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2000 Regular Session 0lr1631

By: Delegates Guns and Pitkin, Pitkin, and Hubbard Introduced and read first time: February 11, 2000 Assigned to: Environmental Matters Committee Report: Favorable with amendments House action: Adopted with floor amendments Read second time: March 24, 2000 CHAPTER 1 AN ACT concerning 2 Natural Resources - Transferable Development Rights - Rural Legacy 3 **Program** FOR the purpose of authorizing the Rural Legacy Board in the Department of 4 Natural Resources to transfer certain development rights from certain Rural 5 Legacy Areas to certain areas within a priority funding area in a certain 6 manner; authorizing that certain funds may be used for the purchase of certain 7 8 development rights in certain situations; providing that certain information be contained in the instrument of purchase of certain development rights; 9 10 requiring counties to submit certain information to the Board for certain purposes; providing that certain funds may be used to purchase transferable 11 12 development rights in a county under certain circumstances; prohibiting the Rural Legacy Board from making a certain determination solely on the basis of 13 14 certain considerations; requiring the Economic Growth, Resource Protection, 15 and Planning Commission and the State Office of Planning to make a certain 16 report to certain committees of the General Assembly on or before a certain date; restricting how transferable development rights may be resold through the 17 18 Rural Legacy Program; providing for the allocation of proceeds derived from the 19 transfer of development rights; modifying a criteria for the Board to consider when evaluating the overall quality and completeness of a Rural Legacy Plan; 20 defining certain terms; providing for a delayed effective date; and generally 21 22 relating to the transfer of development rights from Rural Legacy Areas. 23 BY repealing and reenacting, with amendments, Article - Natural Resources 24

Section 5-9A-01, 5-9A-02, 5-9A-04, and 5-9A-05

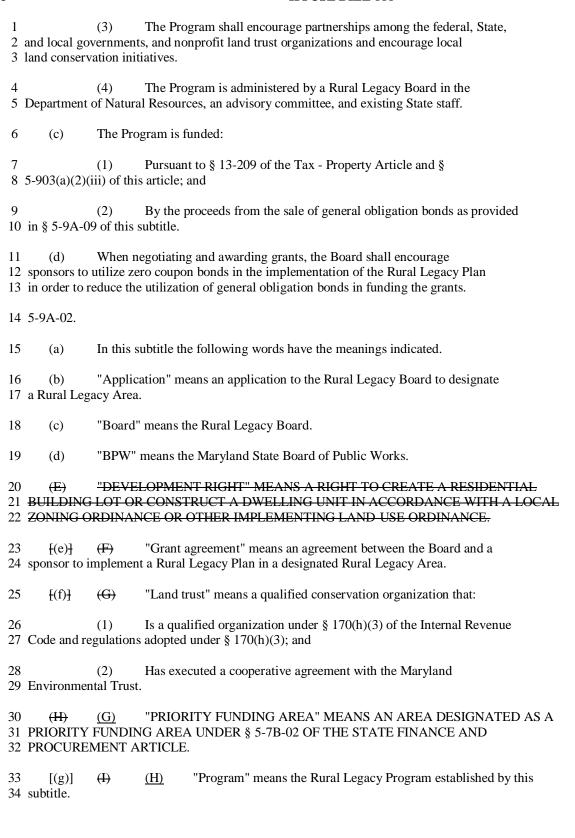
Annotated Code of Maryland

HOUSE BILL 888 1 (1997 Replacement Volume and 1999 Supplement) BY repealing and reenacting, without amendments, 2 3 Article - Natural Resources 4 Section 5-9A-03 5 Annotated Code of Maryland (1997 Replacement Volume and 1999 Supplement) 6 7 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF 8 MARYLAND, That the Laws of Maryland read as follows: 9 **Article - Natural Resources** 10 5-9A-01. 11 (a) The General Assembly declares that: 12 Sprawl development and other modifications to the landscape in (1)13 Maryland continue at an alarming rate, consuming land rich in natural resource, 14 agricultural, and forestry value, adversely affecting water quality, wetlands and 15 habitat, threatening resource-based economies and cultural assets, and rending the 16 fabric of rural life: 17 Current State, county, and local land conservation programs help to 18 limit the effect of sprawl development but lack sufficient funding and focus to preserve key areas before escalating land values make their protection impossible or 20 the land is lost to development; and 21 A grant program that leverages available funding, focuses on 22 preservation of strategic resources, including those resources threatened by sprawl 23 development, streamlines real property acquisition procedures to expedite land 24 preservation, TAKES ADVANTAGE OF INNOVATIVE PRESERVATION TECHNIQUES 25 SUCH AS TRANSFERABLE DEVELOPMENT RIGHTS AND THE PURCHASE OF 26 DEVELOPMENT RIGHTS, and promotes a greater level of natural and environmental 27 resources protection than is provided by existing efforts, will establish a rural legacy 28 for future generations. 29 A Rural Legacy Program is established to enhance natural resource, 30 agricultural, forestry, and environmental protection as provided in subsection (a) of 31 this section while maintaining the viability of resource-based land usage and proper 32 management of tillable and wooded areas through accepted agricultural and 33 silvicultural practices for farm production and timber harvests. 34 The Program provides funds to the local governments and land trusts

