
By: Delegates Finifter, Morhaim, and Frank
Introduced and read first time: January 30, 1997
Assigned to: Environmental Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Maryland Agricultural Land Preservation Foundation - Release of Lots From Easements**
3 **- Limitation on Resulting Density**

4 FOR the purpose of requiring that when the Maryland Agricultural Land Preservation
5 Foundation releases lots from an easement for the construction of dwelling houses,
6 the resulting density on the property may not exceed the density allowed under
7 zoning of the property before the Foundation purchased the easement; requiring
8 the Foundation to certify that the resulting density on the property does not exceed
9 the density allowed under zoning of the property before the Foundation purchased
10 the easement before the Foundation issues a preliminary release; making technical
11 changes; and generally relating to the density of a property after the Maryland
12 Agricultural Land Preservation Foundation releases lots from an easement for the
13 construction of dwelling houses.

14 BY repealing and reenacting, with amendments,
15 Article - Agriculture
16 Section 2-513
17 Annotated Code of Maryland
18 (1985 Replacement Volume and 1996 Supplement)

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

21 **Article - Agriculture**

22 2-513.

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

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

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

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

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

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

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

16 (II) THE RESULTING DENSITY ON THE PROPERTY MAY NOT
17 EXCEED THE DENSITY ALLOWED UNDER ZONING OF THE PROPERTY BEFORE THE
18 FOUNDATION PURCHASED THE EASEMENT.

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

21 [(iii)] (IV) Before any conveyance or release, the landowner and the
22 child, if there is a conveyance to a child, shall agree not to subdivide further for
23 residential purposes any acreage allowed to be released. The agreement shall be recorded
24 among the land records where the land is located and shall bind all future owners.

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

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

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

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

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

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

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

9 (4) Except as provided in paragraph (5) of this [section] SUBSECTION, on
10 request to the Foundation, an owner may exclude from the easement restrictions 1 acre
11 per each single dwelling, which existed at the time of the sale of the easement, by a land
12 survey and recordation provided at the expense of the owner. However, before any
13 exclusion is granted, an owner shall agree with the Foundation not to subdivide further
14 for residential purposes any acreage allowed to be released. This agreement shall be
15 recorded among the land records where the land is located and shall bind all future
16 owners.

17 (5) (i) The restrictions of paragraphs (2) and (4) of this [section]
18 SUBSECTION concerning maximum lot sizes are altered so that the maximum lot size is 2
19 acres if:

20 1. Regulations adopted by the Department of the Environment
21 require a minimum lot size for a dwelling house of not less than 2 acres in areas where
22 there is less than 4 feet of unsaturated and unconsolidated soil material below the bottom
23 of an on-site sewage disposal system or in areas located within 2,500 feet of the normal
24 water level of an existing or proposed water supply reservoir; or

25 2. Regulations adopted by the jurisdiction in which the land is
26 situated require that a lot for a dwelling house be larger than 1 acre.

27 (ii) For exclusions provided under paragraph (4) of this subsection, the
28 landowner shall pay the State for any acre or portion released in excess of the 1 acre per
29 single dwelling that existed at the time of easement.

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

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