

**Maryland General Assembly
Department of Legislative Services**

**Proposed Regulation
Department of Agriculture
(DLS Control No. 14-335)**

Overview and Legal and Fiscal Impact

This regulation implements Chapter 12 of 2014 by establishing a maximum and minimum percent value for purchasing Maryland Agricultural Land Preservation Foundation (MALPF) easements.

The regulation presents no legal issue of concern.

There is no fiscal impact on State or local agencies.

Regulation of COMAR Affected

Department of Agriculture:

Maryland Agricultural Land Preservation Foundation: Guidelines for the Maryland Agricultural Land Preservation Program: COMAR 15.15.01.10

Legal Analysis

Background

Generally, the maximum value of an easement to be purchased by MALPF must be the asking price or the difference between the fair market value of the land and the agricultural value of the land, whichever is lower. Chapter 12 of 2014 prohibits 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. According to the Maryland Department of Agriculture, Chapter 12 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.

Summary of Regulation

The regulation alters the guidelines for computing the purchase price of a MALPF easement by establishing that the (1) maximum purchase price may not be more than 75% of the fair market value of the land; and (2) minimum purchase price may not be less than 25% of the fair market value of the land, unless the asking price is also less than 25% of fair market value.

Legal Issue

The regulation presents no legal issue of concern.

Statutory Authority and Legislative Intent

The department cites §§ 2-504, 2-509, and 2-513 of the Agriculture Article as authority for the regulation. Section 2-504 authorizes MALPF, in conjunction with the department, to adopt regulations to implement the MALPF statute, and § 2-509 requires MALPF to adopt regulations on the evaluation of land and purchase of easements. Although not cited by the department, § 2-511 specifically prohibits MALPF from purchasing an easement for more than 75% or less than 25% of the fair market of land. Section 2-511 also authorizes MALPF to purchase an easement for less than 25% of the fair market value only if the owner's asking price is less than 25% of the fair market value of the land. This authority is correct and complete. The regulation complies with the legislative intent of the law.

Fiscal Analysis

There is no fiscal impact on State or local agencies.

Agency Estimate of Projected Fiscal Impact

The department advises that the regulation has minimal or no fiscal impact on State or local governments. The Department of Legislative Services concurs and notes that the regulation merely implements Chapter 12 of 2014 (Senate Bill 71) and has no fiscal impact beyond that assumed in the fiscal and policy note for Senate Bill 71. The fiscal and policy note estimated that overall State finances are not affected, as any savings resulting from the bill's changes would be used to extend additional Maryland Agricultural Land Preservation Foundation (MALPF) offers.

Impact on Budget

There is no impact on the State operating or capital budget.

Agency Estimate of Projected Small Business Impact

The department advises that the regulation has minimal or no economic impact on small businesses in the State. The Department of Legislative Services concurs with this assessment, as the regulation merely implements Senate Bill 71 and has no additional impact beyond that discussed in the fiscal and policy note for the bill. The fiscal and policy note for Senate Bill 71 generally concurred with the department's assessment that the bill had minimal or no impact on small businesses but noted that some small business farmers could receive higher or lower easement offers from MALPF as a result of the bill.

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