

# HOUSE BILL 1030

Q1

3lr1431

---

By: **Delegate Rosenberg**

Introduced and read first time: February 8, 2013

Assigned to: Ways and Means

---

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 19, 2013

---

## CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 ~~**Baltimore City Property Tax Assessment of Land for Agricultural Use**~~  
3 ~~**Property Tax Credit – Urban Agricultural Property – Definition**~~

4 FOR the purpose of ~~providing exemptions from certain prohibitions on qualifying for~~  
5 ~~an agricultural use property assessment for certain parcels of land in Baltimore~~  
6 ~~City that are of a certain size and under certain ownership~~ altering the  
7 definition of “urban agricultural property”, for purposes of a certain county or  
8 municipal corporation property tax credit, to include certain real property of not  
9 more than 5 acres; providing for the application of this Act; and generally  
10 relating to the circumstances under which land may qualify for an agricultural  
11 use property assessment in Baltimore City a local property tax credit for urban  
12 agricultural property.

13 BY repealing and reenacting, with amendments,

14 Article – Tax – Property

15 Section ~~8-209~~ 9-253

16 Annotated Code of Maryland

17 (2012 Replacement Volume)

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

20 **Article – Tax – Property**

21 ~~§ 209.~~

---

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1           ~~(a) The General Assembly declares that it is in the general public interest of~~  
2 ~~the State to foster and encourage farming activities to:~~

3                   ~~(1) maintain a readily available source of food and dairy products close~~  
4 ~~to the metropolitan areas of the State;~~

5                   ~~(2) encourage the preservation of open space as an amenity necessary~~  
6 ~~for human welfare and happiness; and~~

7                   ~~(3) prevent the forced conversion of open space land to more intensive~~  
8 ~~uses because of the economic pressures caused by the assessment of the land at rates~~  
9 ~~or levels incompatible with its practical use for farming.~~

10           ~~(b) It is the intention of the General Assembly that the assessment of~~  
11 ~~farmland:~~

12                   ~~(1) be maintained at levels compatible with the continued use of the~~  
13 ~~land for farming; and~~

14                   ~~(2) not be affected adversely by neighboring land uses of a more~~  
15 ~~intensive nature.~~

16           ~~(c) Land that is actively used for farm or agricultural use shall be valued on~~  
17 ~~the basis of that use and may not be valued as if subdivided.~~

18           ~~(d) Land that is valued under subsection (c) of this section shall be assessed~~  
19 ~~on the basis of its use value.~~

20           ~~(e) (1) The Department shall establish in regulations criteria to~~  
21 ~~determine if land that appears to be actively used for farm or agricultural purposes:~~

22                   ~~(i) is actually used for farm or agricultural purposes; and~~

23                   ~~(ii) qualifies for assessment under this section.~~

24                   ~~(2) The criteria shall include:~~

25                   ~~(i) the zoning of the land;~~

26                   ~~(ii) the present and past use of the land including land under~~  
27 ~~the Soil Bank Program of the United States;~~

28                   ~~(iii) the productivity of the land, including timberlands and~~  
29 ~~reforested lands; and~~

1                                   ~~(iv) the gross income that is derived from the agricultural~~  
2 ~~activity.~~

3                   ~~(f) In administering this section, periodically, the Director shall consult~~  
4 ~~with:~~

5                                   ~~(1) the Secretary of Agriculture;~~

6                                   ~~(2) officials of the State who are knowledgeable in agriculture;~~

7                                   ~~(3) representatives of the agricultural community;~~

8                                   ~~(4) officials of counties and municipal corporations; and~~

9                                   ~~(5) other persons as determined by the Director.~~

10                   ~~(g) (1) In this subsection the following words have the meanings~~  
11 ~~indicated:~~

12                                   ~~(i) "actively used" means land that is actually and primarily~~  
13 ~~used for a continuing farm or agricultural use;~~

14                                   ~~(ii) "agricultural land unit" means the combination of not more~~  
15 ~~than 3 parcels of land when the parcels are:~~

16   ~~1. located in the same county; and~~

17   ~~2. under the same ownership;~~

18                                   ~~(iii) "average gross income" means the average of the 2 highest~~  
19 ~~years of gross income during a 3 year period;~~

20                                   ~~(iv) "family farm unit" means not more than 1 parcel of land of~~  
21 ~~less than 20 acres for each immediate family member for land that is:~~

22   ~~1. contiguous to land receiving the farm or agricultural~~  
23 ~~use assessment; and~~

24   ~~2. owned by a member or members of the immediate~~  
25 ~~family of the owner of the farm or agricultural use land; and~~

26                                   ~~(v) "gross income" means the actual income that is received in a~~  
27 ~~calendar year that results directly from the farm or agricultural use of the land.~~

28                                   ~~(2) In determining if a parcel of land of less than 20 acres, or not zoned~~  
29 ~~for agricultural use, is actively used, the Department may require the owner of the~~  
30 ~~land to affirm, under oath, on a standard form provided by the Department that the~~

