
By: **Delegate James**
Introduced and read first time: February 7, 2003
Assigned to: Environmental Matters

Committee Report: Favorable with amendments
House action: Adopted
Read second time: March 18, 2003

CHAPTER _____

1 AN ACT concerning

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

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 including certain~~
8 ~~guidelines as required bases for a county governing body to rank certain~~
9 ~~easement applications; requiring the Foundation, in consultation with certain~~
10 ~~county governing bodies, to adopt certain guidelines that include consideration~~
11 ~~of certain factors; and generally relating to the Maryland Agricultural Land~~
12 ~~Preservation Foundation, and ranking and valuation of easements and~~
13 ~~easement rankings.~~

14 BY repealing and reenacting, with amendments,
15 Article - Agriculture
16 Section 2-510(e) ~~and (f) and 2-511~~
17 Annotated Code of Maryland
18 (1999 Replacement Volume and 2002 Supplement)

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

1

Article - Agriculture

2 2-510.

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

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

11 2. Upon local approval of the application, the county
12 governing body shall submit a statement of the total current development rights on
13 the subject land to the Maryland Agricultural Land Preservation Foundation, along
14 with the application approval notification. The statement shall include the total
15 number of development rights that have been subdivided or transferred.

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

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

20 (ii) Rank all applications based on:

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

26 2. ~~ANY GUIDELINES ADOPTED BY THE FOUNDATION TO~~
27 ~~IDENTIFY PROPERTIES WHOSE PURCHASE WILL FURTHER THE GOALS OF THE~~
28 ~~MARYLAND AGRICULTURAL LAND PRESERVATION PROGRAM UNDER PARAGRAPH (3)~~
29 ~~OF THIS SUBSECTION.~~

30 (3) (I) IN CONSULTATION WITH COUNTY GOVERNING BODIES, THE
31 FOUNDATION SHALL ADOPT GUIDELINES TO IDENTIFY EASEMENTS FOR PURCHASE
32 THAT FURTHER THE GOALS OF THE MARYLAND AGRICULTURAL LAND
33 PRESERVATION PROGRAM.

34 (II) GUIDELINES ADOPTED UNDER SUBPARAGRAPH (I) OF THIS
35 PARAGRAPH SHALL INCLUDE CONSIDERATION OF:

36 1. LOCATION IN A PRIORITY PRESERVATION AREA OF THE
37 COUNTY;

1 2. SOIL AND OTHER LAND CHARACTERISTICS ASSOCIATED
 2 WITH AGRICULTURAL PRODUCTIVITY;

3 3. AGRICULTURAL PRODUCTION AND CONTRIBUTION TO
 4 THE AGRICULTURAL ECONOMY; AND

5 4. ANY OTHER UNIQUE COUNTY CONSIDERATIONS THAT
 6 SUPPORT THE GOALS OF THE PROGRAM.

7 ~~(3)~~ (4) In making its recommendation, the county agricultural
 8 preservation advisory board shall:

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

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

17 ~~(4)~~ (5) The county agricultural preservation advisory board shall
 18 provide a public hearing concerning any application to sell if such a hearing is
 19 requested by a majority of the county agricultural preservation advisory board, or by
 20 a majority of the county governing body, or by the applicant.

21 ~~(5)~~ (6) The board of trustees of the Foundation shall not approve any
 22 application to sell which has not been approved by the governing body of the county
 23 containing the subject land.

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

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

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

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

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

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

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

12 1. The relative productive capacity of the land;

13 2. The extent to which the easement acquisition will
14 contribute to the continued availability of agricultural suppliers and markets for
15 agricultural goods; and

16 3. The priority recommendations of the local governing
17 bodies.

18 ~~2-511.~~

19 (a) (1) ~~THE VALUE CAP OF ANY EASEMENT TO BE PURCHASED SHALL BE
20 THE PRODUCT OF THE FAIR MARKET VALUE OF THE LAND AND A PERCENTAGE LIMIT
21 ESTABLISHED BY THE FOUNDATION FOR THE FISCAL YEAR IN WHICH THE
22 EASEMENT IS TO BE PURCHASED.~~

23 (2) (1) ~~A PERCENTAGE LIMIT ESTABLISHED BY THE FOUNDATION
24 SHALL BE ADEQUATE TO ENCOURAGE CONTINUED LANDOWNER INTEREST IN
25 SELLING EASEMENTS TO THE FOUNDATION WHILE AVOIDING EXCESSIVE EASEMENT
26 PURCHASE COST TO THE STATE.~~

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

29 (III) ~~THE FOUNDATION SHALL SET A HIGHER PERCENTAGE LIMIT
30 FOR A COUNTY THAN FOR THE REST OF THE STATE IF THE COUNTY:~~

31 1. ~~REQUESTS A HIGHER LIMIT; AND~~

32 2. ~~PAYS ANY INCREASED COST OF EASEMENTS.~~

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

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

6 ~~[(e)]~~ The agricultural value of land is the price as of the valuation date which a
7 vendor, willing but not obligated to sell, would accept for the property, and which a
8 purchaser, willing but not obligated to buy, would pay for the property as a farm unit,
9 to be used for agricultural purposes.]

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

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

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

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

25 ~~(ii)~~ The agricultural value determined under subparagraph (i) of
26 this paragraph is subject to the approval of the Department.]

27 ~~(e)~~ ~~(1)~~ If the landowner and Foundation do not agree on the value of the
28 easement as determined by the State, either the landowner or the Foundation may
29 request that the matter be referred to the property tax assessment appeal board as
30 provided under § 3-107 of the Tax – Property Article, for arbitration as to the value of
31 the easement.

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

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

