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By: **Delegate Linton**

Introduced and read first time: February 18, 1998

Assigned to: Rules and Executive Nominations

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A BILL ENTITLED

1 AN ACT concerning

2 **Airports - Development Rights - Easements**

3 FOR the purpose of authorizing a county to establish airport districts and policies for  
4 preserving land proximate to an existing airport; authorizing a county to acquire  
5 an easement for development rights in land proximate to an existing airport;  
6 defining certain terms; declaring the intent of the General Assembly;  
7 establishing that the establishment of an airport district by a county is not  
8 effective until certain information is recorded with land records; requiring a  
9 county to consider certain factors when designating land as an airport district or  
10 acquiring an easement in land proximate to an existing airport; requiring a  
11 county to hold a public hearing before acquiring an easement in land proximate  
12 to an existing airport; requiring adequate notice to interested parties before a  
13 public hearing; authorizing a county to use funds under Program Open Space to  
14 acquire an easement in land proximate to an existing airport; establishing  
15 restrictions on the use of land that is under an easement under this Act;  
16 establishing that an easement under this Act does not grant a right of access to  
17 the public; authorizing a county to adopt regulations to administer this Act;  
18 establishing that this Act does not prohibit a landowner from selling the  
19 landowner's property; authorizing a county to abolish the preservation of land  
20 proximate to an existing airport; requiring a county to distribute certain  
21 proceeds derived from the sale of an easement under this Act to a certain fund;  
22 establishing the procedure for payment should an entity condemn land  
23 preserved under an easement under this Act; and generally relating to the  
24 preservation of land containing an airport and land proximate to existing  
25 airports.

26 BY adding to

27 Article - Transportation

28 Section 5-4A-01 to be under the new subtitle "Subtitle 4A. Airport Easements -  
29 Future Development"

30 Annotated Code of Maryland

31 (1993 Replacement Volume and 1997 Supplement)

32 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF

33 MARYLAND, That the Laws of Maryland read as follows:

Article - Transportation

SUBTITLE 4A. AIRPORT EASEMENTS - FUTURE DEVELOPMENT.

3 5-4A-01.

4 (A) (1) IN THIS SECTION, "AIRPORT DISTRICT" MEANS:

5 (I) DESIGNATED LAND ON WHICH A PRIVATELY OWNED  
6 COMMERCIAL OR PUBLIC USE AIRPORT IS SITUATED; AND

7 (II) DESIGNATED PRIVATE LAND PROXIMATE TO A COMMERCIAL  
8 OR PUBLIC USE AIRPORT.

9 (2) "COMMERCIAL USE AIRPORT" MEANS A PUBLICLY OR PRIVATELY  
10 OWNED AIRPORT AT WHICH:

11 (I) LANDING OR TIE DOWN FEES ARE CHARGED;

12 (II) AVIATION FUEL OR OIL IS SOLD;

13 (III) SPACE IS RENTED;

14 (IV) GOODS OR SERVICES ARE SOLD; OR

15 (V) OTHER ACTIVITIES ARE CARRIED OUT FOR REMUNERATION.

16 (3) "PUBLIC USE AIRPORT" MEANS ANY PUBLICLY OR PRIVATELY  
17 OWNED AIRPORT THAT IS OPEN TO FLIGHT OPERATIONS BY THE PUBLIC.

18 (B) IT IS THE INTENT OF THE MARYLAND GENERAL ASSEMBLY TO ESTABLISH  
19 AND PRESERVE AIRPORT DISTRICTS FOR THE PURPOSE OF:

20 (1) CONSERVING LAND THAT IS AVAILABLE FOR THE FUTURE  
21 DEVELOPMENT OF AIRPORTS;

22 (2) ENSURING ACCESS TO COMMERCIAL AND RECREATIONAL AVIATION  
23 IN THE STATE; AND

24 (3) PROTECTING AIRPORTS AND LAND PROXIMATE TO AIRPORTS AS  
25 OPEN SPACE LAND.