~~1 farm or agricultural use of the land results in an average gross income of at least  
2 \$2,500 from the parcel or the agricultural land unit.~~

~~3 (3) The Department may require an owner who submits an  
4 affirmation under paragraph (2) of this subsection to verify the gross income from the  
5 land by providing:~~

~~6 (i) copies of sales receipts or invoices;~~

~~7 (ii) lease agreements; or~~

~~8 (iii) other documents required by the Department.~~

~~9 (4) An affirmation under paragraph (2) of this subsection shall be filed  
10 before July 1 of the taxable year.~~

~~11 (5) If land that appears to be actively used does not yield an average  
12 gross income of \$2,500, the Director shall waive the gross income requirement on  
13 finding that:~~

~~14 (i) the land is leased and the nature of the farm or agricultural  
15 use of the land when related to the amount of the land in farm or agricultural use  
16 reasonably would be expected to yield an average gross income of at least \$2,500;~~

~~17 (ii) the nature of the farm or agricultural use of the land and the  
18 amount of the land in farm or agricultural use reasonably would be expected to yield  
19 an average gross income of at least \$2,500 from the agricultural products, if sold, that  
20 are derived from the use of the land;~~

~~21 (iii) a drought or other natural cause has adversely affected the  
22 income producing capability of the land during a 3-year period; or~~

~~23 (iv) for a newly established farm or agricultural use, the nature  
24 of the use and the amount of the land in farm or agricultural use reasonably would be  
25 expected to yield an average gross income of at least \$2,500 if the use had existed for a  
26 3-year period.~~

~~27 (6) The Director may grant only the following additional waivers:~~

~~28 (i) under paragraph (5)(iii) of this subsection, for 1 additional  
29 consecutive 3-year period; and~~

~~30 (ii) under paragraph (5)(iv) of this subsection, for 1 additional  
31 consecutive 3-year period.~~

~~32 (7) The gross income requirement of paragraph (2) of this subsection  
33 does not apply if the land is actively used as a family farm unit.~~

1           ~~(8) For purposes of qualifying for the agricultural use assessment~~  
2 ~~under this section, the following real property is deemed to be a single contiguous~~  
3 ~~parcel:~~

4                     ~~(i) parcels that are created or separated by roads, easements, or~~  
5 ~~other rights of way; and~~

6                     ~~(ii) land relating to a right of way that reverts back to its~~  
7 ~~owner's use for purposes of farming.~~

8           ~~(h) (1) Subject to paragraph (2) of this subsection AND EXCEPT AS~~  
9 ~~PROVIDED IN PARAGRAPH (3) OF THIS SUBSECTION, the following land does not~~  
10 ~~qualify to be assessed under this section:~~

11                     ~~(i) land rezoned to a more intensive use than the use that~~  
12 ~~immediately preceded the rezoning, if a person with an ownership interest in the land~~  
13 ~~has applied for or requested the rezoning;~~

14                     ~~(ii) land used as a homesite, which means the area of land that~~  
15 ~~is reasonably related to a dwelling;~~

16                     ~~(iii) parcels of land of less than 3 acres that are under the same~~  
17 ~~ownership excluding the homesite unless:~~

18                             ~~1. THE LAND IS LOCATED IN BALTIMORE CITY AND~~  
19 ~~WOULD HAVE AN ASSESSED VALUE OF LESS THAN \$90,000 PER ACRE IF THE~~  
20 ~~LAND WAS NOT ASSESSED UNDER THIS SECTION;~~

21                             ~~2. the land is owned by an owner of adjoining land that~~  
22 ~~is receiving the farm or agricultural use assessment and is actively used;~~

23                             ~~[2.]3. the owner receives at least 51% of the owner's gross~~  
24 ~~income from the active use; or~~

25                             ~~[3.]4. the parcels are part of a family farm unit;~~

26                     ~~(iv) if part of a subdivision plat, parcels of land of less than 10~~  
27 ~~acres that are owned by an owner of 5 other parcels of land of less than 10 acres each~~  
28 ~~that are located in the same county and that are receiving the farm or agricultural use~~  
29 ~~assessment;~~

30                     ~~(v) parcels of woodland of less than 5 acres excluding the~~  
31 ~~homesite; or~~

1 ~~(vi) land that fails to meet the gross income requirement of~~  
 2 ~~subsection (g) of this section.~~

3 ~~(2) No more than 2 parcels of less than 3 acres under the same~~  
 4 ~~ownership may qualify for the agricultural use assessment.~~

5 ~~(3) PARAGRAPH (1)(IV) OF THIS SUBSECTION DOES NOT APPLY IN~~  
 6 ~~BALTIMORE CITY.~~

7 ~~(i) (1) (i) In this subsection the following words have the meanings~~  
 8 ~~indicated.~~

