

Department of Legislative Services
Maryland General Assembly
2003 Session

FISCAL AND POLICY NOTE

House Bill 826 (Delegates Glassman and Parrott)
Environmental Matters

Maryland Agricultural Land Preservation Foundation - Termination of Easements

This bill allows a county, if authorized by a county law, to negotiate with the Maryland Agricultural Land Preservation Foundation (MALPF) and a landowner to convert a terminable easement to an interminable easement.

Fiscal Summary

State Effect: The bill would not significantly affect State operations or finances.

Local Effect: Because counties already have the ability to make a perpetual easement a requirement for participation in the MALPF program, the bill is not anticipated to have a significant impact on local operations or finances.

Small Business Effect: Minimal.

Analysis

Current Law: At any time after 25 years from the date of purchase of an easement, the landowner may request that the easement be reviewed for possible termination. Upon request for a review, MALPF must conduct an inquiry to determine the feasibility of profitable farming on the land. MALPF must conclude the inquiry and reach a decision within 180 days after the request. MALPF must inspect the site and, after adequate public notice, conduct a public hearing within the county containing the land. An easement may be terminated only with the approval of the governing body of the county containing the land. The county government must receive the recommendation of the

county agricultural preservation advisory board. The decision of the county governing body must be made after the public hearing is held. The county governing body must notify MALPF of its decision within 30 days after the public hearing. Upon the affirmative vote of a majority of MALPF members at-large, and upon approval by the Secretary of Agriculture and the State Treasurer, the request for termination is approved and the landowner notified. If the request is denied, or if the landowner fails to repurchase the easement within a specified period of time, the landowner may not again request termination of the easement until five years after the last request was made.

Background: According to MALPF, the original legislative intent when MALPF was established was that easements would be perpetual. The repurchase option was included to allow the possibility of exceptional circumstances under which profitable farming of any kind is no longer possible on a property and the repurchase of its easement restrictions is consistent with local and State land use objectives. The first easement was purchased by MALPF in 1980. Accordingly, the first repurchase request could not occur prior to 2005. MALPF advises that most land preservation programs in other states do not have a repurchase option and those that do make it extremely difficult for an easement to be repurchased.

Additional Information

Prior Introductions: HB 616 of 2001 would have prohibited a landowner from terminating an easement purchased by MALPF after July 1, 2002. The bill was withdrawn.

Cross File: None.

Information Source(s): Maryland Department of Agriculture, Kent County, Montgomery County, Washington County, Worcester County, Department of Legislative Services

Fiscal Note History: First Reader - February 24, 2003
lc/jr

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