26 (C) (1) A COUNTY CONTAINING A COMMERCIAL OR PUBLIC USE AIRPORT  
27 MAY:

28 (I) ESTABLISH A POLICY FOR PRESERVING LAND FOR AIRPORTS;

29 (II) ESTABLISH AIRPORT DISTRICTS;

30 (III) ACQUIRE AN EASEMENT FOR DEVELOPMENT RIGHTS IN AN  
31 AIRPORT DISTRICT;

1 (IV) ALTER OR ABOLISH AN EASEMENT IN AN AIRPORT DISTRICT;  
2 AND

3 (V) PROMOTE THE PRESERVATION OF AIRPORTS IN THE COUNTY  
4 BY OFFERING INFORMATION AND ASSISTANCE TO AFFECTED LANDOWNERS WITH  
5 RESPECT TO THE ESTABLISHMENT OF AN AIRPORT DISTRICT AND THE PURCHASE OF  
6 AN EASEMENT.

7 (2) (I) A COUNTY THAT ESTABLISHES AN AIRPORT DISTRICT SHALL  
8 ESTABLISH THE AIRPORT DISTRICT BY ORDINANCE.

9 (II) THE ESTABLISHMENT OF AN AIRPORT DISTRICT MAY NOT TAKE  
10 EFFECT UNTIL ALL LANDOWNERS IN THE PROPOSED AIRPORT DISTRICT HAVE  
11 EXECUTED AND RECORDED ALONG WITH LAND RECORDS AN AGREEMENT WITH THE  
12 COUNTY STIPULATING THAT:

13 1. AFTER THE ESTABLISHMENT OF THE AIRPORT DISTRICT  
14 THE LANDOWNER MAY AGREE TO KEEP THE LANDOWNER'S LAND COMPATIBLE WITH  
15 AIRPORT USE IN ACCORDANCE WITH THIS SECTION; AND

16 2. THE LANDOWNER HAS THE RIGHT TO OFFER TO SELL TO  
17 THE COUNTY UNDER THE PROVISIONS OF THIS SUBTITLE AN EASEMENT FOR  
18 DEVELOPMENT RIGHTS IN THE LANDOWNER'S LAND.

19 (3) IN DESIGNATING LAND AS AN AIRPORT DISTRICT OR ACQUIRING AN  
20 EASEMENT IN AN AIRPORT DISTRICT, A COUNTY SHALL:

21 (I) SOLICIT FROM THE COUNTY PLANNING AND ZONING BODY A  
22 STUDY OF THE IMPACT OF AN EASEMENT BEFORE ACQUIRING AN EASEMENT IN AN  
23 AIRPORT DISTRICT;

24 (II) CONSIDER CURRENT LOCAL REGULATIONS;

25 (III) CONSIDER LOCAL PATTERNS OF LAND DEVELOPMENT; AND

26 (IV) CONSIDER LOCAL PRIORITIES FOR THE PRESERVATION OF  
27 AIRPORT LAND.

28 (4) (I) A COUNTY SHALL HOLD A PUBLIC HEARING BEFORE  
29 ACQUIRING AN EASEMENT IN AN AIRPORT DISTRICT.

30 (II) A COUNTY SHALL PROVIDE ADEQUATE NOTICE TO ALL  
31 LANDOWNERS IN THE PROPOSED AIRPORT DISTRICT AND ALL INTERESTED PARTIES  
32 BEFORE HOLDING A PUBLIC HEARING.

33 (D) A COUNTY MAY USE FUNDS IN ITS GENERAL FUND UNDER PROGRAM  
34 OPEN SPACE IN ADDITION TO FUNDS OTHERWISE AVAILABLE FOR THE ACQUISITION  
35 OF AN EASEMENT IN AIRPORT DISTRICTS LOCATED IN THE COUNTY.

1 (E) (1) EXCEPT AS OTHERWISE PROVIDED IN THIS SUBSECTION, A  
2 LANDOWNER WHOSE LAND IS SUBJECT TO AN EASEMENT MAY NOT USE THE LAND  
3 FOR A COMMERCIAL, INDUSTRIAL, OR RESIDENTIAL PURPOSE.

