

HOUSE BILL 777

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M4

2004 Regular Session  
4r1969  
CF 4r2205

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By: **Delegates Cane, Stull, Conway, Eckardt, Elmore, Glassman, Rudolph,  
and Sossi**

Introduced and read first time: February 6, 2004  
Assigned to: Environmental Matters

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Committee Report: Favorable with amendments  
House action: Adopted  
Read second time: March 10, 2004

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CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Maryland Agricultural Land Preservation Foundation - Easement**  
3 **Termination**

4 FOR the purpose of requiring that the Maryland Agricultural Land Preservation  
5 Foundation provide a landowner with the opportunity for a hearing before  
6 deciding on a request for termination of an agricultural land preservation  
7 easement whose purchase is approved by the Board of Public Works on or before  
8 a certain date; allowing a landowner to appeal any Foundation denial of a  
9 request for a termination directly to the circuit court of the county where the  
10 land is located; requiring that the Foundation deposit certain money in a certain  
11 fund if an easement is terminated; requiring that an appeal of a denial of a  
12 termination be made on the record in accordance with certain State law;  
13 requiring that agricultural land preservation easements whose purchase is  
14 approved by the Board of Public Works on or after a certain date be held by the  
15 Foundation in perpetuity; making stylistic changes; and generally relating to  
16 the termination of agricultural land preservation easements.

17 BY repealing and reenacting, with amendments,  
18 Article - Agriculture  
19 Section 2-514  
20 Annotated Code of Maryland  
21 (1999 Replacement Volume and 2003 Supplement)

22 BY adding to  
23 Article - Agriculture  
24 Section 2-514.1

1 Annotated Code of Maryland  
2 (1999 Replacement Volume and 2003 Supplement)

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

5 **Article - Agriculture**

6 2-514.

7 (a) It is the intent of the General Assembly that [the] ANY easement  
8 [purchased under this subtitle] WHOSE PURCHASE IS APPROVED BY THE BOARD OF  
9 PUBLIC WORKS ON OR BEFORE SEPTEMBER 30, 2004, be held by the Foundation for as  
10 long as profitable farming is feasible on the land under easement, and an easement  
11 may be terminated only in the manner and at the time specified in this section.

12 (b) At any time after 25 years from the date of purchase of an easement, the  
13 landowner may request that the easement be reviewed for possible termination of the  
14 easement.

15 (c) (1) Upon a request for review of an easement for termination, an inquiry  
16 shall be conducted by the Foundation to determine the feasibility of profitable  
17 farming on the subject land. [The inquiry shall be concluded and a decision reached  
18 by the Foundation within 180 days after the request for termination and]

19 (2) THE INQUIRY shall include:

20 [(1)] (I) On-site inspection of the subject land; and

21 [(2)] (II) A public hearing conducted by the Foundation board within the  
22 county containing the subject land after adequate public notice.

23 (3) THE INQUIRY SHALL BE CONCLUDED AND A DECISION REACHED BY  
24 THE FOUNDATION WITHIN 180 DAYS AFTER THE REQUEST FOR TERMINATION,  
25 UNLESS THE LANDOWNER REQUESTS A HEARING UNDER SUBSECTION (H) OF THIS  
26 SECTION.

27 (d) An easement may be terminated only with the approval of the governing  
28 body of the county containing the subject land. In deciding whether to approve the  
29 request for termination, the county governing body shall receive the recommendation  
30 of the county agricultural preservation advisory board established under § 2-504.1 of  
31 this subtitle. The decision of the county governing body shall be made after the public  
32 hearing required in paragraph (c). The county governing body shall notify the  
33 Foundation of its decision within 30 days after the conclusion of the public hearing  
34 required in paragraph (c).

35 (e) Upon the affirmative vote of a majority of the Foundation members  
36 at-large, and upon the approval of the Secretary and the State Treasurer, the request  
37 for termination shall be approved, and the landowner shall be notified.

1 (f) (1) If the request for termination is approved, an appraisal of the subject  
2 land shall be ordered by the Foundation at the expense of the landowner requesting  
3 termination of the easement.

4 (2) (i) No more than 180 days following the appraisal required under  
5 paragraph (1) of this subsection, the landowner may repurchase the easement by  
6 paying to the Foundation the difference between the fair market value and the  
7 agricultural value of the subject land, as determined by the appraisal.

8 (ii) For purposes of this paragraph, the agricultural value is the  
9 price as of the valuation date which a vendor, willing but not obligated to sell, would  
10 accept, and which a purchaser, willing but not obligated to buy, would pay for a farm  
11 unit with land comparable in quality and composition to the property being  
12 appraised, but located in the nearest location where profitable farming is feasible.

13 (iii) 1. In the case of the termination of an easement that was  
14 originally purchased under a matching allotted purchase, the Foundation shall  
15 distribute to the contributing county a portion of the repurchase payment received  
16 under subparagraph (i) of this paragraph that is equal to the percentage of the  
17 original easement purchase price contributed by the county.

18 2. A. From the funds distributed to a county under this  
19 subparagraph, the county shall deposit in the county's special account for its  
20 agricultural land preservation program an amount that is at least equal to the  
21 percentage of the original easement purchase price that was paid out of the special  
22 account.

23 B. If any of the funds deposited in the county's special  
24 account have not been expended or committed within 3 years from the date of deposit  
25 into the special account, the county collector shall remit those funds to the  
26 Comptroller for deposit in the Maryland Agricultural Land Preservation Fund as  
27 provided in § 13-306(c) of the Tax - Property Article.

28 3. The county shall deposit the balance of the funds  
29 distributed to it under this subparagraph in the county's general fund.

30 4. IF AN EASEMENT IS TERMINATED, THE FOUNDATION  
31 SHALL DEPOSIT ITS PORTION OF THE REPURCHASE PAYMENT IN THE MARYLAND  
32 AGRICULTURAL LAND PRESERVATION FUND AS PROVIDED UNDER § 2-505 OF ~~THE~~  
33 ~~AGRICULTURE ARTICLE~~ THIS SUBTITLE.

34 (g) If the request for termination is denied, or if the landowner fails to  
35 repurchase the easement within 180 days of the appraisal, the landowner may not  
36 again request termination of the easement until five years after his last request for  
37 termination.

38 (H) (1) THIS SUBSECTION APPLIES ONLY TO EASEMENTS THAT THE  
39 FOUNDATION ACQUIRES ON OR BEFORE SEPTEMBER 30, 2004.

1           (2)     BEFORE DECIDING ON A REQUEST FOR TERMINATION OF AN  
2 EASEMENT, THE FOUNDATION SHALL PROVIDE A LANDOWNER WITH THE  
3 OPPORTUNITY FOR A HEARING.

4           (3)     NOTWITHSTANDING §§ 2-401 THROUGH 2-405 OF THIS TITLE, THE  
5 LANDOWNER MAY APPEAL ANY FOUNDATION DENIAL DIRECTLY TO THE CIRCUIT  
6 COURT OF THE COUNTY WHERE THE LAND IS LOCATED.

7           (4)     THE CIRCUIT COURT SHALL HEAR AND DETERMINE THE APPEAL ON  
8 THE RECORD MADE IN ACCORDANCE WITH § 10-222 OF THE STATE GOVERNMENT  
9 ARTICLE.

10 2-514.1.

11     AN EASEMENT WHOSE PURCHASE IS APPROVED BY THE BOARD OF PUBLIC  
12 WORKS ON OR AFTER OCTOBER 1, 2004, SHALL BE HELD BY THE FOUNDATION IN  
13 PERPETUITY.

14     SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
15 October 1, 2004.