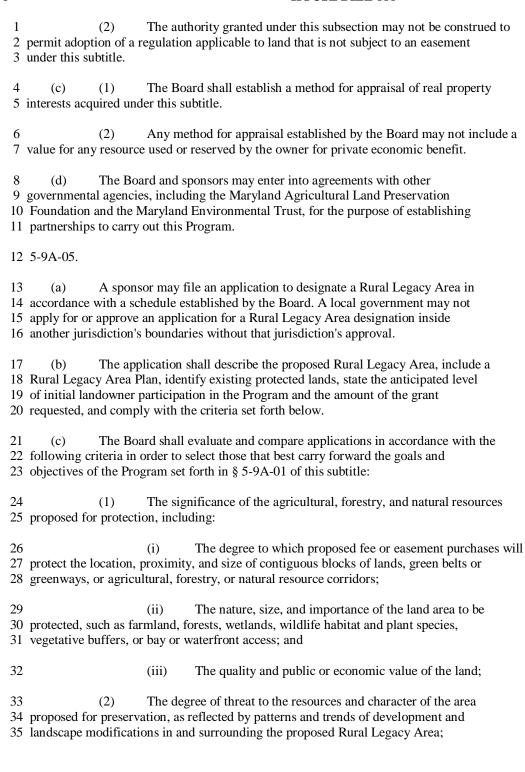
35 to purchase interests in real property from willing sellers, including easements,

37 Legacy Areas.

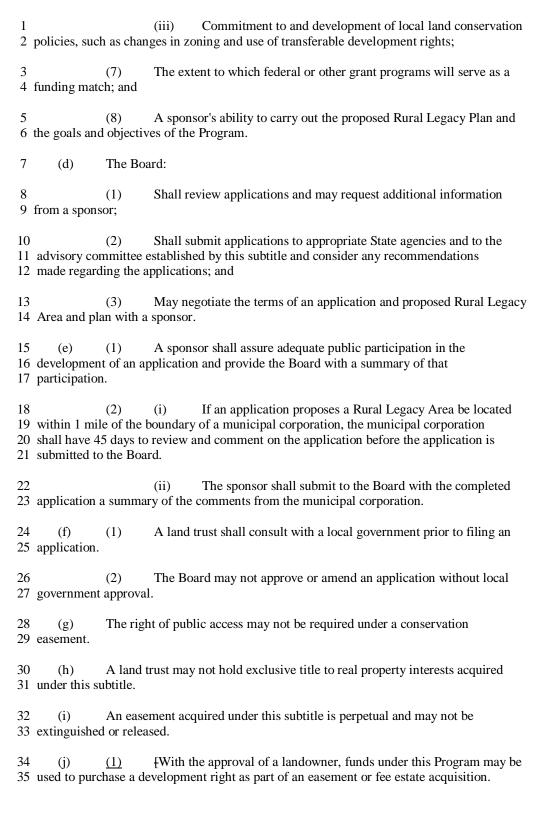
36 TRANSFERABLE DEVELOPMENT RIGHTS, and fee estates, focused in designated Rural



