

HOUSE BILL 131

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HB 1000/02 - APP

2003 Regular Session
3r1146

By: **Delegates Stocksdale, Amedori, and Elliott**
Introduced and read first time: January 24, 2003
Assigned to: Environmental Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Agricultural Land Preservation - Easements - Dwelling House**

3 FOR the purpose of providing that a landowner who originally sold an easement to
4 the Maryland Agricultural Land Preservation Foundation may apply to the
5 Foundation for a release of a certain amount of acreage for a certain landowner
6 in a certain county for the purpose of constructing a dwelling house under
7 certain circumstances; prohibiting a landowner from subdividing a dwelling
8 house from the property covered by the easement; providing for the termination
9 of this Act; and generally relating to agricultural land preservation.

10 BY repealing and reenacting, with amendments,
11 Article - Agriculture
12 Section 2-513(b)
13 Annotated Code of Maryland
14 (1999 Replacement Volume and 2002 Supplement)

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

17 **Article - Agriculture**

18 2-513.

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

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

27 (i) The total number of lots allowed to be released under this
28 section, except as provided in paragraph (5) of this subsection, may not exceed 10 lots

1 of 1 acre or less at a maximum of not more than 1 lot for each 20 acres or portion
2 thereof.

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

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

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

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

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

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

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

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

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

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

36 (4) Except as provided in paragraph (5) of this subsection, on request to
37 the Foundation, an owner may exclude from the easement restrictions 1 acre per each
38 single dwelling, which existed at the time of the sale of the easement, by a land
39 survey and recordation provided at the expense of the owner. However, before any

1 exclusion is granted, an owner shall agree with the Foundation not to subdivide
2 further for residential purposes any acreage allowed to be released. This agreement
3 shall be recorded among the land records where the land is located and shall bind all
4 future owners.

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

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

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

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

18 (6) UNTIL SEPTEMBER 30, 2004, A LANDOWNER WHO ORIGINALLY SOLD
19 AN EASEMENT MAY, UPON WRITTEN APPLICATION TO THE FOUNDATION, APPLY FOR
20 A RELEASE OF 1 ACRE FREE OF EASEMENT RESTRICTIONS FOR THE CONSTRUCTION
21 OF A DWELLING FOR ONE SUBSEQUENT LANDOWNER WHICH MAY NOT BE
22 SEPARATELY SUBDIVIDED FROM THE PROPERTY IF:

23 (I) A DWELLING HOUSE DID NOT EXIST ON THE PROPERTY
24 COVERED BY THE EASEMENT AT THE TIME OF THE SALE OF THE EASEMENT;

25 (II) THE EASEMENT WAS PURCHASED BY THE FOUNDATION PRIOR
26 TO JANUARY 1, 1990;

27 (III) THE PROPERTY COVERED BY THE EASEMENT CONTAINS 50
28 ACRES OR MORE;

29 (IV) THE PROPERTY COVERED BY THE EASEMENT CONTAINS ALL OF
30 THE LAND DESCRIBED IN THE DEED OR DEEDS OF RECORD AT THE TIME OF THE
31 SALE OF THE EASEMENT;

32 (V) THE LANDOWNER WHO ORIGINALLY SOLD THE EASEMENT HAS
33 NOT EXERCISED THE RIGHT TO 1 ACRE FOR THE CONSTRUCTION OF A DWELLING
34 HOUSE PURSUANT TO PARAGRAPH (2) OF THIS SUBSECTION;

35 (VI) PRIOR TO THE RELEASE, THE LANDOWNER SHALL PAY THE
36 STATE FOR 1 ACRE AT THE PRICE PER ACRE THAT THE STATE PAID FOR THE
37 EASEMENT; AND

38 (VII) THE PROPERTY IS LOCATED IN CARROLL COUNTY.

1 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
2 October 1, 2003. It shall remain effective for a period of 1 year and, at the end of
3 September 30, 2004, with no further action required by the General Assembly, this
4 Act shall be abrogated and of no further force and effect.