
By: Delegate Getty

Introduced and read first time: January 31, 1996

Assigned to: Environmental Matters

Committee Report: Favorable

House action: Adopted

Read second time: February 20, 1996

CHAPTER ____

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.

1 2-513.

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

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

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

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

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

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

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

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

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

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

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

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

39 (v) Any release or preliminary release issued under this paragraph
40 shall include a statement of the conditions under which it was issued, a certification by

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1 the Foundation that all necessary conditions for release or preliminary release have been
2 met, and copies of any pertinent documents.

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

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

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

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

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

19 [(4)] (3) A landowner may construct housing for tenants fully engaged in
20 operation of the farm, but this construction may not exceed 1 tenant house per 100 acres.
21 The land on which a tenant house is constructed may not be subdivided or conveyed to
22 any person. In addition, the tenant house may not be conveyed separately from the
23 original parcel.

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

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

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

