
By: **Senator Middleton**

Introduced and read first time: February 5, 1999

Assigned to: Economic and Environmental Affairs

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 23, 1999

CHAPTER _____

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; requiring certain extractions of sand and gravel to be in
7 accordance with certain provisions of law; requiring the Foundation to submit a
8 certain report by a certain date; providing for the termination of this Act; and
9 generally relating to agricultural land preservation and sand and gravel mining.

10 BY repealing and reenacting, with amendments,
11 Article - Agriculture
12 Section ~~2-513~~ 2-504
13 Annotated Code of Maryland
14 (1985 Replacement Volume and 1998 Supplement)

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

17 **Article - Agriculture**

18 ~~2-513.~~

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

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

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

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

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

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

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

20 (ii) The resulting density on the property may not exceed the
21 density allowed under zoning of the property before the Foundation purchased the
22 easement.

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

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

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

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

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

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

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

8 (viii) The Foundation may not restrict the ability of a landowner who
9 originally sold an easement to acquire a release under this paragraph beyond the
10 requirements provided in this section.

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

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

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

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

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

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

37 2-504.

38 (A) The Maryland Agricultural Land Preservation Foundation has the
39 following general powers:

1 (1) To sue and be sued in contractual matters in its own name;

2 (2) To enter into contracts generally and to execute all instruments
3 necessary or appropriate to carry out its purposes;

4 (3) To acquire, by gift, purchase, devise, bequest or grant, easements in
5 gross or other rights to restrict the use of agricultural land and woodland as may be
6 designated to maintain the character of the land as agricultural land or woodland;

7 (4) To adopt, with the approval of the Secretary, regulations and
8 procedures necessary to implement the provisions of this subtitle; and

9 (5) To promote the dissemination of information to farmers throughout
10 the State concerning the activities of the Foundation.

11 ~~(6) (†) (B) (1) (I)~~ THE FOUNDATION MAY ESTABLISH A PILOT
12 PROGRAM ~~FOR TO DETERMINE THE IMPACT OF THE EXTRACTION OF SAND AND~~
13 GRAVEL FROM LAND ~~SUBJECT TO EASEMENT UNDER THIS SUBTITLE IN~~
14 ACCORDANCE WITH REGULATIONS ADOPTED BY THE FOUNDATION IN NOT MORE
15 THAN THREE AGRICULTURAL DISTRICTS ESTABLISHED UNDER THIS SUBTITLE.

16 (II) THE FOUNDATION MAY ADOPT REGULATIONS TO IMPLEMENT
17 THE PILOT PROGRAM ESTABLISHED UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH.

18 ~~(†)~~ (2) THE PILOT PROGRAM MAY INCLUDE:

19 ~~1-~~ (I) IDENTIFICATION OF AREAS IN WHICH SAND OR
20 GRAVEL UNDERLIE LAND ~~SUBJECT TO AN EASEMENT UNDER THIS SUBTITLE IN AN~~
21 AGRICULTURAL DISTRICT;

22 ~~2-~~ (II) ASSESSMENT OF COMPATIBILITY BETWEEN
23 PARTICULAR AGRICULTURAL ACTIVITIES AND EXTRACTION OF SAND AND GRAVEL;

24 ~~3-~~ (III) ASSESSMENT OF POTENTIAL IMPACTS OF SAND AND
25 GRAVEL EXTRACTION ON AGRICULTURAL ACTIVITIES, INCLUDING PARTICULATE
26 GENERATION, NOISE GENERATION, AND THE AVAILABILITY AND QUALITY OF WATER;

27 (IV) ASSESSMENT OF THE AGRICULTURAL PRODUCTIVITY OF THE
28 RECLAIMED LAND AFTER THE EXTRACTION OF SAND AND GRAVEL;

29 ~~4-~~ (V) LIMITATION OF AREAS ~~SUBJECT TO EASEMENT IN~~
30 AN AGRICULTURAL DISTRICT FROM WHICH SAND OR GRAVEL MAY BE EXTRACTED;

31 ~~5-~~ (VI) BEST MANAGEMENT PRACTICES TO LIMIT THE
32 IMPACT OF SAND AND GRAVEL EXTRACTION ON AGRICULTURAL ACTIVITIES; AND

33 ~~6-~~ (VII) EVALUATION OF THE PILOT PROGRAM.

34 ~~(††)~~ (3) THE FOUNDATION SHALL CONSULT WITH THE
35 DEPARTMENT OF THE ENVIRONMENT IN DEVELOPING REGULATIONS UNDER THIS
36 SUBSECTION.

1 (e) Purchase of an easement by the Foundation does not grant the public any
2 right of access or right of use of the subject property.

3 ~~SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect~~
4 ~~July 1, 1999.~~

5 (4) UNDER THE PILOT PROGRAM, ANY EXTRACTION OF SAND OR GRAVEL
6 FROM LAND IN AN AGRICULTURAL DISTRICT SHALL BE IN ACCORDANCE WITH TITLE
7 15, SUBTITLE 8 OF THE ENVIRONMENT ARTICLE.

8 (5) ON OR BEFORE JANUARY 1, 2004, THE FOUNDATION SHALL SUBMIT A
9 REPORT TO THE GOVERNOR AND, SUBJECT TO § 2-1246 OF THE STATE GOVERNMENT
10 ARTICLE, THE GENERAL ASSEMBLY THAT EVALUATES THE PILOT PROGRAM
11 ESTABLISHED UNDER THIS SUBSECTION.

12 ~~SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect~~
13 ~~July 1, 1999. It shall remain effective for a period of 5 years and, at the end of June~~
14 ~~30, 2004, with no further action required by the General Assembly, this Act shall be~~
15 ~~abrogated and of no further force and effect.~~