

HOUSE BILL 998

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2002 Regular Session  
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CF SB 435

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By: **Delegates W. Baker and Stocksdales (Task Force to Study the Maryland Agricultural Land Preservation Foundation) and Delegate James**

Introduced and read first time: February 8, 2002

Assigned to: Appropriations

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A BILL ENTITLED

1 AN ACT concerning

2 **Agricultural Land Preservation Foundation - Easements - Commercial Use**

3 FOR the purpose of authorizing the Maryland Agricultural Land Preservation  
4 Foundation to allow nonagricultural, commercial use of land subject to certain  
5 preservation easements under certain circumstances; requiring the Foundation  
6 to establish certain standards for determining permissible uses; and generally  
7 relating to authorizing the Maryland Agricultural Land Preservation  
8 Foundation to allow nonagricultural, commercial use of land subject to  
9 preservation easements.

10 BY repealing and reenacting, without amendments,  
11 Article - Agriculture  
12 Section 2-501  
13 Annotated Code of Maryland  
14 (1999 Replacement Volume and 2001 Supplement)

15 BY repealing and reenacting, with amendments,  
16 Article - Agriculture  
17 Section 2-513  
18 Annotated Code of Maryland  
19 (1999 Replacement Volume and 2001 Supplement)

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

22 **Article - Agriculture**

23 2-501.

24 It is the intent of the Maryland General Assembly to preserve agricultural land  
25 and woodland in order to: provide sources of agricultural products within the State for  
26 the citizens of the State; control the urban expansion which is consuming the

1 agricultural land and woodland of the State; curb the spread of urban blight and  
2 deterioration; and protect agricultural land and woodland as open-space land.

3 2-513.

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

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

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

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

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

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

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

27 (ii) The resulting density on the property may not exceed the  
28 density allowed under zoning of the property before the Foundation purchased the  
29 easement.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

4 (c) Purchase of an easement by the Foundation does not grant the public any  
5 right of access or right of use of the subject property.

6 (D) (1) ON REQUEST, THE FOUNDATION MAY ALLOW NONAGRICULTURAL,  
7 COMMERCIAL USE THAT:

8 (I) DOES NOT NEGATIVELY IMPACT THE LAND'S FUTURE  
9 AGRICULTURAL OR FORESTRY USE SIGNIFICANTLY; AND

10 (II) IS CONSISTENT WITH THE LEGISLATIVE INTENT OF THE  
11 AGRICULTURAL LAND PRESERVATION PROGRAM, AS STATED IN § 2-501 OF THIS  
12 ARTICLE.

13 (2) THE FOUNDATION SHALL ESTABLISH STANDARDS FOR  
14 DETERMINING PERMISSIBLE NONAGRICULTURAL, COMMERCIAL USES, INCLUDING:

15 (I) AN EVENT OR ACTIVITY THAT SUPPORTS AN AGRICULTURAL OR  
16 FORESTRY USE; AND

17 (II) A HOME-BASED BUSINESS THAT MAY BE LIMITED TO EXISTING  
18 BUILDINGS WHERE THE USE ONLY AFFECTS A LIMITED PART OF THE LAND.

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