
By: **Delegate Shank**
Introduced and read first time: February 6, 2002
Assigned to: Appropriations

A BILL ENTITLED

1 AN ACT concerning

2 **Agriculture - Land Preservation Easements - Kennels**

3 FOR the purpose of allowing a landowner whose land is subject to a certain
4 agricultural land preservation easement to use the land for a kennel; defining a
5 certain term; and generally relating to allowing a landowner, whose land is
6 subject to a certain agricultural land preservation easement to use the land for
7 a kennel.

8 BY repealing and reenacting, with amendments,
9 Article - Agriculture
10 Section 2-513
11 Annotated Code of Maryland
12 (1999 Replacement Volume and 2001 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) IN THIS SECTION, "KENNEL" MEANS ANY BUILDING, STRUCTURE, OR LAND
18 USED, DESIGNED, OR ARRANGED FOR HOUSING, BOARDING, BREEDING, OR CARE OF
19 MORE THAN FIVE DOGS AT LEAST 4 MONTHS OLD KEPT OR BRED FOR HUNTING,
20 SALE, EXHIBITION, OR DOMESTIC USE, BUT NOT INCLUDING FARM ANIMALS.

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

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

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

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

5 (C) A LANDOWNER WHOSE LAND IS SUBJECT TO AN EASEMENT MAY USE THE
6 LAND FOR A KENNEL.

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

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

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

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

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

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

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

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

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

37 (vi) Any release or preliminary release issued under this paragraph
38 shall include a statement of the conditions under which it was issued, a certification

1 by the Foundation that all necessary conditions for release or preliminary release
2 have been met, and copies of any pertinent documents.

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

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

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

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

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

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

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

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

35 [(c)] (E) Purchase of an easement by the Foundation does not grant the public
36 any right of access or right of use of the subject property.

37 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take
38 effect October 1, 2002.