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By: **Delegate Linton**

Introduced and read first time: February 18, 1998

Assigned to: Rules and Executive Nominations

Re-referred to: Commerce and Government Matters, February 23, 1998

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Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 27, 1998

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CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Airports - Development Rights - Easements**

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

1 airports.

2 BY adding to

3 Article - Transportation

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

5 Future Development"

6 Annotated Code of Maryland

7 (1993 Replacement Volume and 1997 Supplement)

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

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

10 **Article - Transportation**

11 **SUBTITLE 4A. AIRPORT EASEMENTS - FUTURE DEVELOPMENT.**

12 5-4A-01.

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

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

16 (II) DESIGNATED PRIVATE LAND PROXIMATE TO A COMMERCIAL  
17 OR PUBLIC USE AIRPORT.

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

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

21 (II) AVIATION FUEL OR OIL IS SOLD;

22 (III) SPACE IS RENTED;

23 (IV) GOODS OR SERVICES ARE SOLD; OR

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

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

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

29 (1) CONSERVING LAND THAT IS AVAILABLE FOR THE FUTURE  
30 DEVELOPMENT OF AIRPORTS;

31 (2) ENSURING ACCESS TO COMMERCIAL AND RECREATIONAL AVIATION  
32 IN THE STATE; AND

1 (3) PROTECTING AIRPORTS AND LAND PROXIMATE TO AIRPORTS AS  
2 OPEN SPACE LAND.

3 (C) (1) A COUNTY OR MUNICIPAL CORPORATION CONTAINING A  
4 COMMERCIAL OR PUBLIC USE AIRPORT MAY:

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

6 (II) ESTABLISH AIRPORT DISTRICTS;

7 (III) ACQUIRE AN EASEMENT FOR DEVELOPMENT RIGHTS IN AN  
8 AIRPORT DISTRICT;

9 (IV) ALTER OR ABOLISH AN EASEMENT IN AN AIRPORT DISTRICT;  
10 AND

11 (V) PROMOTE THE PRESERVATION OF AIRPORTS IN THE COUNTY  
12 OR MUNICIPAL CORPORATION BY OFFERING INFORMATION AND ASSISTANCE TO  
13 AFFECTED LANDOWNERS WITH RESPECT TO THE ESTABLISHMENT OF AN AIRPORT  
14 DISTRICT AND THE PURCHASE OF AN EASEMENT.

15 (2) (I) A COUNTY OR MUNICIPAL CORPORATION THAT ESTABLISHES  
16 AN AIRPORT DISTRICT SHALL ESTABLISH THE AIRPORT DISTRICT BY ORDINANCE.

17 (II) THE ESTABLISHMENT OF AN AIRPORT DISTRICT MAY NOT TAKE  
18 EFFECT UNTIL ALL LANDOWNERS IN THE PROPOSED AIRPORT DISTRICT HAVE  
19 EXECUTED AND RECORDED ALONG WITH LAND RECORDS AN AGREEMENT WITH THE  
20 COUNTY OR MUNICIPAL CORPORATION STIPULATING THAT:

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

24 2. THE LANDOWNER HAS THE RIGHT TO OFFER TO SELL TO  
25 THE COUNTY OR MUNICIPAL CORPORATION UNDER THE PROVISIONS OF THIS  
26 SUBTITLE AN EASEMENT FOR DEVELOPMENT RIGHTS IN THE LANDOWNER'S LAND.

27 (3) IN DESIGNATING LAND AS AN AIRPORT DISTRICT OR ACQUIRING AN  
28 EASEMENT IN AN AIRPORT DISTRICT, A COUNTY OR MUNICIPAL CORPORATION  
29 SHALL:

30 (I) SOLICIT FROM THE COUNTY OR MUNICIPAL CORPORATION  
31 PLANNING AND ZONING BODY A STUDY OF THE IMPACT OF AN EASEMENT BEFORE  
32 ACQUIRING AN EASEMENT IN AN AIRPORT DISTRICT;

33 (II) CONSIDER CURRENT LOCAL REGULATIONS;

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

35 (IV) CONSIDER LOCAL PRIORITIES FOR THE PRESERVATION OF  
36 AIRPORT LAND.

