Unofficial Copy M4 2002 Regular Session 2lr2023 CF 2lr2570

By: **Senators Middleton and Stoltzfus** Introduced and read first time: January 31, 2002 Assigned to: Education, Health, and Environmental Affairs

A BILL ENTITLED

1 AN ACT concerning

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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:

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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

27 agricultural land and woodland of the State; curb the spread of urban blight and

28 deterioration; and protect agricultural land and woodland as open-space land.

1 2-513.

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

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

7 (2) Operation at any time of any machinery used in farm production or 8 the primary processing of agricultural products is permitted.

9 (3) All normal agricultural operations performed in accordance with

10 good husbandry practices which do not cause bodily injury or directly endanger

11 human health are permitted including, but not limited to, sale of farm products

12 produced on the farm where such sales are made.

13 (b) (1) Except as otherwise provided in this section, a landowner, whose land 14 is subject to an easement, may not use the land for any commercial, industrial, or 15 residential purpose.

16 (2) Except as provided in paragraph (5) of this subsection, on written 17 application, the Foundation shall release free of easement restrictions only for the 18 landowner who originally sold an easement, 1 acre or less for the purpose of 19 constructing a dwelling house for the use only of that landowner or child of the

20 landowner subject to the following conditions:

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

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

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

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

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

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 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
 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.
(4) Except as provided in paragraph (5) of this subsection, on request to the Foundation, an owner may exclude from the easement restrictions 1 acre per each single dwelling, which existed at the time of the sale of the easement, by a land survey and recordation provided at the expense of the owner. However, before any exclusion is granted, an owner shall agree with the Foundation not to subdivide further for residential purposes any acreage allowed to be released. This agreement shall be recorded among the land records where the land is located and shall bind all future owners.
30(5)(i)The restrictions of paragraphs (2) and (4) of this subsection31concerning maximum lot sizes are altered so that the maximum lot size is 2 acres if:
1. Regulations adopted by the Department of the Environment require a minimum lot size for a dwelling house of not less than 2 acres in areas where there is less than 4 feet of unsaturated and unconsolidated soil material below the bottom of an on-site sewage disposal system or in areas located within 2,500 feet of the normal water level of an existing or proposed water supply reservoir; or
 Regulations adopted by the jurisdiction in which the land is situated require that a lot for a dwelling house be larger than 1 acre.

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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 Purchase of an easement by the Foundation does not grant the public any (c) 5 right of access or right of use of the subject property. ON REQUEST, THE FOUNDATION MAY ALLOW NONAGRICULTURAL, 6 (D) (1)7 COMMERCIAL USE THAT: DOES NOT NEGATIVELY IMPACT THE LAND'S FUTURE 8 (I) 9 AGRICULTURAL OR FORESTRY USE SIGNIFICANTLY; AND IS CONSISTENT WITH THE LEGISLATIVE INTENT OF THE 10 (II) 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: AN EVENT OR ACTIVITY THAT SUPPORTS AN AGRICULTURAL OR 15 (I) 16 FORESTRY USE: AND 17 A HOME-BASED BUSINESS THAT MAY BE LIMITED TO EXISTING (II) 18 BUILDINGS WHERE THE USE ONLY AFFECTS A LIMITED PART OF THE LAND.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effectOctober 1, 2002.

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