

HOUSE BILL 1437

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By: **Delegate Kach**

Introduced and read first time: February 14, 2014

Assigned to: Rules and Executive Nominations

A BILL ENTITLED

AN ACT concerning

Maryland Agricultural Land Preservation Foundation – Lot Release – Demonstrated Financial Hardship

FOR the purpose of requiring the Maryland Agricultural Land Preservation Foundation to grant a certain extension for the time frame for receiving a nontransferable building permit if a landowner or child of a landowner demonstrates financial hardship; exempting a lot owner granted an extension for financial hardship from the requirement to reconvey a lot under certain circumstances; making stylistic changes; and generally relating to the Maryland Agricultural Land Preservation Foundation.

BY repealing and reenacting, without amendments,
Article – Agriculture
Section 2–513(a) and (b)(1)
Annotated Code of Maryland
(2007 Replacement Volume and 2013 Supplement)

BY repealing and reenacting, with amendments,
Article – Agriculture
Section 2–513(b)(2)(vi) and (vii)
Annotated Code of Maryland
(2007 Replacement Volume and 2013 Supplement)

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

Article – Agriculture

2–513.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



(a) Agricultural land preservation easements may be purchased under this subtitle for any land in agricultural use which meets the minimum criteria established under § 2–509 of this subtitle if the easement and county regulations governing the use of the land include the following provisions:

(1) Any farm use of land is permitted.

(2) Operation at any time of any machinery used in farm production or the primary processing of agricultural products is permitted.

(3) All normal agricultural operations performed in accordance with good husbandry practices which do not cause bodily injury or directly endanger human health are permitted including, but not limited to, sale of farm products produced on the farm where such sales are made.

(b) (1) A landowner whose land is subject to an easement may not use the land for any commercial, industrial, or residential purpose except:

(i) As determined by the Foundation, for farm– and forest–related uses and home occupations; or

(ii) As otherwise provided under this section.

(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:

(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] **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 **EXCEPT THAT:**

A. THE TIME FRAME FOR RECEIVING THE NONTRANSFERABLE BUILDING PERMIT MAY BE EXTENDED BY A MAJORITY VOTE OF THE FOUNDATION BOARD OF TRUSTEES; AND

B. THE FOUNDATION SHALL GRANT A 5-YEAR EXTENSION IF THE LANDOWNER OR CHILD OF THE LANDOWNER DEMONSTRATES FINANCIAL HARDSHIP.

(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] UNLESS GRANTED AN EXTENSION FOR DEMONSTRATED FINANCIAL HARDSHIP UNDER ITEM (VI)3B OF THIS PARAGRAPH, 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.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2014.