4 (2) (I) A LANDOWNER MAY EXCLUDE FROM THE EASEMENT  
5 RESTRICTIONS 1 ACRE FOR EACH SINGLE DWELLING THAT EXISTS AT THE TIME OF  
6 THE SALE OF THE EASEMENT, BY A LAND SURVEY AND RECORDATION PROVIDED AT  
7 THE EXPENSE OF THE OWNER.

8 (II) 1. BEFORE AN EXCLUSION IS GRANTED UNDER  
9 SUBPARAGRAPH (I) OF THIS PARAGRAPH, AN OWNER SHALL AGREE WITH THE  
10 COUNTY NOT TO SUBDIVIDE FURTHER FOR RESIDENTIAL PURPOSES LAND ALLOWED  
11 TO BE EXCLUDED.

12 2. THIS AGREEMENT SHALL BE RECORDED AMONG THE  
13 LAND RECORDS WHERE THE LAND IS LOCATED AND SHALL BIND ALL FUTURE  
14 OWNERS.

15 (3) AN EASEMENT IN AN AIRPORT DISTRICT MAY NOT RESTRICT A  
16 LANDOWNER FROM ENGAGING IN COMMERCIAL OR OTHER ACTIVITIES INVOLVING  
17 AGRICULTURE, FORESTRY, TOPOGRAPHICAL ENHANCEMENT, OR OTHER ACTIVITIES  
18 THAT ARE COMPATIBLE WITH THE FUTURE DEVELOPMENT OF AN AIRPORT.

19 (4) AN EASEMENT IN AN AIRPORT DISTRICT MAY NOT PREVENT A  
20 LANDOWNER FROM ENGAGING IN COMMERCIAL OR OTHER ACTIVITIES ON THE LAND  
21 RELATED TO NORMAL AIRPORT OPERATIONS INCLUDING, BUT NOT LIMITED TO, THE  
22 SALE OF MAINTENANCE PRODUCTS AND SERVICES, AND TRAINING SCHOOLS.

23 (F) ACQUISITION OF AN EASEMENT BY A COUNTY DOES NOT GRANT TO THE  
24 PUBLIC A RIGHT OF ACCESS OR RIGHT OF USE OF THE AIRPORT DISTRICT.

25 (G) A COUNTY MAY ADOPT REGULATIONS AND PROCEDURES FOR  
26 ADMINISTERING THIS SECTION.

27 (H) NOTHING IN THIS SECTION SHALL PROHIBIT A LANDOWNER FROM  
28 SELLING THE LANDOWNER'S PROPERTY.

29 (I) (1) THE COUNTY MAY REVIEW THE USE OF LAND IN AN AIRPORT  
30 DISTRICT AND ALTER OR ABOLISH AN AIRPORT DISTRICT.

31 (2) THE COUNTY SHALL DISTRIBUTE FUNDS ACQUIRED FROM THE SALE  
32 OF AN EASEMENT IN AN AIRPORT DISTRICT TO THE COUNTY'S GENERAL FUND  
33 UNDER PROGRAM OPEN SPACE IN THE SAME PROPORTION THAT THE COUNTY USED  
34 PROGRAM OPEN SPACE FUNDS TO ACQUIRE THE EASEMENT.

35 (J) IN THE EVENT OF CONDEMNATION OF LAND UNDER AN AIRPORT  
36 PRESERVATION EASEMENT, THE CONDEMNING AUTHORITY SHALL PAY:

1           (1)       TO THE LANDOWNER THE FULL AMOUNT THAT THE LANDOWNER  
2 WOULD BE ENTITLED TO IF THE LAND WAS NOT UNDER EASEMENT, LESS ANY  
3 AMOUNT PAID TO THE LANDOWNER BY THE COUNTY FOR THE EASEMENT; AND

4           (2)       TO THE COUNTY, TO BE DEPOSITED INTO THE COUNTY'S GENERAL  
5 FUND UNDER PROGRAM OPEN SPACE IN THE SAME PROPORTION THAT THE COUNTY  
6 USED PROGRAM OPEN SPACE FUNDS TO ACQUIRE THE EASEMENT, THE VALUE OF  
7 THE EASEMENT.

8       SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
9 October 1, 1998.