

**Department of Legislative Services**  
Maryland General Assembly  
2003 Session  
**Revised**  
**FISCAL AND POLICY NOTE**

House Bill 91 (Delegate Edwards, *et al.*)

Environmental Matters

Education, Health, and Environmental Affairs

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**Maryland Agricultural Land Preservation Foundation - Allegany and Garrett  
Counties - Natural Gas Rights**

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This bill provides that regulations and procedures adopted by the Maryland Agricultural Land Preservation Foundation (MALPF) for the establishment and monitoring of agricultural districts may not require, in Allegany or Garrett counties, a natural gas rights owner or lessee to subordinate its interest to MALPF's interest if MALPF determines that the exercise of those rights will not interfere with an agricultural operation conducted on the land. MALPF must submit a report to the Governor and the General Assembly on the impact of the bill by October 1, 2006.

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**Fiscal Summary**

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

**Local Effect:** The bill would not directly affect Allegany or Garrett counties' operations or finances.

**Small Business Effect:** Potential meaningful.

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**Analysis**

**Current Law:** Regulations and criteria developed by MALPF relating to land which may be included in an agricultural district must provide that: (1) land shall meet productivity, acreage, and locational criteria determined by MALPF to be necessary for the continuation of farming; (2) MALPF must attempt to preserve the minimum number of acres in a given district that may reasonably be expected to promote the continued

availability of agricultural suppliers and markets for agricultural goods; (3) land within the boundaries of a ten-year water and sewer service district may be included in an agricultural district only if that land is outstanding in productivity and is of significant use; and (4) land may be included in an agricultural district only if the county regulations governing the land permit specified activities.

**Background:** The Maryland General Assembly created MALPF in 1977. 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. According to MALPF, before land is included in an agricultural district, mineral rights are generally subordinated. Landowners who agree to place their farms within an agricultural preservation district may 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. According to MALPF, subject to specified conditions, and on a case-by-case basis, the foundation purchases easements on properties with existing natural gas rights held by third parties unwilling to subordinate their interests to MALPF's interests.

**Small Business Effect:** To the extent that any natural gas rights owners or lessees in Allegany or Garrett counties are small businesses, the bill could have a meaningful impact on them by allowing them to continue mining on land in the county that becomes part of an agricultural district under MALPF under certain conditions. Legislative Services notes, however, that this is already happening under current law, as determined by MALPF on a case-by-case basis.

By allowing the continuation of mining on such land, the bill could also have a meaningful impact on farmers in those counties. According to the *1997 Census of Agriculture*, there are 239 farms in Allegany County and 649 farms in Garrett County. MALPF advises that in some cases, mining on farmland could result in a decrease in farm productivity that could render affected land unfeasible for agricultural use. In other cases, by leveling land, mining could lead to an increase in the amount of land available to be farmed in the future. Because the effects of mining on the long-term productivity of farmland are still being studied, an estimate of economic impact to farmers cannot be made at this time.

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### **Additional Information**

**Prior Introductions:** HB 567 of 2002 passed the Senate and the House but was vetoed by the Governor. HB 376 of 2001 was also vetoed by the Governor.

**Cross File:** None.

**Information Source(s):** Maryland Department of Agriculture, Garrett County, U.S. Department of Agriculture (National Agricultural Statistics Service), Department of Legislative Services

**Fiscal Note History:** First Reader - February 3, 2003  
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