1 (4) (I) A COUNTY OR MUNICIPAL CORPORATION SHALL HOLD A  
2 PUBLIC HEARING BEFORE ACQUIRING AN EASEMENT IN AN AIRPORT DISTRICT.

3 (II) A COUNTY OR MUNICIPAL CORPORATION SHALL PROVIDE  
4 ADEQUATE NOTICE TO ALL LANDOWNERS IN THE PROPOSED AIRPORT DISTRICT AND  
5 ALL INTERESTED PARTIES BEFORE HOLDING A PUBLIC HEARING.

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

9 (D) A COUNTY OR MUNICIPAL CORPORATION MAY COORDINATE ITS  
10 ACQUISITION OF AN EASEMENT IN AN AIRPORT DISTRICT WITH OTHER PROGRAMS  
11 AND SHALL DEDICATE SUCH FUNDS TO THE ACQUISITION AS IT CONSIDERS  
12 APPROPRIATE.

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

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

20 (II) 1. BEFORE AN EXCLUSION IS GRANTED UNDER  
21 SUBPARAGRAPH (I) OF THIS PARAGRAPH, AN OWNER SHALL AGREE WITH THE  
22 COUNTY OR MUNICIPAL CORPORATION NOT TO SUBDIVIDE FURTHER FOR  
23 RESIDENTIAL PURPOSES LAND ALLOWED TO BE EXCLUDED.

24 2. THIS AGREEMENT SHALL BE RECORDED AMONG THE  
25 LAND RECORDS WHERE THE LAND IS LOCATED AND SHALL BIND ALL FUTURE  
26 OWNERS.

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

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

35 (F) ACQUISITION OF AN EASEMENT BY A COUNTY OR MUNICIPAL  
36 CORPORATION DOES NOT GRANT TO THE PUBLIC A RIGHT OF ACCESS OR RIGHT OF  
37 USE OF THE AIRPORT DISTRICT.

38 (G) A COUNTY OR MUNICIPAL CORPORATION MAY ADOPT REGULATIONS AND  
39 PROCEDURES FOR ADMINISTERING THIS SECTION.

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

3 (I) (1) THE COUNTY OR MUNICIPAL CORPORATION MAY REVIEW THE USE  
4 OF LAND IN AN AIRPORT DISTRICT AND ALTER OR ABOLISH AN AIRPORT DISTRICT.

5 (2) THE COUNTY OR MUNICIPAL CORPORATION SHALL DISTRIBUTE  
6 FUNDS ACQUIRED FROM THE SALE OF AN EASEMENT IN AN AIRPORT DISTRICT TO  
7 THE COUNTY'S OR MUNICIPAL CORPORATION'S GENERAL FUND ~~UNDER PROGRAM~~  
8 ~~OPEN SPACE IN THE SAME PROPORTION THAT THE COUNTY USED PROGRAM OPEN~~  
9 ~~SPACE FUNDS TO ACQUIRE THE EASEMENT.~~

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

12 (1) TO THE LANDOWNER THE FULL AMOUNT THAT THE LANDOWNER  
13 WOULD BE ENTITLED TO IF THE LAND WAS NOT UNDER EASEMENT, LESS ANY  
14 AMOUNT PAID TO THE LANDOWNER BY THE COUNTY OR MUNICIPAL CORPORATION  
15 FOR THE EASEMENT; AND

16 (2) TO THE COUNTY OR MUNICIPAL CORPORATION, TO BE DEPOSITED  
17 INTO THE COUNTY'S OR MUNICIPAL CORPORATION'S GENERAL FUND ~~UNDER~~  
18 ~~PROGRAM OPEN SPACE IN THE SAME PROPORTION THAT THE COUNTY USED~~  
19 ~~PROGRAM OPEN SPACE FUNDS TO ACQUIRE THE EASEMENT~~, THE VALUE OF THE  
20 EASEMENT.

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