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**By: Delegate Getty**

Introduced and read first time: January 31, 1996

Assigned to: Environmental Matters

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A BILL ENTITLED

1 AN ACT concerning

2 **Maryland Agricultural Land Preservation Foundation - Easements - Exclusions**

3 FOR the purpose of altering, under certain circumstances, the size of lot that a  
4 landowner may exclude from certain restrictions under an easement sold to the  
5 Maryland Agricultural Land Preservation Foundation; making technical changes;  
6 and generally relating to the exclusion of certain land from certain easement  
7 restrictions.

8 BY repealing and reenacting, without amendments,  
9 Article - Agriculture  
10 Section 2-502  
11 Annotated Code of Maryland  
12 (1985 Replacement Volume and 1995 Supplement)

13 BY repealing and reenacting, with amendments,  
14 Article - Agriculture  
15 Section 2-513  
16 Annotated Code of Maryland  
17 (1985 Replacement Volume and 1995 Supplement)

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

20 **Article - Agriculture**

21 2-502.

22 There is a Maryland Agricultural Land Preservation Foundation in the Department.  
23 The foundation has the powers and duties provided in this subtitle.

24 2-513.

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

29 (1) Any farm use of land is permitted.

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

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

7 (b) (1) Except as otherwise provided in this section, a landowner, whose land is  
8 subject to an easement, may not use the land for any commercial, industrial, or residential  
9 purpose.

10 (2) Except as provided in paragraph [(3)] (5) of this subsection, on written  
11 application, the Foundation shall release free of easement restriction only for the  
12 landowner who originally sold an easement, 1 acre or less for the purpose of constructing  
13 a dwelling house for the use only of that landowner or child of the landowner subject to  
14 the following conditions:

15 (i) The total number of lots allowed to be released under this section,  
16 except as provided in paragraph [(3)] (5) of this subsection, may not exceed 10 lots of 1  
17 acre or less at a maximum of not more than 1 lot for each 20 acres or portion thereof.

18 (ii) The landowner shall pay the State for any acre or portion released  
19 at the price per acre that the State paid the owner for the easement.

20 (iii) Before any conveyance or release, the landowner and the child, if  
21 there is a conveyance to a child, shall agree not to subdivide further FOR RESIDENTIAL  
22 PURPOSES any acreage allowed to be released. The agreement shall be recorded among  
23 the land records where the land is located and shall bind all future owners.

24 (iv) After certifying that the landowner or child of the landowner has  
25 met the conditions provided in subparagraphs (i), (ii), and (iii) of this paragraph, the  
26 Foundation shall issue a preliminary release which shall:

27 1. Become final when the Foundation receives and certifies a  
28 nontransferable building permit in the name of the landowner or child of the landowner  
29 for construction of a dwelling house; or

30 2. Become void upon the death of the person for whose benefit  
31 the release was intended if the Foundation has not yet received a building permit as  
32 provided in this subparagraph.

33 (v) Any release or preliminary release issued under this paragraph  
34 shall include a statement of the conditions under which it was issued, a certification by  
35 the Foundation that all necessary conditions for release or preliminary release have been  
36 met, and copies of any pertinent documents.

37 (vi) Any release, preliminary release, building permit, or other  
38 document issued or submitted in accordance with this paragraph shall be recorded among  
39 the land records where the land is located and shall bind all future owners.

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1 (vii) The Foundation may not restrict the ability of a landowner who  
2 originally sold an easement to acquire a release under this paragraph beyond the  
3 requirements provided in this section.

4 [(3) The restriction of paragraph (2) of this subsection concerning maximum  
5 lot sizes is altered for the construction of a dwelling house for the use only of that  
6 landowner or child of the landowner so that the maximum lot size is 2 acres if:

7 (i) Regulations adopted by the Department of the Environment  
8 require a minimum lot size of not less than 2 acres in areas where there is less than 4 feet  
9 of unsaturated and unconsolidated soil material below the bottom of an on-site sewage  
10 disposal system or in areas located within 2,500 feet of the normal water level of an  
11 existing or proposed water supply reservoir; or

12 (ii) Regulations adopted by the jurisdiction in which the land is  
13 situated require that the lot be larger than 1 acre.]

14 [(4)] (3) A landowner may construct housing for tenants fully engaged in  
15 operation of the farm, but this construction may not exceed 1 tenant house per 100 acres.  
16 The land on which a tenant house is constructed may not be subdivided or conveyed to  
17 any person. In addition, the tenant house may not be conveyed separately from the  
18 original parcel.

19 [(5)] (4) [On] EXCEPT AS PROVIDED IN PARAGRAPH (5) OF THIS  
20 SECTION, ON request to the Foundation, an owner may exclude from the easement  
21 restrictions 1 acre per each single dwelling, which existed at the time of the sale of the  
22 easement, by a land survey and recordation provided at the expense of the owner.  
23 However, before any exclusion is granted, an owner shall agree with the Foundation not  
24 to subdivide [each acre excluded] FURTHER FOR RESIDENTIAL PURPOSES ANY  
25 ACREAGE ALLOWED TO BE RELEASED. This agreement shall be recorded among the  
26 land records where the land is located and shall bind all future owners.

27 (5) (I) THE RESTRICTIONS OF PARAGRAPHS (2) AND (4) OF THIS  
28 SECTION CONCERNING MAXIMUM LOT SIZES ARE ALTERED SO THAT THE MAXIMUM  
29 LOT SIZE IS 2 ACRES IF:

30 1. REGULATIONS ADOPTED BY THE DEPARTMENT OF THE  
31 ENVIRONMENT REQUIRE A MINIMUM LOT SIZE FOR A DWELLING HOUSE OF NOT  
32 LESS THAN 2 ACRES IN AREAS WHERE THERE IS LESS THAN 4 FEET OF  
33 UNSATURATED AND UNCONSOLIDATED SOIL MATERIAL BELOW THE BOTTOM OF  
34 AN ON-SITE SEWAGE DISPOSAL SYSTEM OR IN AREAS LOCATED WITHIN 2,500 FEET  
35 OF THE NORMAL WATER LEVEL OF AN EXISTING OR PROPOSED WATER SUPPLY  
36 RESERVOIR; OR

37 2. REGULATIONS ADOPTED BY THE JURISDICTION IN  
38 WHICH THE LAND IS SITUATED REQUIRE THAT A LOT FOR A DWELLING HOUSE BE  
39 LARGER THAN 1 ACRE.

40 (II) FOR EXCLUSIONS PROVIDED UNDER PARAGRAPH (4) OF THIS  
41 SUBSECTION, THE LANDOWNER SHALL PAY THE STATE FOR ANY ACRE OR PORTION  
42 RELEASED IN EXCESS OF THE 1 ACRE PER SINGLE DWELLING THAT EXISTED AT THE  
43 TIME OF EASEMENT.

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1 (c) Purchase of an easement by the Foundation does not grant the public any  
2 right of access or right of use of the subject property.

3 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
4 October 1, 1996.