9 ~~(ii) "Surviving spouse" means the surviving spouse of the~~  
 10 ~~property owner who applied for the waiver under this subsection if the surviving~~  
 11 ~~spouse has not remarried and had a legal interest in the property at the time of the~~  
 12 ~~application for the waiver.~~

13 ~~(iii) "3-year cycle" has the meaning stated in § 8-103 of this~~  
 14 ~~title.~~

15 ~~(2) The Director may grant a waiver from the requirements of~~  
 16 ~~subsection (e) or (g) of this section if:~~

17 ~~(i) the property owner is at least 70 years of age;~~

18 ~~(ii) the property owner applies to the Department for a waiver of~~  
 19 ~~the requirements of either subsection (e) or (g) of this section;~~

20 ~~(iii) the land has not changed ownership during the two previous~~  
 21 ~~3-year cycles; and~~

22 ~~(iv) the land has been assessed for at least the two previous~~  
 23 ~~3-year cycles on the basis of farm or agricultural use under the law or regulations of~~  
 24 ~~the Department that were in effect as of the date of the application.~~

25 ~~(3) The Director may grant a waiver from the requirements of~~  
 26 ~~subsection (e) or (g) of this section if:~~

27 ~~(i) the property owner becomes disabled and is unable to~~  
 28 ~~continue the farm or agricultural use of the land;~~

29 ~~(ii) the property owner applies to the Department for a waiver of~~  
 30 ~~the requirements of either subsection (e) or (g) of this section;~~

31 ~~(iii) the property owner engaged in farm or agricultural use~~  
 32 ~~activities on the land prior to the disability; and~~

1 ~~(iv) the land has been assessed for at least the two previous~~  
2 ~~3-year cycles on the basis of farm or agricultural use under the law or regulations of~~  
3 ~~the Department that were in effect as of the date of the application.~~

4 ~~(4) Any waiver granted under this subsection shall be in effect until:~~

5 ~~(i) the transfer of the property; or~~

6 ~~(ii) the later of the death of the property owner who received the~~  
7 ~~waiver or the death of the surviving spouse.~~

8 ~~(5) The Department may adopt regulations to carry out the provisions~~  
9 ~~of this subsection.~~

10 9-253.

11 (a) (1) In this section the following words have the meanings indicated.

12 (2) “Urban agricultural property” means real property that is:

13 (i) at least one-eighth of an acre and not more than [2] 5 acres;

14 (ii) located in a priority funding area, as defined in § 5-7B-02 of  
15 the State Finance and Procurement Article; and

16 (iii) used exclusively for urban agricultural purposes.

17 (3) “Urban agricultural purposes” means:

18 (i) crop production activities, including the use of mulch or  
19 cover crops to ensure maximum productivity and minimize runoff and weed  
20 production;

21 (ii) environmental mitigation activities, including stormwater  
22 abatement and groundwater protection;

23 (iii) community development activities, including recreational  
24 activities, food donations, and food preparation and canning classes;

25 (iv) economic development activities, including employment and  
26 training opportunities, and direct sales to restaurants and institutions; and

27 (v) temporary produce stands used for the sale of produce raised  
28 on the premises.

1           **(b)**    The Mayor and City Council of Baltimore City or the governing body of a  
2 county or of a municipal corporation may grant, by law, a tax credit against the county  
3 or municipal corporation property tax imposed on urban agricultural property.

4           **(c)**    **(1)**    Except as provided in paragraph (2) of this subsection, a tax credit  
5 under this section shall be granted for 5 years.

6                   **(2)**    **(i)**    If the Mayor and City Council of Baltimore City or the  
7 governing body of a county or of a municipal corporation grants a tax credit under this  
8 section, the jurisdiction granting a tax credit shall evaluate the effectiveness of the  
9 credit after 3 years.

10                           **(ii)**    If the jurisdiction granting the tax credit determines that  
11 the tax credit is ineffective in promoting urban agricultural purposes, the jurisdiction  
12 granting a tax credit may terminate the tax credit.

13                                   **(iii)**    The jurisdiction granting a tax credit under this section may  
14 extend the tax credit for an additional 5 years.

15           **(d)**    The Mayor and City Council of Baltimore City or the governing body of a  
16 county or of a municipal corporation may provide, by law, for:

17                   **(1)**    the amount of the tax credit under this section;

18                   **(2)**    additional eligibility criteria for the tax credit under this section;

19                   **(3)**    regulations and procedures for the application and uniform  
20 processing of requests for the tax credit; and

21                   **(4)**    any other provision necessary to carry out the credit under this  
22 section.

23           **(e)**    At any time during the period for which a property tax credit under this  
24 section is granted for urban agricultural property, if the property ceases to be used for  
25 urban agricultural purposes, the owner of the property shall be liable for all property  
26 taxes that would have been imposed if a property tax credit for urban agricultural  
27 property had not been granted.

28           SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
29 June 1, 2013, and shall be applicable to all taxable years beginning after June 30,  
30 2013.