

Department of Legislative Services
Maryland General Assembly
2003 Session

FISCAL AND POLICY NOTE
Revised

House Bill 805

(Delegate James)

Environmental Matters

Education, Health, and Environmental Affairs

Maryland Agricultural Land Preservation Foundation - Easements - Lot
Exclusions and Allowable Economic Activity

This bill modifies current law to provide that farm and forest related uses and home occupations, as determined by the Maryland Agricultural Land Preservation Foundation (MALPF), may be allowed on land subject to a MALPF easement. The bill also modifies MALPF's lot exclusion policy to: (1) give landowners a choice of family lots or one unrestricted lot; (2) limit family lot rights to a maximum of three (one lot if the size of the easement property is 20 acres or more but fewer than 70 acres, two lots if it is 70 acres or more but fewer than 120 acres, or three lots if it is 120 acres or more); (3) reflect in the easement value the unrestricted lot rights that are retained; (4) provide that the unrestricted lot right is transferable to subsequent owners; and (5) provide that other dwellings present on the property when the easement is sold may be subdivided from the property as an owner or child's lot or as the single unrestricted lot exclusion permitted.

Fiscal Summary

State Effect: Potential minimal decrease in special fund revenues and expenditures due to the bill's changes to the lot exclusion policy. Potential minimal decrease in special fund expenditures due to the bill's provisions regarding allowable economic activity on land subject to a MALPF easement.

Local Effect: The bill is not expected to significantly affect local operations or finances.

Small Business Effect: Potential meaningful.

Analysis

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; (2) control urban expansion; (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 farming is permitted;
- operation at any time of any farm machinery is permitted; and
- all normal agricultural operations are permitted, including 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.

A landowner who sells an easement to MALPF is allowed, subject to specified conditions, to exclude as many as ten one-acre lots up to a maximum density of one lot per 20 acres for the purpose of constructing a house for the landowner or the landowner's children. The landowner is required to pay the State for any acre or portion released at the price per acre that the State paid the owner for the easement. Upon request to MALPF, a subsequent landowner may exclude from the easement restrictions one acre per each single dwelling that existed at the time of the sale of the easement. An owner must agree not to subdivide further for residential purposes any acreage allowed to be released.

Background: Chapter 634 of 2000 created a task force to study MALPF and make recommendations for improvements. In its August 2001 report, the task force recommended, among other things, that its charge be extended to complete the development of proposals for the 2003 session. Chapter 473 of 2002 re-established the task force. In its January 2003 report, the task force made several recommendations. With respect to economic activities and uses on easement properties, the task force recommended that legislation be adopted to clarify program guidelines to allow farm and forest related economic activities (such as hay rides, corn mazes, and horseback riding) and home occupations (such as an in-home daycare business) in order to supplement farm income, encourage participation in the program, and support land preservation. With respect to the lot exclusion policy, the task force recommended that legislation be adopted to give landowners a choice (family lots or one unrestricted lot right) and to limit the total number consistent with the program's purpose. This bill is a direct result of those recommendations.

State Fiscal Effect: While the bill is not anticipated to have a significant impact on MALPF finances, the bill could result in a minimal decrease in special fund revenues and expenditures as follows:

Lot Exclusions

By reducing the number of family lots to a maximum of three, special fund revenues from paybacks for lot exclusions could decrease. However, because very few landowners exclude more than three lots, any such decrease is not anticipated to be significant. By allowing the unrestricted lot option and by providing that the value of that lot right would be excluded from the appraisal on which the easement value is based, the bill could result in a decrease in special fund expenditures for the purchase of such easements by MALPF. Any such decrease is not anticipated to be significant.

Farm and Forest Related Uses and Home Occupations

The bill clarifies MALPF's authority under current law to allow activities to take place on MALPF properties that are compatible with agriculture and forestry. To the extent that those provisions make the program more competitive, easement acquisition costs could decrease. Any such decrease is anticipated to be minimal.

Small Business Effect: Both elements of this bill could have a potentially meaningful impact on landowners participating in the MALPF program:

Lot Exclusions

The impact of the bill's changes to the lot exclusion policy will depend largely on how specific small businesses value the flexibility of an unrestricted lot right versus the additional development and higher easement value resulting from taking the family lots option. Small businesses that are nonfamily corporations could benefit because the unrestricted lot conveys when ownership changes. Family corporations might be negatively impacted because of the lowered density and decrease in the total number of family lots available under the bill.

Farm and Forest Related Uses and Home Occupations

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.

Additional Information

Prior Introductions: SB 435/HB 998 of 2002 would have allowed nonagricultural, commercial uses under specified conditions. SB 435 received an unfavorable report by the Senate Education, Health, and Environmental Affairs Committee. HB 998 passed the House but received an unfavorable report by the Senate Education, Health, and Environmental Affairs Committee. HB 1384 of 2002, among other things, would have reduced the number of lots and associated density allowances that may be released. The bill was withdrawn. HB 162 of 2000 would have reduced the number of lots a landowner may exclude from an easement. The bill was referred to interim study by the House Appropriations Committee.

Cross File: SB 626 (Senator Middleton, *et al.*) – Education, Health, and Environmental Affairs.

Information Source(s): Maryland Department of Agriculture, Department of Legislative Services

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Analysis by: Lesley Frymier

Direct Inquiries to:
(410) 946-5510
(301) 970-5510