

SENATE BILL 885

M4

8lr2347

By: **Senator Middleton**

Introduced and read first time: February 5, 2018

Assigned to: Education, Health, and Environmental Affairs

A BILL ENTITLED

1 AN ACT concerning

2 **Maryland Agricultural Land Preservation Foundation – Condemnation of Land**
3 **Under Easement**

4 FOR the purpose of altering the statutory formula that determines the compensation
5 required to be paid to the Maryland Agricultural Land Preservation Fund on
6 condemnation of land under a certain easement held by the Maryland Agricultural
7 Land Preservation Foundation; requiring the Foundation to distribute a portion of
8 certain compensation to a certain entity under certain circumstances; providing for
9 the application of certain provisions of this Act; altering a certain definition; making
10 conforming changes; and generally relating to the compensation to be paid on
11 condemnation of land under an easement held by the Foundation.

12 BY repealing and reenacting, with amendments,
13 Article – Agriculture
14 Section 2–515
15 Annotated Code of Maryland
16 (2016 Replacement Volume and 2017 Supplement)

17 BY repealing and reenacting, with amendments,
18 Article – Real Property
19 Section 12–104(f)
20 Annotated Code of Maryland
21 (2015 Replacement Volume and 2017 Supplement)

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

Article – Agriculture

24
25 2–515.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (a) (1) Subject to the provisions of paragraph (2) of this subsection, this
 2 subtitle does not prohibit an agency of the State or of a county or other governmental
 3 authority from acquiring by condemnation land which is under an agricultural preservation
 4 easement held by the Foundation or a county agricultural land preservation program if
 5 such acquisition is for a public purpose.

6 (2) (i) In this paragraph, “economic or residential development” does
 7 not include:

- 8 1. Roads **OR BRIDGES**;
- 9 2. Water lines or pipelines;
- 10 3. Sewer lines or pipelines;
- 11 4. Power transmission lines or natural gas pipelines; or
- 12 5. Stormwater or drainage facilities.

13 (ii) If the purpose of the condemnation of land under a Foundation
 14 easement is either for economic or residential development or parkland, the acquisition of
 15 the land shall be subject to approval by the Board of Public Works after review and
 16 recommendation of the Foundation.

17 (iii) The condemning authority shall demonstrate that:

- 18 1. A greater public purpose exists than that served by the
 19 Foundation easement; and
- 20 2. There is no reasonable alternative site.

21 (b) **(1) THIS SUBSECTION APPLIES ONLY TO AN AGRICULTURAL LAND**
 22 **PRESERVATION EASEMENT:**

23 **(I) ACQUIRED BY A COUNTY LAND PRESERVATION PROGRAM**
 24 **ON OR BEFORE JUNE 30, 2018; OR**

25 **(II) APPROVED FOR PURCHASE BY THE BOARD OF PUBLIC**
 26 **WORKS ON OR BEFORE JUNE 30, 2018, AND HELD BY THE FOUNDATION.**

27 **(2)** In the event of condemnation of land under an agricultural preservation
 28 easement **HELD BY THE FOUNDATION**, the condemning authority, whether State [or],
 29 county, **OR OTHER AUTHORITY**, shall pay:

30 **[(1)] (I)** To the landowner the full amount to which the landowner would
 31 be entitled if the land was not under easement, less any amount paid [to the landowner by

1 the Foundation or a county agricultural land preservation program for the easement] **TO**
2 **THE FOUNDATION, A COUNTY AGRICULTURAL LAND PRESERVATION PROGRAM, OR**
3 **OTHER ENTITY UNDER ITEM (II) OF THIS PARAGRAPH;** and

4 **[(2)] (II)** To the Maryland Agricultural Land Preservation Fund, [or] a
5 county agricultural land preservation program, **OR ANY OTHER ENTITY CONTRIBUTING**
6 **PAYMENT FOR THE ORIGINAL EASEMENT PURCHASE,** an amount equal to any amount
7 paid by the Foundation, [or the] A county agricultural land preservation program, **OR**
8 **OTHER ENTITY** for the easement.

