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

Introduced and read first time: February 25, 2002

Assigned to: Rules and Executive Nominations

A BILL ENTITLED

1 AN ACT concerning

2 **Maryland Agricultural Land Preservation Foundation - Proposed**
3 **Agricultural Districts**

4 FOR the purpose of authorizing the Maryland Agricultural Land Preservation
5 Foundation to approve a certain petition for land that has been subdivided or
6 excluded from the proposed agricultural district under certain circumstances;
7 requiring the Foundation to adopt regulations designed to protect the State's
8 investment in easements for agricultural production; authorizing the
9 Foundation to approve certain land that was subdivided or excluded for certain
10 purposes; requiring the Foundation to include certain information in district
11 agreements under certain circumstances; requiring the Foundation to consider
12 certain criteria when evaluating the impact of certain development on the
13 subdivided or excluded land; altering the number of development rights under
14 certain circumstances; altering the method of determining certain values under
15 certain circumstances; authorizing certain landowners to use certain land for
16 certain residential purposes; prohibiting certain landowners from conveying
17 certain land separately from a district or easement; and generally relating to
18 proposed agricultural districts and the Maryland Agricultural Land
19 Preservation Foundation.

20 BY repealing and reenacting, with amendments,
21 Article - Agriculture
22 Section 2-509(b)(5) and 2-513(b)
23 Annotated Code of Maryland
24 (1999 Replacement Volume and 2001 Supplement)

25 BY adding to
26 Article - Agriculture
27 Section 2-509(e)
28 Annotated Code of Maryland
29 (1999 Replacement Volume and 2001 Supplement)

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

3 **Article - Agriculture**

4 2-509.

5 (b) (5) The Foundation may approve a petition for the establishment of an
6 agricultural district only if:

7 (i) The land within the proposed district meets the qualifications
8 established under subsection (c) of this section;

9 (ii) THE FOUNDATION DETERMINES IN ACCORDANCE WITH
10 SUBSECTION (E) OF THIS SECTION, THAT DEVELOPMENT OF LAND THAT HAS BEEN
11 SUBDIVIDED OR EXCLUDED FROM THE PROPOSED AGRICULTURAL DISTRICT WILL
12 NOT RESULT IN AN AMOUNT OR TYPE OF DEVELOPMENT THAT WILL COMPROMISE
13 THE POTENTIAL FOR PRODUCTION OF AGRICULTURAL COMMODITIES IN THE
14 DISTRICT;

15 (III) The petition has been approved by the county governing body;
16 and

17 [(iii)] (IV) The establishment of the district is approved by a
18 majority of the Foundation board of trustees at-large, by the Secretary, and by the
19 State Treasurer.

20 (E) (1) THIS SUBSECTION APPLIES ONLY TO LAND THAT:

21 (I) IS CONTIGUOUS TO THE PROPOSED DISTRICT;

22 (II) IS OWNED BY THE APPLICANT; AND

23 (III) IS EITHER BEING EXCLUDED FROM THE PROPOSED DISTRICT
24 OR WAS SUBDIVIDED FROM THE PROPOSED DISTRICT AFTER JANUARY 1, 2001.

25 (2) REGULATIONS ADOPTED BY THE FOUNDATION RELATING TO LAND
26 THAT WAS SUBDIVIDED OR EXCLUDED FROM A PROPOSED AGRICULTURAL DISTRICT
27 SHALL BE DESIGNED TO PROTECT THE STATE'S INVESTMENT IN EASEMENTS FOR
28 AGRICULTURAL PRODUCTION.

