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By: **Delegate James**

Introduced and read first time: February 7, 2003

Assigned to: Environmental Matters

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A BILL ENTITLED

1 AN ACT concerning

2 **Maryland Agricultural Land Preservation Foundation - Easement Ranking**  
3 **and Valuation**

4 FOR the purpose of altering the method a county must use to rank certain easement  
5 applications; requiring a county to consider certain guidelines when ranking  
6 easement applications; providing the method for calculating a certain value cap;  
7 eliminating the formula for calculating agricultural value; and generally  
8 relating to the Maryland Agricultural Land Preservation Foundation, and  
9 ranking and valuation of easements.

10 BY repealing and reenacting, with amendments,  
11 Article - Agriculture  
12 Section 2-510(e) and (f) and 2-511  
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 2-510.

19 (e) (1) (i) Within 30 days after the receipt of an application to sell, the  
20 Foundation shall notify the governing body of the county containing the subject land,  
21 that an application to sell has been received.

22 (ii) 1. Within 60 days of the notification, the county governing  
23 body shall advise the Foundation as to local approval or disapproval of the  
24 application. The Foundation shall grant a 30-day extension of this response period if  
25 the county governing body applies to the Foundation for an extension and states its  
26 reasons for seeking an extension.

27 2. Upon local approval of the application, the county  
28 governing body shall submit a statement of the total current development rights on

1 the subject land to the Maryland Agricultural Land Preservation Foundation, along  
2 with the application approval notification. The statement shall include the total  
3 number of development rights that have been subdivided or transferred.

4 (2) In deciding whether to approve the application, the county governing  
5 body shall:

6 (i) Receive the recommendation of the county agricultural  
7 preservation advisory board established under § 2-504.1 of this subtitle; and

8 (ii) Rank all applications based on:

9 1. [its] ITS locally established priorities as approved by the  
10 Foundation, which, for purposes of enhancing competitive bidding, may include a  
11 system that ranks properties in ascending order with respect to the proportion  
12 obtained by dividing the asking price by the value CAP of the easement, CALCULATED  
13 AS PROVIDED IN § 2-511(A) OF THIS SUBTITLE; AND

14 2. ANY GUIDELINES ADOPTED BY THE FOUNDATION TO  
15 IDENTIFY PROPERTIES WHOSE PURCHASE WILL FURTHER THE GOALS OF THE  
16 MARYLAND AGRICULTURAL LAND PRESERVATION PROGRAM.

17 (3) In making its recommendation, the county agricultural preservation  
18 advisory board shall:

19 (i) Take into consideration criteria and standards established by  
20 the Foundation under this subtitle, current local regulations, local patterns of land  
21 development, the kinds of pressures to develop the subject land, State smart growth  
22 goals, and any locally established priorities for the preservation of agricultural land;  
23 and

24 (ii) Recommend for ranking any application that qualifies and  
25 meets the priorities established by the county governing body for the preservation of  
26 agricultural land.

27 (4) The county agricultural preservation advisory board shall provide a  
28 public hearing concerning any application to sell if such a hearing is requested by a  
29 majority of the county agricultural preservation advisory board, or by a majority of  
30 the county governing body, or by the applicant.

31 (5) The board of trustees of the Foundation shall not approve any  
32 application to sell which has not been approved by the governing body of the county  
33 containing the subject land.

34 (f) (1) In determining which applications it shall approve for the purchase  
35 of the easements offered for sale in each fiscal year under this section, the  
36 Foundation:

1 (i) May approve only those applications in which the subject land  
2 meets the criteria and standards established under §§ 2-509 and 2-513 of this  
3 subtitle;

4 (ii) Except as provided in subparagraph (iii) of this paragraph, rank  
5 the applications and submit offers to buy at the beginning of each offer cycle based on  
6 the approved priorities established by each eligible county for the preservation of  
7 agricultural land; and

8 (iii) For applications competing on a statewide basis following the  
9 initial round of offers, shall rank the applications and submit offers to buy in order of  
10 priority, as provided in paragraph (2) of this subsection.

11 (2) The Foundation shall adopt by regulation a standard priority ranking  
12 system for additional offers to buy by which it shall rank each application. The system  
13 shall be based on the following criteria as to the easements offered in any one county:

14 (i) The applications shall be assigned a rank in ascending order  
15 with respect to the proportion obtained by dividing the asking price by the [State  
16 easement] value CAP, CALCULATED AS PROVIDED IN § 2-511(A) OF THIS SUBTITLE.  
17 The resulting rank shall be the sole criterion for establishing the priority for  
18 discounted applications that include proportions of 1.0 or lower.

