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HB 110/95 - CGM

1997 Regular Session
7r2006
CF 7r2902

By: Delegates Eckardt, Schisler, and D. Hughes

Introduced and read first time: January 29, 1997

Assigned to: Environmental Matters

Reassigned: Commerce and Government Matters, January 31, 1997

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 4, 1997

CHAPTER _____

1 AN ACT concerning

2 **Dorchester County - Right to Farm Law**

3 FOR the purpose of authorizing the County Commissioners of Dorchester County to
4 adopt an ordinance to protect the right to farm and to engage in agricultural or
5 forestry operations; authorizing the County Commissioners to provide for persons
6 who engage in agricultural or forestry operations to be immune from private
7 nuisance actions involving agricultural or forestry operations in certain
8 circumstances; authorizing the County Commissioners to establish a grievance
9 committee to arbitrate disputes involving agricultural or forestry operations;
10 authorizing the County Commissioners to require a person claiming a nuisance
11 involving agricultural or forestry operations to seek and obtain relief from the
12 grievance committee; authorizing the County Commissioners to require a person
13 claiming a nuisance to pay reasonable expenses, including attorney fees, in certain
14 circumstances; authorizing the County Commissioners to require a transferor of real
15 property to provide certain information to the transferee in certain circumstances;
16 modifying a certain provision in the Real Property Article concerning contracts for
17 sale of real property; and generally relating to the authority of the County
18 Commissioners to protect agricultural or forestry operations in Dorchester County.

19 BY adding to

20 The Public Local Laws of Dorchester County
21 Section 38-1 to be under the new chapter "Chapter 38 Right to Farm Law"
22 Article 10 - Public Local Laws of Maryland
23 (1984 Edition and March 1996 Supplement, as amended)

24 BY repealing and reenacting, with amendments,

25 Article - Real Property

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1 Section 14-117(f)
2 Annotated Code of Maryland
3 (1996 Replacement Volume and 1996 Supplement)

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

6 **Article 10 - Dorchester County**

7 CHAPTER 38

8 RIGHT TO FARM LAW

9 38-1.

10 (A) SUBJECT TO SUBSECTION (C) OF THIS SECTION, THE COUNTY
11 COMMISSIONERS MAY ADOPT AN ORDINANCE TO PROTECT A PERSON'S RIGHT TO
12 FARM OR TO ENGAGE IN AGRICULTURAL OR FORESTRY OPERATIONS.

13 (B) IN ADOPTING AN ORDINANCE UNDER THIS SECTION, THE COUNTY
14 COMMISSIONERS MAY:

15 (1) DEFINE THE TERMS "AGRICULTURAL OR FORESTRY OPERATIONS",
16 "GENERALLY ACCEPTED AGRICULTURAL OR FORESTRY PRACTICES", AND ANY
17 OTHER TERMS NECESSARY TO CARRY OUT THE PROVISIONS OF THIS SECTION;

18 (2) PROVIDE THAT A PRIVATE ACTION MAY NOT BE SUSTAINED WITH
19 RESPECT TO AN AGRICULTURAL OR FORESTRY OPERATION ON THE GROUNDS
20 THAT THE OPERATION INTERFERES OR HAS INTERFERED WITH THE USE OR
21 ENJOYMENT OF PROPERTY, WHETHER PUBLIC OR PRIVATE, IF, AT THE TIME THE
22 INTERFERENCE IS ALLEGED TO ARISE:

23 (I) THE AGRICULTURAL OR FORESTRY OPERATION, INCLUDING
24 ANY CHANGE IN THE OPERATION, HAS BEEN UNDER WAY FOR A PERIOD OF 1 YEAR
25 OR MORE AND IF THE OPERATION OR THE CHANGE DID NOT CONSTITUTE A
26 NUISANCE FROM THE DATE THE OPERATION BEGAN OR THE DATE THE CHANGE IN
27 THE OPERATION BEGAN; AND

28 (II) THE AGRICULTURAL OR FORESTRY OPERATION IS
29 CONDUCTED SUBSTANTIALLY IN ACCORDANCE WITH GENERALLY ACCEPTED
30 AGRICULTURAL OR FORESTRY PRACTICES;

