

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 Stocksdale (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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Committee Report: Favorable

House action: Adopted

Read second time: March 12, 2002

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CHAPTER \_\_\_\_\_

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:

1

**Article - Agriculture**

2 2-501.

3 It is the intent of the Maryland General Assembly to preserve agricultural land  
4 and woodland in order to: provide sources of agricultural products within the State for  
5 the citizens of the State; control the urban expansion which is consuming the  
6 agricultural land and woodland of the State; curb the spread of urban blight and  
7 deterioration; and protect agricultural land and woodland as open-space land.

8 2-513.

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

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

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

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

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

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

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

32 (ii) The resulting density on the property may not exceed the  
33 density allowed under zoning of the property before the Foundation purchased the  
34 easement.

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

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

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

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

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

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

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

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

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

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

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

39 1. Regulations adopted by the Department of the  
40 Environment require a minimum lot size for a dwelling house of not less than 2 acres

1 in areas where there is less than 4 feet of unsaturated and unconsolidated soil  
2 material below the bottom of an on-site sewage disposal system or in areas located  
3 within 2,500 feet of the normal water level of an existing or proposed water supply  
4 reservoir; or

5  
6 2. Regulations adopted by the jurisdiction in which the land  
7 is situated require that a lot for a dwelling house be larger than 1 acre.

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

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

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

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

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

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

22 (I) AN EVENT OR ACTIVITY THAT SUPPORTS AN AGRICULTURAL OR  
23 FORESTRY USE; AND

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

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