

# SENATE BILL 975

N1, M4

7lr2833  
CF 7lr2834

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By: **Senator Ready**

Introduced and read first time: February 3, 2017

Assigned to: Judicial Proceedings

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Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 14, 2017

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

1 AN ACT concerning

2 **Real Property – Agricultural Land Preservation Easements – Separate Parcels**

3 FOR the purpose of establishing that, unless a certain deed expressly provides otherwise,  
4 the grant of a certain agricultural land preservation easement governing two or more  
5 separate parcels of land owned by the same grantor under separate deeds or two or  
6 more parcels separately identified and described in the same deed does not  
7 consolidate the parcels for any other purpose, under certain circumstances;  
8 establishing that a certain parcel of land subject to an agricultural land preservation  
9 easement may be conveyed separately to a certain family member without the  
10 approval of the Maryland Agricultural Land Preservation Foundation, regardless of  
11 the size of the parcel, but shall remain subject to the easement; requiring the owner  
12 of a certain parcel to notify the Foundation at least a certain number of days before  
13 conveying the parcel to a certain family member; establishing that, notwithstanding  
14 any other provision of law, a conveyance of a separate parcel to a certain family  
15 member under this Act is not a subdivision or off-conveyance; defining a certain  
16 term; providing for the application of this Act; providing for the termination of this  
17 Act; and generally relating to agricultural land preservation easements.

18 BY repealing and reenacting, with amendments,  
19 Article – Real Property  
20 Section 2–118  
21 Annotated Code of Maryland  
22 (2015 Replacement Volume and 2016 Supplement)

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

3 **Article – Real Property**

4 2–118.

5 (a) Any restriction prohibiting or limiting the use of water or land areas, or any  
6 improvement or appurtenance thereto, for any of the purposes listed in subsection (b) of  
7 this section whether drafted in the form of an easement, covenant, restriction, or condition,  
8 creates an incorporeal property interest in the water or land areas, or the improvement or  
9 appurtenance thereto, so restricted, which is enforceable in both law and equity in the same  
10 manner as an easement or servitude with respect to the water or land areas, or the  
11 improvement or appurtenance thereto, if the restriction is executed in compliance with the  
12 requirements of this article for the execution of deeds or the Estates and Trusts Article for  
13 the execution of wills.

14 (b) A restriction as provided in subsection (a) of this section may be for any of the  
15 following purposes:

16 (1) Construction, placement, preservation, maintenance in a particular  
17 condition, alteration, removal, or decoration of buildings, roads, signs, billboards or other  
18 advertising, utilities, or other structures on or above the ground;

19 (2) Dumping or placing of soil or other substance or material as landfill, or  
20 dumping or placing of trash, waste, or other materials;

21 (3) Excavation, dredging, or removal of loam, peat, gravel, soil, rock, or  
22 other material substance in a manner as to affect the surface or otherwise alter the  
23 topography of the area;

24 (4) Removal or destruction of trees, shrubs, or other vegetation;

25 (5) Surface use except for purposes of preserving the water or land areas,  
26 or the improvement or appurtenance thereto;

27 (6) Activities affecting drainage, flood control, water conservation, erosion  
28 control, soil conservation, or fish or wildlife habitat preservation;

29 (7) Preservation of exposure of solar energy devices; or

30 (8) Other acts or uses having any relation to the preservation of water or  
31 land areas or the improvement or appurtenance thereto.

32 (c) If the restriction is not granted for the benefit of any dominant tract of land,  
33 it is enforceable with respect to the servient land, both at law and in equity, as an easement  
34 in gross, and as such it is inheritable and assignable.

1 (d) A restriction provided for by this section may be extinguished or released, in  
2 whole or in part, in the same manner as other easements.

3 (e) If any grant, reservation, dedication, devise, or gift of any nature which clearly  
4 indicates the maker's intention to subject any interest or estate in property to public use  
5 for the preservation of agricultural, historic, or environmental qualities fails to specify a  
6 grantee, donee, legatee, or beneficiary to receive the same or specifies a grantee, donee,  
7 legatee, or beneficiary who is not legally capable of taking the interest or estate, it passes  
8 to the Maryland Agricultural Land Preservation Foundation, the Maryland Historical  
9 Trust, or the Maryland Environmental Trust in any proceedings under §§ 14-301 and  
10 14-302 of the Estates and Trusts Article.

11 (F) (1) IN THIS SECTION, "FAMILY MEMBER" MEANS A RELATIVE OF A  
12 GRANTOR BY BLOOD, ADOPTION, OR MARRIAGE.

13 (2) THIS SUBSECTION APPLIES ONLY TO LAND THAT IS SUBJECT TO  
14 AN AGRICULTURAL LAND PRESERVATION EASEMENT GRANTED TO THE MARYLAND  
15 AGRICULTURAL LAND PRESERVATION FOUNDATION.

16 ~~(2)~~ (3) UNLESS THE DEED GRANTING THE EASEMENT EXPRESSLY  
17 PROVIDES OTHERWISE, THE GRANT OF AN AGRICULTURAL LAND PRESERVATION  
18 EASEMENT GOVERNING TWO OR MORE SEPARATE PARCELS OF LAND OWNED BY THE  
19 SAME GRANTOR UNDER SEPARATE DEEDS OR TWO OR MORE PARCELS SEPARATELY  
20 IDENTIFIED AND DESCRIBED IN THE SAME DEED DOES NOT CONSOLIDATE THE  
21 PARCELS FOR ANY OTHER PURPOSE, IF THE PARCELS ARE DESCRIBED SEPARATELY  
22 IN THE DEED GRANTING THE EASEMENT.

23 ~~(3)~~ (4) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, A  
24 PARCEL OF LAND DESCRIBED UNDER PARAGRAPH ~~(2)~~ (3) OF THIS SUBSECTION:

25 (I) MAY BE CONVEYED SEPARATELY TO A FAMILY MEMBER  
26 WITHOUT THE APPROVAL OF THE MARYLAND AGRICULTURAL LAND  
27 PRESERVATION FOUNDATION, REGARDLESS OF THE SIZE OF THE PARCEL; BUT

28 (II) SHALL REMAIN SUBJECT TO THE AGRICULTURAL LAND  
29 PRESERVATION EASEMENT.

30 ~~(4)~~ (5) THE OWNER OF A SEPARATE PARCEL OF LAND SUBJECT TO  
31 AN AGRICULTURAL LAND PRESERVATION EASEMENT SHALL NOTIFY THE  
32 MARYLAND AGRICULTURAL LAND PRESERVATION FOUNDATION AT LEAST 60 DAYS  
33 BEFORE CONVEYING THE PARCEL TO A FAMILY MEMBER.

1                    ~~(5)~~ (6)            NOTWITHSTANDING ANY OTHER PROVISION OF LAW, A  
 2 CONVEYANCE OF A SEPARATE PARCEL TO A FAMILY MEMBER UNDER THIS  
 3 SUBSECTION IS NOT A SUBDIVISION OR OFF-CONVEYANCE.

4            SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be construed to  
 5 apply retroactively and shall be applied to and interpreted to affect any agricultural land  
 6 preservation easement granted to the Maryland Agricultural Land Preservation  
 7 Foundation before the effective date of this Act.

8            SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect June  
 9 1, 2017. It shall remain effective for a period of 2 years and 1 month and, at the end of June  
 10 30, 2019, with no further action required by the General Assembly, this Act shall be  
 11 abrogated and of no further force and effect.

Approved:

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Governor.

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President of the Senate.

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Speaker of the House of Delegates.