31 (3) ESTABLISH A GRIEVANCE COMMITTEE TO ARBITRATE DISPUTES
32 INVOLVING AGRICULTURAL OR FORESTRY OPERATIONS AND WHETHER
33 AGRICULTURAL OR FORESTRY OPERATIONS ARE CONDUCTED IN A MANNER
34 CONSISTENT WITH GENERALLY ACCEPTED AGRICULTURAL OR FORESTRY
35 PRACTICES;

36 (4) REQUIRE A PERSON CLAIMING A NUISANCE AS A RESULT OF
37 AGRICULTURAL OR FORESTRY OPERATIONS TO ARBITRATE THE CLAIM BEFORE
38 THE GRIEVANCE COMMITTEE BEFORE MAINTAINING A PRIVATE ACTION IN COURT;

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1 (5) PROVIDE THAT IF THE GRIEVANCE COMMITTEE FINDS THAT THE
 2 CONDUCT OF A PERSON CLAIMING A NUISANCE AS A RESULT OF AGRICULTURAL OR
 3 FORESTRY OPERATIONS WAS IN BAD FAITH OR WITHOUT SUBSTANTIAL
 4 JUSTIFICATION, THE GRIEVANCE COMMITTEE SHALL REQUIRE THE PERSON
 5 CLAIMING THE NUISANCE TO PAY THE PERSON AGAINST WHOM THE COMPLAINT
 6 WAS MADE THE COSTS OF THE ARBITRATION PROCEEDING AND THE REASONABLE
 7 EXPENSES, INCLUDING REASONABLE ATTORNEY FEES, INCURRED BY THE PERSON
 8 AGAINST WHOM THE COMPLAINT WAS MADE IN DEFENDING AGAINST THE CLAIM;

9 (6) REQUIRE A TRANSFEROR OF REAL PROPERTY TO PROVIDE TO THE
 10 TRANSFEREE NOTICE ADVISING THE TRANSFEREE OF THE DORCHESTER COUNTY
 11 RIGHT TO FARM ORDINANCE; AND

12 (7) INCLUDE ANY OTHER MEASURE THE COUNTY COMMISSIONERS
 13 FIND NECESSARY TO PROTECT AGRICULTURAL OR FORESTRY OPERATIONS IN
 14 DORCHESTER COUNTY.

15 (C) BEFORE ADOPTING AN ORDINANCE UNDER THIS SECTION, THE COUNTY
 16 COMMISSIONERS SHALL HOLD A PUBLIC HEARING AND SHALL PROVIDE
 17 REASONABLE NOTICE OF THE HEARING.

18 **Article - Real Property**

19 14-117.

20 (f) A contract of sale shall also comply with the following provisions, if
 21 applicable:

22 (1) Section 17-405 of the Business Occupations and Professions Article
 23 (notice of purchaser's protection by Real Estate Guaranty Fund in an amount not to
 24 exceed \$25,000);

25 (2) Section 17-504 of the Business Occupations and Professions Article
 26 (notice by real estate broker pertaining to deposit in noninterest bearing account);

27 (3) Section 17-523 of the Business Occupations and Professions Article
 28 (notice by real estate broker about recordation and transfer taxes);

29 (4) Section 17-524 of the Business Occupations and Professions Article
 30 (notice of purchaser's right to select title company);

31 (5) Section 10-701 of this article (notice pertaining to sale of real property
 32 in Prince George's County creating subdivision);

33 (6) Section 11-126 of this article (notice pertaining to initial sale of
 34 condominium unit);

35 (7) Section 11-135 of this article (notice pertaining to resale of
 36 condominium unit);

37 (8) Section 11B-105 of this article (notice pertaining to initial sale of lot in
 38 development containing more than 12 lots);

4

1 (9) Section 11B-106 of this article (notice pertaining to resale of any lot or
2 initial sale of lot in development containing 12 or fewer lots);

3 (10) Section 11B-107 of this article (notice pertaining to initial sale of lot not
4 intended to be occupied or rented for residential purposes);

5 (11) Section 5-6B-02 of the Corporations and Associations Article (notice
6 pertaining to initial sale of cooperative interests); [and]

7 (12) Section 13-308 of the Tax - Property Article (notice of liability for
8 agricultural land transfer tax); AND

9 (13) AN ORDINANCE ADOPTED UNDER § 38-1 OF ARTICLE 10 - PUBLIC
10 LOCAL LAWS OF MARYLAND (NOTICE PERTAINING TO DORCHESTER COUNTY RIGHT
11 TO FARM ORDINANCE).

12 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
13 October 1, 1997.