

**Department of Legislative Services**  
Maryland General Assembly  
2002 Session

**FISCAL NOTE**

Senate Bill 435 (Senators Middleton and Stoltzfus)  
Education, Health, and Environmental Affairs

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

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This bill modifies current law to provide that the Maryland Agricultural Land Preservation Foundation (MALPF), under specified conditions, may allow nonagricultural, commercial uses on land subject to a MALPF easement. MALPF must establish standards for determining permissible nonagricultural, commercial uses.

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**Fiscal Summary**

**State Effect:** The bill's changes could be handled with existing budgeted resources.

**Local Effect:** The bill would not materially affect local operations or finances.

**Small Business Effect:** Potential meaningful. Most farms are small businesses. To the extent that MALPF allows farmers to engage in additional revenue-generating activities as a result of this bill, farmers participating in the MALPF program could benefit.

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**Analysis**

**Bill Summary:** On request, MALPF may allow a nonagricultural, commercial use that: (1) does not negatively impact the land's future agricultural or forestry use significantly; and (2) is consistent with the legislative intent of the Maryland Agricultural Land Preservation Program, as stated under current law. MALPF must establish standards for determining permissible, nonagricultural, commercial uses, including:

- an event or activity that supports an agricultural or forestry use; and

- a home-based business that may be limited to existing buildings where the use only affects a limited part of the land.

**Current Law:** The intent of the Maryland Agricultural Land Preservation Program is to preserve agricultural land and woodland in order to: (1) provide sources of agricultural products within the State for the citizens of the State; (2) control the urban expansion which is consuming the agricultural land and woodland of the State; (3) curb the spread of urban blight and deterioration; and (4) protect agricultural land and woodland as open-space land. Agricultural land preservation easements may be purchased for any land in agricultural use that meets specified minimum criteria if the easement and county regulations governing the use of the land include the following provisions:

- any farm use of land is permitted;
- operation at any time of any machinery used in farm production or the primary processing of agricultural products is permitted; and
- all normal agricultural operations performed in accordance with good husbandry practices that do not cause bodily injury or directly endanger human health are permitted, including, but not limited to, sale of farm products produced on the farm where such sales are made.

Except as otherwise provided, a landowner whose land is subject to an easement may not use the land for any commercial, industrial, or residential purpose.

**Background:** The Maryland General Assembly created MALPF in 1977 to, among other things, protect agricultural land in the State. Agricultural preservation districts are formed when qualifying landowners sign voluntary agreements to keep their land in agricultural or woodland use for a minimum of five years. Once a district is established, the landowner is eligible to apply to sell a development rights easement on that property to MALPF. Subject to some limitations, once an easement has been sold, the property is protected from further development.

Chapter 634 of 2000 created a task force to study MALPF. The task force was required to: (1) study the current program and practices of the foundation; (2) study the financial standing of the foundation; (3) review and make recommendations on legislation affecting the foundation considered by the General Assembly in the 2000 session; and (4) make recommendations to improve the program, practices, and financial standing of the foundation. In its August 2001 report to the Governor and the General Assembly, the task force recommended that the MALPF law be amended to allow limited, nonagricultural commercial uses on MALPF easements and districts while ensuring that

allowed activities will not compromise production or the rural character of easement properties.

The task force report included several proposed uses such as large-animal veterinary hospitals, horse or animal shows, livestock auctions, petting zoos, horse boarding and training, horse riding lessons, aquaculture facilities, hunting clubs, agricultural education, home occupations, hay rides, paint ball, and corn mazes. The task force contends that allowing such activities would benefit farmers and the goals of agricultural land preservation. The task force notes that the economics of farming increasingly make it difficult for many farms to be consistently profitable and that limited nonagricultural commercial activities would supplement farmer income. In addition, the task force notes that allowing such activities would help landowners avoid additional financial pressures to develop their land. This bill is a direct result of the task force's recommendation.

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** HB 998 (Delegate W. Baker, *et al.*) – Appropriations.

**Information Source(s):** Maryland Department of Agriculture (Maryland Agricultural Land Preservation Foundation), Department of Legislative Services

**Fiscal Note History:** First Reader - February 19, 2002  
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