	[(h)] metropolitan forestry, natu			"Rural Legacy Area" means a region within or outside a y the Board as rich in a multiple of agricultural, esources.
4 5	[(i)] acquisition o	(K) of easeme	(<u>J)</u> nts and fe	"Rural Legacy Plan" means a plan accepted by the Board for ee interests in Rural Legacy Areas.
6 7	[(j)] governments	(L) s, or a lan	(K) d trust.	"Sponsor" means a local government, group of local
10 11	TO A PRIO	IED TO RITY FU NS THA	RELOCA INDING I WOUL	DEVELOPMENT RIGHTS PROGRAM" MEANS A PROGRAM ATE DEVELOPMENT FROM NONPRIORITY FUNDING AREAS AREA THROUGH THE USE OF BONUS DENSITY AND OTHER D ALLOW DEVELOPMENT IN THE PRIORITY FUNDING AREA HAN USUALLY PERMITTED IN THE AREA.
13	5-9A-03.			
14 15	(a) Resources to			Legacy Board established in the Department of Natural ural Legacy Program.
16	(b)	The Boa	ard consis	sts of the following members:
17		(1)	The Sec	retary of Agriculture;
18		(2)	The Sec	retary of Natural Resources; and
19		(3)	The Dire	ector of the Office of Planning.
20	(c)	The Sec	retary of	Natural Resources shall serve as Chairman of the Board.
21 22	(d) Board.	(1)	The Dep	partment of Natural Resources shall provide staff to the
23 24	provide add	(2) itional sta		partment of Agriculture and the Office of Planning may
25	5-9A-04.			
28 29	SELL TRAI	this subti NSFERA OF TRA	itle , INCI BLE DE	nd may exercise all powers necessary to carry out the LUDING THE AUTHORITY TO PURCHASE, HOLD, AND VELOPMENT RIGHTS AND TO USE THE PROCEEDS FROM ABLE DEVELOPMENT RIGHTS CONSISTENT WITH THIS
33 34	SELLING TRELATED	TRANSFI TO PUR	ocedures ERABLE CHASIN	ard may adopt regulations to implement the purposes of this for expediting acquisitions AND PURCHASING AND DEVELOPMENT RIGHTS AND USING THE PROCEEDS G AND SELLING TRANSFERABLE DEVELOPMENT RIGHTS IN SUBTITLE AND LOCAL LAW.



	(3) The significance and extent of the cultural resources proposed for protection through fee simple purchases, including the importance of historic sites and significant archaeological areas;					
	(4) The economic value of the resource-based industries or services proposed for protection through land conservation, such as agriculture, forestry, recreation, and tourism;					
7 8	7 (5) The overall quality 8 including:	and completeness of the Rural Legacy Plan,				
	9 (i) The degre 10 management policies contribute to land c 11 resources;	e to which existing planning, zoning, and growth onservation and the protection of cultural				
	2 (ii) The degree to which the proposed plan is consistent with the 3 applicable local comprehensive plan, including protection of sensitive areas and 4 mineral resources;					
15 16	15 (iii) How well 16 coordinated with the proposed acquisition	existing or new conservation programs are n plan;				
	17 (iv) How well 18 interests in contiguous blocks of land wit 19 for protection of isolated acquisitions imp					
22	21 granted or purchased easements, EFFEC	of for protection of resources, such as voluntarily FIVE MARKETING OF LOCAL GOVERNMENT CHITS PROGRAMS, fee estate purchases, or gifts of				
24 25	24 (vi) How the s 25 easement and land acquisitions;	ponsor plans to manage, prioritize, and sequence				
26 27	26 (vii) Methodolo 27 easements;	ogy for prioritizing and valuing or appraising				
28 29	28 (viii) Proposed 29 and	citleholders for easement or fee estate acquisitions;				
30 31	30 (ix) The qualit 31 and monitoring of easement restrictions i	y of the proposed stewardship program for holding n perpetuity;				
	(6) The strength and quality of partnerships created for land conservation among federal, State, and local governments and land trusts for implementing the plan, including:					
35	35 (i) Financial	support;				
36	36 (ii) Dedication	n of staff and resources; and				



1 A development right shall be held by the titleholder and the Board and may be sold 2 only within the same jurisdiction pursuant to local law. FUNDS UNDER THE PROGRAM MAY BE USED TO PURCHASE A 4 DEVELOPMENT RIGHT AS PART OF AN EASEMENT OR FEE ESTATE ACQUISITION. A DEVELOPMENT RIGHT MAY BE SEVERED FROM A PROPERTY AND 6 TRANSFERRED FROM ONE AREA TO PROPERTY IN A RECEIVING AREA IN 7 ACCORDANCE WITH LOCAL LAW. 8 IN A COUNTY WITH A LOCALLY ADOPTED TRANSFERABLE 9 DEVELOPMENT RIGHTS PROGRAM AND WITH THE APPROVAL OF THE COUNTY, 10 FUNDS UNDER THIS PROGRAM MAY BE USED TO PURCHASE TRANSFERABLE 11 DEVELOPMENT RIGHTS IN THE COUNTY IN ACCORDANCE WITH THE LOCALLY 12 ADOPTED TRANSFERABLE DEVELOPMENT RIGHTS PROGRAM. 13 (3)(I) A DEVELOPMENT RIGHT THAT IS PURCHASED UNDER THE 14 PROGRAM SHALL BE HELD BY THE TITLEHOLDER AND THE BOARD WITH THE OPTION 15 FOR RESALE UNDER A TRANSFER OF DEVELOPMENT RIGHTS PROGRAM. (II)THE RIGHT TO RESELL THE DEVELOPMENT RIGHT SHALL 16 (3) 17 BE STATED IN THE INSTRUMENT OF PURCHASE. THE RURAL LEGACY BOARD SHALL MAINTAIN RECORDS 19 CONCERNING: (I) REAL PROPERTY FROM WHICH TRANSFERABLE DEVELOPMENT 21 RIGHTS ARE PURCHASED; AND 22 (II)REAL PROPERTY TO WHICH RIGHTS ARE RESOLD AND 23 TRANSFERRED. THE COUNTY SHALL PROVIDE TO THE BOARD INFORMATION 24 25 RELATING TO THE RECORDS REQUIRED IN PARAGRAPH (4) OF THIS SUBSECTION. TRANSFERABLE DEVELOPMENT RIGHTS MAY BE RESOLD ONLY 26 (6) 27 TO OWNERS OR OPTION PURCHASERS OF REAL PROPERTY LOCATED IN PRIORITY 28 FUNDING AREAS, INCLUDING MUNICIPALITIES, WITHIN THE COUNTY IN WHICH THE 29 RIGHTS WERE PURCHASED. THE BOARD SHALL DISTRIBUTE THE PROCEEDS 30 (6)(7) (I) 31 ASSOCIATED WITH THE RESALE OF TRANSFERABLE DEVELOPMENT RIGHTS SHALL 32 BE DISTRIBUTED ONLY AS DESCRIBED IN THIS PARAGRAPH. FIFTY PERCENT OF THE PROCEEDS SHALL BE USED BY THE 33 (II)34 PRINCIPAL LOCAL GOVERNMENT IN WHICH THE PRIORITY FUNDING AREA 35 DEVELOPMENT USING TRANSFERABLE DEVELOPMENT RIGHTS IS LOCATED TO FUND