9 **[(c) (1)] (3)** If a part or all of the property is acquired by the exercise of the
10 power of eminent domain, the fair market value of the property is not affected by its having
11 been qualified for a tax credit under § 9–206 of the Tax – Property Article except that there
12 shall be deducted from fair market value the lesser of:

13 (i) The value of the easement granted; or

14 (ii) The excess of the aggregate amount of the property taxes that
15 would have been due on the property if the easement had not been granted above the
16 aggregate amount of property taxes actually paid on the property since the easement was
17 granted.

18 **[(2)] (4)** If the Foundation or a county agricultural land preservation
19 program purchases the easement for a monetary consideration, other than or in addition
20 to, the tax credit, the condemnation award shall be further reduced by an amount equal to
21 the additional consideration.

22 **(C) (1) THIS SUBSECTION APPLIES ONLY TO AN AGRICULTURAL LAND**
23 **PRESERVATION EASEMENT:**

24 **(I) ACQUIRED BY THE FOUNDATION BY DONATION ON OR**
25 **AFTER JULY 1, 2018; OR**

26 **(II) APPROVED FOR PURCHASE BY THE BOARD OF PUBLIC**
27 **WORKS ON OR AFTER JULY 1, 2018, AND HELD BY THE FOUNDATION.**

28 **(2) IN THE EVENT OF CONDEMNATION OF LAND UNDER AN**
29 **AGRICULTURAL PRESERVATION EASEMENT, THE CONDEMNING AUTHORITY,**
30 **WHETHER STATE, COUNTY, OR OTHER AUTHORITY, SHALL PAY:**

31 **(I) TO THE LANDOWNER THE FULL AMOUNT TO WHICH THE**
32 **LANDOWNER WOULD BE ENTITLED IF THE LAND WAS NOT UNDER EASEMENT, LESS**
33 **ANY AMOUNT PAID TO THE FOUNDATION UNDER ITEM (II) OF THIS PARAGRAPH; AND**

34 **(II) TO THE MARYLAND AGRICULTURAL LAND PRESERVATION**

1 **FUND AN AMOUNT EQUAL TO THE FAIR MARKET VALUE OF THE EASEMENT, WHICH**
2 **SHALL BE DETERMINED BY A QUALIFIED APPRAISAL THAT ESTABLISHES THE RATIO**
3 **OF THE VALUE OF THE EASEMENT INTEREST TO THE VALUE OF THE FEE SIMPLE**
4 **INTEREST IN THE LAND AS OF THE DATE OF CONDEMNATION.**

5 **(3) IF AN EASEMENT WAS ORIGINALLY PURCHASED WITH FUNDS**
6 **CONTRIBUTED BY ENTITIES OTHER THAN THE FOUNDATION, THE FOUNDATION**
7 **SHALL DISTRIBUTE TO THE CONTRIBUTING ENTITY A PORTION OF THE FAIR MARKET**
8 **VALUE COMPENSATION IN PROPORTION TO THE PERCENTAGE OF THE ORIGINAL**
9 **EASEMENT PURCHASE PRICE CONTRIBUTED BY THE ENTITY.**

10 **Article – Real Property**

11 12–104.

12 (f) The damages to be awarded for the taking of land or an interest in land over
13 which an easement in gross or other right to restrict its use has been granted pursuant to
14 § 2–504 of the Agriculture Article shall be as provided for in this subsection **AND § 2–515**
15 **OF THE AGRICULTURE ARTICLE:**

16 (1) The damages to be awarded for the taking of an entire tract is its fair
17 market value after deducting the lesser of (a) the value of the easement granted, or (b) the
18 excess of the aggregate amount of the property taxes that would have been due on the
19 property if the easement had not been granted above the aggregate amount of property
20 taxes actually paid on the property since the easement was granted.

21 (2) The damages to be awarded where part of a tract of land is taken is the
22 fair market value of the part taken less the deduction computed as described in paragraph
23 (1) of this subsection, but not less than the actual value of the part taken less the deduction
24 computed as described in paragraph (1) of this subsection, plus any severance or resulting
25 damages to the remaining land by reason of the taking and of future use by the plaintiff of
26 the part taken.

27 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June
28 30, 2018.