
By: Delegates Finifter, Morhaim, and Frank
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CHAPTER _____

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; providing for the
11 construction of this Act; making technical changes; and generally relating to the
12 density of a property after the Maryland Agricultural Land Preservation Foundation
13 releases lots from an easement for the 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

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1 under § 2-509 OF THIS SUBTITLE if the easement and county regulations governing the
2 use of the land include the following provisions:

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

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

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

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

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

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

21 (II) THE RESULTING DENSITY ON THE PROPERTY MAY NOT
22 EXCEED THE DENSITY ALLOWED UNDER ZONING OF THE PROPERTY BEFORE THE
23 FOUNDATION PURCHASED THE EASEMENT.

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

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

30 [(iv)] (V) After certifying that the landowner or child of the landowner
31 has met the conditions provided in subparagraphs (i)[, (ii), and (iii)] THROUGH (IV) of
32 this paragraph, the 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)] (VI) Any release or preliminary release issued under this
40 paragraph shall include a statement of the conditions under which it was issued, a

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

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

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

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

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

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

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

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

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

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1 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be
2 construed only prospectively and may not be applied or interpreted to have any effect on
3 or application to any easement purchased by the Maryland Agricultural Land
4 Preservation Foundation before the effective date of this Act.

5 SECTION ~~2~~ 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
6 October 1, 1997.