURSING A LANDOWNER FOR THE RELEASE OF AN EASEMENT RESTRICTION AS PROVIDED IN § 2-513(B)(2) OF THIS SUBTITLE WHEN THE LOT IS NOT USED FOR THE PURPOSE OF CONSTRUCTING A DWELLING HOUSE THE REIMBURSEMENT OF MONEY PAID BY A LANDOWNER FOR A PRELIMINARY RELEASE OF A LOT UNDER § 2-513(B)(2) OF THIS SUBTITLE IN ACCORDANCE WITH PARAGRAPH (5) OF THIS SUBSECTION.~~

(5) (I) SUBJECT TO THE PRIOR APPROVAL OF THE BOARD OF TRUSTEES OF THE MARYLAND AGRICULTURAL LAND PRESERVATION FOUNDATION AND IN ACCORDANCE WITH REGULATIONS ADOPTED BY THE DEPARTMENT, THE MARYLAND AGRICULTURAL LAND PRESERVATION FOUNDATION MAY REIMBURSE MONEY PAID INTO THE MARYLAND AGRICULTURAL LAND PRESERVATION FUND BY A LANDOWNER FOR A LOT THAT HAD BEEN PRELIMINARILY RELEASED UNDER § 2-513(B)(2) OF THIS SUBTITLE FOR THE PURPOSE OF CONSTRUCTING A DWELLING HOUSE FOR A LANDOWNER OR THE CHILD OF THE LANDOWNER.

(II) IN THE SOLE DISCRETION OF THE MARYLAND AGRICULTURAL LAND PRESERVATION FOUNDATION, THE PERSON FOR WHOM THE LOT WAS PRELIMINARILY RELEASED, THE PERSON WHO ORIGINALLY PAID FOR THE PRELIMINARY RELEASE, OR ANOTHER APPROPRIATE PERSON MAY BE REIMBURSED THE AMOUNT PAID TO THE FUND UNDER § 2-513(B)(2)(III) OF THIS SUBTITLE IF:

1. A DWELLING HAS NOT BEEN CONSTRUCTED ON THE LOT;

2. A REQUEST FOR REIMBURSEMENT IS MADE BEFORE THE PRELIMINARY RELEASE BECOMES VOID UNDER § 2-513(B)(2) OF THIS SUBTITLE;

3. BEFORE REIMBURSEMENT AND AT THE EXPENSE OF THE OWNER OF THE LAND UNDER THE EASEMENT:

A. THE LOT IS CONVEYED TO THE OWNER FREE AND CLEAR OF LIENS;

B. ANY RECORDED PLAT CREATING THE LOT IS VOIDED;

C. THE LOT IS ADDED TO THE TAX ACCOUNT ASSIGNED TO THE LAND ENCUMBERED BY THE EASEMENT; AND

D. THE PRELIMINARY RELEASE IS VOIDED BY AN AGREEMENT RECORDED IN THE LAND RECORDS; AND

4. AT LEAST ONE OF THE FOLLOWING CIRCUMSTANCES EXISTS:

A. THE FOUNDATION HAS RECEIVED NOTICE THAT TITLE TO THE LOT HAS BEEN TRANSFERRED UNDER A BONA FIDE FORECLOSURE OF A MORTGAGE OR DEED OF TRUST OR A DEED IN LIEU OF FORECLOSURE;

B. THE FOUNDATION HAS RECEIVED NOTICE THAT THE LANDOWNER OR CHILD OF THE LANDOWNER FOR WHOM THE LOT WAS PRELIMINARILY RELEASED HAS DIED; OR

C. ANY OTHER CIRCUMSTANCE IN WHICH THE MARYLAND AGRICULTURAL LAND PRESERVATION FOUNDATION DETERMINES THAT IT WOULD BE IMPOSSIBLE FOR THE LANDOWNER OR CHILD OF THE LANDOWNER FOR WHOM THE LOT WAS PRELIMINARILY RELEASED TO FULFILL THE REQUIREMENTS OF THE PRELIMINARY RELEASE.

2-513.

(b) (2) Except as provided in paragraphs (3) and (7) of this subsection, on written application, the Foundation shall release free of easement restrictions only for the landowner who originally sold an easement, 1 acre or less for the purpose of constructing a dwelling house for the use only of that landowner or child of the landowner, up to a maximum of three lots, subject to the following conditions:

(i) The number of lots allowed to be released under this section, except as provided in paragraph (7) of this subsection, may not exceed:

1. 1 lot if the size of the easement property is 20 acres or more but fewer than 70 acres;
2. 2 lots if the size of the easement property is 70 acres or more but fewer than 120 acres; or
3. 3 lots if the size of the easement property is 120 acres or more.

(ii) The resulting density on the property may not exceed the density allowed under zoning of the property before the Foundation purchased the easement.

(iii) The landowner shall pay the State for any acre or portion released at the price per acre that the State paid the owner for the easement.

(iv) If the release is to be issued for a child of the landowner, the child must be at least 18 years of age at the date that the preliminary release is issued.

(v) Before any conveyance or release, the landowner and the child, if there is a conveyance to a child, shall agree not to subdivide further for residential purposes any acreage allowed to be released. The agreement shall be recorded among the land records where the land is located and shall bind all future owners.

(vi) After certifying that the landowner or child of the landowner has met the conditions provided in subparagraphs (i) through (v) of this paragraph, the Foundation shall issue a preliminary release which shall:

1. Become final when the Foundation receives and certifies a nontransferable building permit in the name of the landowner or child of the landowner for construction of a dwelling house; or
2. Become void upon the death of the person for whose benefit the release was intended if the Foundation has not yet received a building permit as provided in this subparagraph; or

3. Unless extended by a majority vote of the Foundation Board of Trustees, become void if a nontransferable building permit in the name of the landowner or child of the landowner is not received by the Foundation within 3 years of the date of recordation of the preliminary release.

(vii) Any release or preliminary release issued under this paragraph shall include:

1. A statement of the conditions under which it was issued, a certification by the Foundation that all necessary conditions for release or preliminary release have been met, and copies of any pertinent documents;

2. A statement by the landowner or child of the landowner that acknowledges that:

A. Adjacent farmland that is subject to an agricultural land preservation easement may be used for any agricultural purpose and may interfere with the use and enjoyment of the property through noise, odor, vibration, fumes, dust, glare, or other interference;

B. There is no recourse against the effects of any normal agricultural operation performed in accordance with good husbandry practices;

C. The landowner's or child's lot may not be transferred for 5 years from the date of the final release, except on:

I. Approval by the Foundation; or

II. Notwithstanding any conditions on transfers imposed under item 1 of this subparagraph, a lender providing notice to the Foundation of a transfer pursuant to a bona fide foreclosure of a mortgage or deed of trust or to a deed in lieu of foreclosure;

D. If the lot is not used for the person or purpose for which it was released for the 5-year period, the Foundation may require the lot owner to reconvey the lot to the owner of the land encumbered by the easement from which it was released and subject the lot to the restrictions of the easement; and

E. Acknowledgments made under items A, B, C, and D of this item are binding to any successor or assign of the landowner or child.

(viii) Any release, preliminary release, building permit, or other document issued or submitted in accordance with this paragraph shall be recorded among the land records where the land is located and shall bind all future owners.

(ix) The Foundation may not restrict the ability of a landowner who originally sold an easement to acquire a release under this paragraph beyond the requirements provided in this section.

(x) The Foundation may require evidence it deems sufficient to ensure that the persons for whom the lots are released occupy the dwellings located on the lots for the 5-year period.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect ~~October 1, 2013~~ July 1, 2013.

**Approved by the Governor, April 9, 2013.**