

Department of Legislative Services
Maryland General Assembly
2014 Session

FISCAL AND POLICY NOTE

Senate Bill 71

(Chair, Education, Health, and Environmental Affairs
Committee)(By Request - Departmental - Agriculture)

Education, Health, and Environmental Affairs

Environmental Matters

Maryland Agricultural Land Preservation Foundation - Value of Easement

This departmental bill prohibits the Maryland Agricultural Land Preservation Foundation (MALPF) from purchasing an easement for more than 75% or less than 25% of the fair market value of the land. MALPF is authorized to purchase an easement for less than 25% of the fair market value of the land only if the owner's asking price is less than 25% of the fair market value of the land.

Fiscal Summary

State Effect: Overall State finances are not affected. Any savings resulting from the bill's changes will be used to extend additional MALPF offers.

Local Effect: Local finances are not materially affected.

Small Business Effect: The Maryland Department of Agriculture (MDA) has determined that this bill has minimal or no impact on small business (attached). The Department of Legislative Services generally concurs with this assessment, as discussed below.

Analysis

Current Law: The "fair market value" of land is the price as of the valuation date for the highest and best use of the property which a vendor, willing but not obligated to sell, would accept for the property and a purchaser, willing but not obligated to buy, would pay for the property if the property was not subject to any restriction imposed under MALPF provisions in the Agriculture Article. The fair market value of the land is

determined by the Department of General Services, and is based on one or more appraisals by State appraisers, and appraisals, if any, of the property owner.

The “agricultural value” of land is the price as of the valuation date which a vendor, willing but not obligated to sell, would accept for the property and a purchaser, willing but not obligated to buy, would pay for the property as a farm unit, to be used for agricultural purposes. The agricultural value of land is determined by a MDA-approved formula that measures farm productivity and takes into consideration weighted factors that may include rents, soil types, development pressure, interest rates, and potential agricultural use.

The maximum value of any MALPF easement is the asking price or the difference between the fair market value of the land and the agricultural value of the land, whichever is lower.

Background: MALPF, which was established by the General Assembly in 1977 and is part of MDA, purchases agricultural preservation easements that restrict development on prime farmland and woodland in perpetuity. In addition to funding from the State transfer tax, MALPF is funded with agricultural land transfer taxes, local matching funds, and the U.S. Department of Agriculture’s Federal Farmland Protection Program. MALPF settled on its first purchased easement in October 1980. As of the end of fiscal 2013, MALPF had cumulatively purchased 2,102 easements covering 285,902 acres.

There is concern that MALPF is making too many easement offers that are for more than 75% and less than 25% of the fair market value of the land. In MALPF’s most recent easement application cycle, the average applicant in 13 counties had an offer that was above 75% of the fair market value of the property. MDA reports that the Department of Natural Resource’s conservation easement programs (*i.e.*, Rural Legacy and Program Open Space) pay between 40% and 80% of the land’s fair market value.

MDA advises that several counties have already established a maximum percent value for MALPF easements. Carroll and Harford counties limit easement purchases to 70% of the land’s fair market value, and Frederick County limits easement purchases to 80% of the land’s fair market value.

MDA advises that the bill will moderate extremes in the calculation of easement values, instill more fiscal responsibility, make MALPF offers more consistent with values paid by other conservation groups, and ensure that fair offers are extended to landowners. In addition, MALPF advises that the bill will help the State reach its goal of protecting 1,030,000 acres of agricultural land by 2022.

Small Business Effect: The Department of Legislative Services generally concurs with MDA's assessment of the small business impact of the bill as minimal or none, noting, however, that some small business farmers could potentially receive higher or lower easement offers from MALPF as a result of the bill.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Maryland Department of Agriculture, State Department of Assessments and Taxation, Department of Legislative Services

Fiscal Note History: First Reader - January 9, 2014
ns/lgc

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ANALYSIS OF ECONOMIC IMPACT ON SMALL BUSINESSES

TITLE OF BILL: Maryland Agricultural Land Preservation Foundation – Value of Easement

BILL NUMBER: SB 71

PREPARED BY: Department of Agriculture

PART A. ECONOMIC IMPACT RATING

This agency estimates that the proposed bill:

WILL HAVE MINIMAL OR NO ECONOMIC IMPACT ON MARYLAND SMALL BUSINESS

OR

WILL HAVE MEANINGFUL ECONOMIC IMPACT ON MARYLAND SMALL BUSINESSES

PART B. ECONOMIC IMPACT ANALYSIS

The proposed legislation will have no impact on small business in Maryland.