29 (3) THE FOUNDATION MAY APPROVE THE DISTRICT OF LAND THAT WAS
30 SUBDIVIDED OR EXCLUDED FOR THE PURPOSE OF DEVELOPING NO MORE THAN
31 FOUR RESIDENTIAL DWELLING UNITS OR TO ENSURE THAT THE PROPOSED DISTRICT
32 MEETS THE FOUNDATION'S CRITERIA FOR SOILS BECAUSE THE LAND IS PRIMARILY
33 NONQUALIFYING SOILS IF:

34 (I) THE NUMBER OF RESIDENTIAL DEVELOPMENT RIGHTS DOES
35 NOT EXCEED ONE PER 50 ACRES OF THE PROPOSED DISTRICT, UP TO THE MAXIMUM
36 OF FOUR; AND

1 (II) THE LANDOWNER EXECUTES AND RECORDS IN THE LAND
2 RECORDS FOR THE SUBDIVIDED OR EXCLUDED LAND AN AGREEMENT WITH THE
3 FOUNDATION, BINDING ON ALL SUBSEQUENT LANDOWNERS, THAT LIMITS THE
4 DEVELOPMENT THAT CAN OCCUR ON THE LAND TO THE AGREED UPON NUMBER OF
5 RESIDENTIAL DWELLING UNITS.

6 (4) IF THE LAND WAS SUBDIVIDED OR EXCLUDED TO ENROLL THE
7 RESULTING AREAS SEPARATELY IN THE PROGRAM, WHILE LIMITING THEIR
8 INDIVIDUAL EASEMENT VALUES TO ENSURE THAT THEY DO NOT EXCEED
9 AVAILABLE FUNDS, THE FOUNDATION SHALL INCLUDE IN THE AGREEMENT FOR THE
10 PROPOSED DISTRICT A PROVISION THAT THE DISTRICT WILL NOT BE ELIGIBLE FOR
11 EASEMENT PURCHASE UNTIL THE SUBDIVIDED OR EXCLUDED LAND IS ENROLLED
12 AS ONE OR MORE AGRICULTURAL DISTRICTS.

13 (5) IF THE LAND WAS SUBDIVIDED OR EXCLUDED FOR ANY OTHER
14 PURPOSE, THE FOUNDATION MAY NOT APPROVE THE DISTRICT UNLESS THE
15 DISTRICT AGREEMENT STIPULATES THAT THE FOUNDATION IS UNDER NO
16 OBLIGATION TO MAKE AN OFFER TO BUY AN EASEMENT FROM THE LANDOWNER
17 UNTIL THE LANDOWNER EXECUTES AND RECORDS IN THE LAND RECORDS FOR THE
18 SUBDIVIDED OR EXCLUDED LAND AN AGREEMENT WITH THE FOUNDATION, BINDING
19 ON ALL SUBSEQUENT LANDOWNERS, THAT SATISFIES THE FOUNDATION THAT THE
20 SUBDIVIDED OR EXCLUDED LAND WILL NOT BE DEVELOPED IN A MANNER THAT
21 WILL COMPROMISE THE STATE'S INVESTMENT IN THE PRESERVED LAND.

22 (6) UNDER PARAGRAPH (5) OF THIS SUBSECTION, WHEN EVALUATING
23 WHETHER SUBDIVIDED OR EXCLUDED LAND WILL BE DEVELOPED IN A MANNER
24 THAT WILL COMPROMISE THE STATE'S INVESTMENT IN THE PROPOSED
25 AGRICULTURAL DISTRICT, THE FOUNDATION SHALL CONSIDER:

26 (I) THE WIDTH AND NATURE OF BUFFERS BETWEEN THE
27 DEVELOPMENT PORTION OF THE ADJACENT LAND AND THE PROPOSED DISTRICT;

28 (II) THE NUMBER OF RESIDENTIAL DWELLING UNITS OR EXTENT
29 OF OTHER DEVELOPMENT THAT MIGHT OCCUR ON THE SUBDIVIDED OR EXCLUDED
30 LAND;

31 (III) THE MEANS TO PREVENT INDIVIDUALS FROM THE
32 RESIDENTIAL OR OTHER DEVELOPMENT ON THE ADJACENT LAND FROM
33 INTERFERING WITH OR COMPROMISING AGRICULTURAL ACTIVITIES ON THE
34 PROPOSED DISTRICT, INCLUDING THE USE OF FENCES TO PREVENT THE
35 INDIVIDUALS FROM TRESPASSING ON THE FARMLAND AND TO LIMIT POTENTIAL
36 LIABILITY OF THE FARMER TO THE INDIVIDUALS;

