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By: **Delegate Getty**  
Introduced and read first time: February 3, 2000  
Assigned to: Appropriations

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Committee Report: Favorable with amendments  
House action: Adopted  
Read second time: March 24, 2000

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CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Agricultural Land Preservation - Easements - Dwelling House**

3 FOR the purpose of authorizing a landowner to construct a principal dwelling on  
4 Maryland agricultural land subject to an easement under certain conditions;  
5 prohibiting a landowner from subdividing a dwelling from the property covered  
6 by the easement; and generally relating to agricultural land preservation.

7 BY repealing and reenacting, with amendments,  
8 Article - Agriculture  
9 Section 2-513(b)  
10 Annotated Code of Maryland  
11 (1999 Replacement Volume and 1999 Supplement)

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

14 **Article - Agriculture**

15 2-513.

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

19 (2) Except as provided in paragraph [(5)] (6) of this subsection, on  
20 written application, the Foundation shall release free of easement restrictions only  
21 for the landowner who originally sold an easement, 1 acre or less for the purpose of

1 constructing a dwelling house for the use only of that landowner or child of the  
2 landowner subject to the following conditions:

3 (i) The total number of lots allowed to be released under this  
4 section, except as provided in paragraph [(5)] (6) of this subsection, may not exceed  
5 10 lots of 1 acre or less at a maximum of not more than 1 lot for each 20 acres or  
6 portion thereof.

7 (ii) The resulting density on the property may not exceed the  
8 density allowed under zoning of the property before the Foundation purchased the  
9 easement.

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

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

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

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

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

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

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

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

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

(4) Except as provided in paragraph [(5)] (6) of this subsection, on request to the Foundation, an owner may exclude from the easement restrictions 1 acre per each single dwelling, which existed at the time of the sale of the easement, by a land survey and recordation provided at the expense of the owner. However, before any exclusion is granted, an owner shall agree with the Foundation not to subdivide further for residential purposes any acreage allowed to be released. This agreement shall be recorded among the land records where the land is located and shall bind all future owners.

(5) (I) SUBJECT TO THE PROVISIONS OF SUBPARAGRAPHS (II) THROUGH (VI) OF THIS PARAGRAPH, ON WRITTEN APPLICATION TO THE FOUNDATION BY THE LANDOWNER AND THE FOUNDATION'S APPROVAL OF A LOCATION FOR THE DWELLING, A LANDOWNER MAY CONSTRUCT A DWELLING ON THE LAND, THE FOUNDATION SHALL RELEASE FREE OF EASEMENT RESTRICTIONS 1 ACRE OR LESS FOR THE PURPOSE OF CONSTRUCTING A DWELLING HOUSE IF:

~~(I)~~ 1. THE PROPERTY COVERED BY THE EASEMENT CONTAINS 50 ACRES OR MORE;

~~(II)~~ 2. NO DWELLING EXISTED ON THE PROPERTY COVERED BY THE EASEMENT AT THE TIME OF SALE OF THE EASEMENT;

~~(III)~~ 3. THE PROPERTY COVERED BY THE EASEMENT HAS NOT BEEN PREVIOUSLY SUBDIVIDED SINCE THE TIME OF SALE OF THE EASEMENT;

~~(IV)~~ 4. THE LANDOWNER PAYS BACK THE PRICE PAID FOR 1 ACRE OF THE EASEMENT THE STATE FOR ANY ACRE OR PORTION RELEASED AT THE PRICE PER ACRE THAT THE STATE PAID FOR THE EASEMENT; AND

~~(V)~~ 5. THE DWELLING CONSTRUCTED UNDER THESE CONDITIONS MAY NOT BE SUBDIVIDED FROM THE PROPERTY COVERED BY THE EASEMENT LANDOWNER AGREES NOT TO FURTHER SUBDIVIDE ANY ACREAGE RELEASED FOR RESIDENTIAL PURPOSES.

(II) AFTER CERTIFYING THAT THE LANDOWNER HAS MET THE CONDITIONS OF SUBPARAGRAPH (I) OF THIS PARAGRAPH, THE FOUNDATION SHALL ISSUE A PRELIMINARY RELEASE WHICH SHALL:

1. BECOME FINAL WHEN THE FOUNDATION RECEIVES AND CERTIFIES A NONTRANSFERABLE BUILDING PERMIT IN THE NAME OF THE LANDOWNER FOR THE CONSTRUCTION OF A DWELLING HOUSE; OR

2. BECOME VOID UPON THE DEATH OF THE PERSON FOR WHOSE BENEFIT THE RELEASE WAS INTENDED IF THE FOUNDATION HAS NOT YET RECEIVED A BUILDING PERMIT AS PROVIDED IN ITEM 1 OF THIS SUBPARAGRAPH.

(III) AN AGREEMENT REQUIRED UNDER SUBPARAGRAPH (I)5 OF THIS PARAGRAPH SHALL BE RECORDED IN THE LAND RECORDS WHERE THE LAND IS LOCATED AND SHALL BIND ALL FUTURE OWNERS.

1                   (IV) THIS PARAGRAPH SHALL ONLY APPLY TO EASEMENTS  
2 PURCHASED BY THE FOUNDATION ON OR AFTER OCTOBER 1, 2000, UNLESS THE  
3 COUNTY IN WHICH THE LAND IS LOCATED HAS APPLIED TO, AND THE APPLICATION  
4 HAS BEEN APPROVED BY THE FOUNDATION TO HAVE THE PROVISIONS OF THIS  
5 PARAGRAPH APPLY TO EASEMENTS IN THE COUNTY PURCHASED BEFORE OCTOBER  
6 1, 2000.

7                   (V) THE FOUNDATION SHALL ESTABLISH CRITERIA FOR  
8 APPROVING COUNTY APPLICATIONS TO HAVE THE PROVISIONS OF THIS PARAGRAPH  
9 APPLY TO EASEMENTS IN THE COUNTY PURCHASED BEFORE OCTOBER 1, 2000.

10                  (VI) A LANDOWNER MUST SUBMIT AN APPLICATION BY THE END OF  
11 OCTOBER 30, 2002 TO EXERCISE ANY RIGHTS UNDER THIS PARAGRAPH.

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

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

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

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

25     SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
26 October 1, 2000.