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By: **Senator Middleton**

Introduced and read first time: February 5, 1999

Assigned to: Economic and Environmental Affairs

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A BILL ENTITLED

1 AN ACT concerning

2 **Agricultural Land Preservation - Sand and Gravel Pilot Program**

3 FOR the purpose of authorizing the Agricultural Land Preservation Foundation to  
4 establish a pilot program for the extraction of sand and gravel from certain land;  
5 providing certain components of the pilot program; providing for the adoption of  
6 certain regulations; and generally relating to agricultural land preservation and  
7 sand and gravel mining.

8 BY repealing and reenacting, with amendments,  
9 Article - Agriculture  
10 Section 2-513  
11 Annotated Code of Maryland  
12 (1985 Replacement Volume and 1998 Supplement)

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

15 **Article - Agriculture**

16 2-513.

17 (a) Agricultural land preservation easements may be purchased under this  
18 subtitle for any land in agricultural use which meets the minimum criteria  
19 established under § 2-509 of this subtitle if the easement and county regulations  
20 governing the use of the land include the following provisions:

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

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

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

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

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

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

13 (ii) The resulting density on the property may not exceed the  
14 density allowed under zoning of the property before the Foundation purchased the  
15 easement.

16 (iii) The landowner shall pay the State for any acre or portion  
17 released at the price per acre that the State paid the owner for the easement.

18 (iv) Before any conveyance or release, the landowner and the child,  
19 if there is a conveyance to a child, shall agree not to subdivide further for residential  
20 purposes any acreage allowed to be released. The agreement shall be recorded among  
21 the land records where the land is located and shall bind all future owners.

22 (v) After certifying that the landowner or child of the landowner  
23 has met the conditions provided in subparagraphs (i) through (iv) of this paragraph,  
24 the Foundation shall issue a preliminary release which shall:

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

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

31 (vi) Any release or preliminary release issued under this paragraph  
32 shall include a statement of the conditions under which it was issued, a certification  
33 by the Foundation that all necessary conditions for release or preliminary release  
34 have been met, and copies of any pertinent documents.

35 (vii) Any release, preliminary release, building permit, or other  
36 document issued or submitted in accordance with this paragraph shall be recorded  
37 among the land records where the land is located and shall bind all future owners.

1 (viii) The Foundation may not restrict the ability of a landowner who  
2 originally sold an easement to acquire a release under this paragraph beyond the  
3 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  
6 acres. The land on which a tenant house is constructed may not be subdivided or  
7 conveyed to any person. In addition, the tenant house may not be conveyed separately  
8 from the original parcel.

9 (4) Except as provided in paragraph (5) of this subsection, on request to  
10 the Foundation, an owner may exclude from the easement restrictions 1 acre per each  
11 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  
14 further for residential purposes any acreage allowed to be released. This agreement  
15 shall be recorded among the land records where the land is located and shall bind all  
16 future owners.

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

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

25 2. Regulations adopted by the jurisdiction in which the land  
26 is 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,  
28 the landowner shall pay the State for any acre or portion released in excess of the 1  
29 acre per single dwelling that existed at the time of easement.

30 (6) (I) THE FOUNDATION MAY ESTABLISH A PILOT PROGRAM FOR THE  
31 EXTRACTION OF SAND AND GRAVEL FROM LAND SUBJECT TO EASEMENT UNDER  
32 THIS SUBTITLE IN ACCORDANCE WITH REGULATIONS ADOPTED BY THE  
33 FOUNDATION.

34 (II) THE PILOT PROGRAM MAY INCLUDE:

35 1. IDENTIFICATION OF AREAS IN WHICH SAND OR GRAVEL  
36 UNDERLIE LAND SUBJECT TO AN EASEMENT UNDER THIS SUBTITLE;

37 2. ASSESSMENT OF COMPATIBILITY BETWEEN PARTICULAR  
38 AGRICULTURAL ACTIVITIES AND EXTRACTION OF SAND AND GRAVEL;