37 (IV) THE MEANS TO MINIMIZE POTENTIAL IMPACTS ON THE
38 ABILITY OF THE FARMER TO USE ROADS AROUND THE PROPOSED DISTRICT FOR
39 FARM OPERATIONS, INCLUDING CONSTRAINTS ON ROAD ACCESS POINTS AND
40 DESIGN OF ASSOCIATED USE OF ROADS AROUND THE PROPOSED DISTRICT BY
41 INDIVIDUALS OF THE DEVELOPED COMMUNITY; AND

1 (V) OTHER FACTORS THAT THE FOUNDATION CONSIDERS
2 NECESSARY TO PROTECT THE STATE'S INVESTMENT IN AGRICULTURALLY
3 PRODUCTIVE LAND AND TO PREVENT ADJACENT DEVELOPMENT FROM
4 COMPROMISING THE POTENTIAL FOR AGRICULTURAL PRODUCTION ON THE
5 PROPOSED DISTRICT OR EASEMENT.

6 2-513.

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

10 (2) Except as provided in paragraph [(5)] (4) of this subsection, on
11 written application, the Foundation shall release free of easement restrictions only
12 for the 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)] (4) of this subsection, may not exceed
17 [10] 4 lots of 1 acre or less at a maximum of not more than 1 lot for [each] THE FIRST
18 20 acres [or portion thereof] AND 1 LOT FOR EACH ADDITIONAL FULL 50 ACRES,
19 MINUS THE NUMBER OF RESIDENTIAL DWELLING UNITS THAT THE LANDOWNER
20 RESERVES TO DEVELOP THE PARCEL OF LAND SUBDIVIDED OR EXCLUDED UNDER §
21 2-509(E) OF THIS SUBTITLE.

22 (ii) The resulting density on the property may not exceed the
23 density allowed under zoning of the property before the Foundation purchased the
24 easement.

25 (iii) 1. The landowner shall pay the State for any [acre or
26 portion] LOT released [at the price per acre] ONE HALF OF THE VALUE that the State
27 paid the owner [for the easement] TO EXTINGUISH ONE RESIDENTIAL
28 DEVELOPMENT RIGHT AT THE TIME THE EASEMENT WAS PURCHASED.

29 2. TO DETERMINE THE VALUE THAT THE STATE PAID THE
30 LANDOWNER TO EXTINGUISH ONE RESIDENTIAL DEVELOPMENT RIGHT UNDER
31 SUB-SUBPARAGRAPH 1 OF THIS SUBPARAGRAPH, THE FOUNDATION SHALL DIVIDE
32 THE MAXIMUM VALUE OF THE EASEMENT UNDER § 2-511(A) OF THIS SUBTITLE BY
33 THE NUMBER OF RESIDENTIAL DEVELOPMENT RIGHTS ASSUMED FOR THE
34 APPRAISED FAIR MARKET VALUE AS DEFINED UNDER § 2-511(B) OF THIS SUBTITLE.

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

39 (v) After certifying that the landowner or child of the landowner
40 has met the conditions provided in subparagraphs (i) through (iv) of this paragraph,
41 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)] PARAGRAPH (2) of
31 this subsection concerning maximum lot sizes are altered so that the maximum lot
32 size is 2 acres if:

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

39 [2.] (II) Regulations adopted by the jurisdiction in which the
40 land 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 (5) (I) A LANDOWNER MAY USE 1 ACRE OF LAND PER EACH SINGLE
5 DWELLING THAT EXISTED AT THE TIME OF DISTRICT FORMATION OR AT THE TIME
6 OF THE SALE OF THE EASEMENT FOR ANY RESIDENTIAL PURPOSE ALLOWED UNDER
7 LOCAL ZONING.

8 (II) THE LANDOWNER MAY NOT CONVEY THE 1 ACRE OR DWELLING
9 SEPARATELY FROM THE DISTRICT OR THE EASEMENT.

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