36 LOCAL CAPITAL PROJECTS IN THE IMMEDIATE NEIGHBORHOOD COUNTY OR
 37 MUNICIPAL CORPORATION WHICH IS RECEIVING TRANSFERABLE DEVELOPMENT
 38 RIGHTS. FUNDS SHALL BE DISTRIBUTED TO THE MUNICIPAL CORPORATION IF THE

	RECEIVING AREA IS WITHIN THE CORPORATE LIMITS OF A MUNICIPAL CORPORATION.						
	(III) FIFTY PERCENT OF THE PROCEEDS SHALL BE RETURNED TO THE RURAL LEGACY PROGRAM FOR USE IN THE COUNTY IN WHICH THE PROCEEDS WERE GENERATED.						
6	(IV) PROCEEDS MAY NOT BE USED FOR OPERATING EXPENSES.						
7 8	(k) All easement acquisitions must be recorded among the land records where the real property is located.						
9 10	(l) State or local condemnation authority may not be used to acquire real property interests under this Program.						
	(m) Funds may be used for the protection of historic sites or significant archeological areas that otherwise meet the goals of this Program only if the sponsor is acquiring real property interests through a fee simple purchase.						
	(n) A land or mineral owner who participates in this Program may reserve mineral rights for extraction in accordance with applicable law and the terms of the easement or fee acquisition.						
19 20	(O) IN ITS DETERMINATION UNDER SUBSECTION (C) OF THIS SECTION, THE RURAL LEGACY BOARD MAY NOT MAKE ITS DETERMINATION SOLELY ON THE BASIS OF WHETHER A COUNTY HAS ADOPTED A TRANSFERABLE DEVELOPMENT RIGHTS PROGRAM AUTHORIZING RURAL LEGACY BOARD PURCHASES AND SALES OF TRANSFERABLE DEVELOPMENT RIGHTS.						
24 25 26	SECTION 2. AND BE IT FURTHER ENACTED, That the Economic Growth, Resource Protection, and Planning Commission and the State Office of Planning, in consultation with county planning departments, shall report to the House Environmental Matters, House Appropriations, Senate Economic and Environmental Affairs, and Senate Budget and Taxation Committees, and the Governor on or before December 15, 2000, on the following:						
30	(1) Types of locally adopted transferable development rights programs, including characteristics of sending and receiving areas, and county planning department assessments of the potential effect of authorizing Rural Legacy Board purchases and resales of transferable development rights;						
32 33	(2) The estimated economic costs and benefits of Rural Legacy Program purchases and resales of transferable development rights for:						
34	(i) county transferable development rights programs; and						
35 36	(ii) landowners participating in the Rural Legacy Program and other State and local land preservation programs; and						

- 1 (3) The projected impacts of Rural Legacy F 2 development rights purchases and resales on the Program; and The projected impacts of Rural Legacy Program transferable
- 3 (4) Public input on the estimated impacts of Rural Legacy Program 4 purchases and resales of transferable development rights.
- 5 SECTION 2. 3. AND BE IT FURTHER ENACTED, That this Act shall take 6 effect October 1, 2000 January 1, 2001.