19 (ii) All additional applications which include proportions greater  
20 than 1.0 shall be assigned a numerical value that, in regard to the land for which the  
21 easement is offered, reflects:

22 1. The relative productive capacity of the land;

23 2. The extent to which the easement acquisition will  
24 contribute to the continued availability of agricultural suppliers and markets for  
25 agricultural goods; and

26 3. The priority recommendations of the local governing  
27 bodies.

28 2-511.

29 (a) (1) THE VALUE CAP OF ANY EASEMENT TO BE PURCHASED SHALL BE  
30 THE PRODUCT OF THE FAIR MARKET VALUE OF THE LAND AND A PERCENTAGE LIMIT  
31 ESTABLISHED BY THE FOUNDATION FOR THE FISCAL YEAR IN WHICH THE  
32 EASEMENT IS TO BE PURCHASED.

33 (2) (I) A PERCENTAGE LIMIT ESTABLISHED BY THE FOUNDATION  
34 SHALL BE ADEQUATE TO ENCOURAGE CONTINUED LANDOWNER INTEREST IN  
35 SELLING EASEMENTS TO THE FOUNDATION WHILE AVOIDING EXCESSIVE EASEMENT  
36 PURCHASE COST TO THE STATE.

37 (II) THE FOUNDATION SHALL SET A LOWER PERCENTAGE LIMIT  
38 FOR A COUNTY THAN FOR THE REST OF THE STATE AT THE COUNTY'S REQUEST.

1 (III) THE FOUNDATION SHALL SET A HIGHER PERCENTAGE LIMIT  
2 FOR A COUNTY THAN FOR THE REST OF THE STATE IF THE COUNTY:

3 1. REQUESTS A HIGHER LIMIT; AND

4 2. PAYS ANY INCREASED COST OF EASEMENTS.

5 (B) The maximum value of any easement to be purchased shall be THE LOWER  
6 OF the asking price [or the difference between the fair market value of the land and  
7 the agricultural value of the land, whichever is lower] AND THE VALUE CAP,  
8 CALCULATED AS PROVIDED IN SUBSECTION (A) OF THIS SECTION.

9 [(b)] (C) The fair market value of the land is the price as of the valuation date  
10 for the highest and best use of the property which a vendor, willing but not obligated  
11 to sell, would accept for the property, and which a purchaser, willing but not obligated  
12 to buy, would pay for the property if the property was not subject to any restriction  
13 imposed under this subtitle.

14 [(c)] The agricultural value of land is the price as of the valuation date which a  
15 vendor, willing but not obligated to sell, would accept for the property, and which a  
16 purchaser, willing but not obligated to buy, would pay for the property as a farm unit,  
17 to be used for agricultural purposes.]

18 (d) (1) [(i)] The value of the easement is determined at the time the  
19 Foundation is requested in writing to purchase the easement.

20 [(ii)] (2) The fair market value shall be determined by the  
21 Department of General Services based on one or more appraisals by the State  
22 appraisers, and appraisals, if any, of the landowner.

23 [(iii)] (3) The entire contiguous acreage shall be included in the  
24 determination of the value of the easement, less 1 acre per single dwelling; however,  
25 except as provided in § 2-513(b)(2) of this subtitle, the entire contiguous acreage,  
26 including the 1 acre per single dwelling, is subject to the easement restrictions.

27 [(2) (i)] Subject to subparagraph (ii) of this paragraph, the agricultural  
28 value of land shall be determined by a formula approved by the Department that  
29 measures the farm productivity of the land on which the applicant has applied to sell  
30 an easement by taking into consideration weighted factors that may include rents,  
31 location, soil types, development pressure, interest rates, and potential agricultural  
32 use.

33 [(ii)] The agricultural value determined under subparagraph (i) of  
34 this paragraph is subject to the approval of the Department.]

35 (e) (1) If the landowner and Foundation do not agree on the value of the  
36 easement as determined by the State, either the landowner or the Foundation may  
37 request that the matter be referred to the property tax assessment appeal board as  
38 provided under § 3-107 of the Tax - Property Article, for arbitration as to the value of  
39 the easement.

1           (2)       The value determined by that arbitration shall be binding upon the  
2 owner and the Foundation in a purchase of the easement made subsequent to the  
3 arbitration for a period of 2 years, unless the landowner and the Foundation agree  
4 upon a lesser value or the landowner or the Foundation appeals the results of the  
5 arbitration to the Maryland Tax Court, and either party may further appeal from the  
6 Tax Court as provided in § 13-532 of the Tax - General Article.

7       SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
8 October 1, 2003.