

SENATE BILL 367

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2004 Regular Session
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By: **Senators Dyson and Middleton**
Introduced and read first time: February 4, 2004
Assigned to: Education, Health, and Environmental Affairs

Committee Report: Favorable
Senate action: Adopted
Read second time: March 2, 2004

CHAPTER _____

1 AN ACT concerning

2 **Maryland Agricultural Land Preservation Foundation - Tenant Houses -**
3 **Construction**

4 FOR the purpose of making the construction of certain tenant houses subject to the
5 approval of the Maryland Agricultural Land Preservation Foundation that are
6 on farms subject to an agricultural land preservation easement; authorizing the
7 Foundation to grant an exception, based on a showing of compelling need, to a
8 certain construction requirement; requiring the Foundation to adopt certain
9 regulations; and generally relating to tenant house construction on farms
10 subject to an agricultural land preservation easement.

11 BY repealing and reenacting, with amendments,
12 Article - Agriculture
13 Section 2-513(b)
14 Annotated Code of Maryland
15 (1999 Replacement Volume and 2003 Supplement)

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

18 **Article - Agriculture**

19 2-513.

20 (b) (1) A landowner whose land is subject to an easement may not use the
21 land for any commercial, industrial, or residential purpose except:

1 (i) As determined by the Foundation, for farm and forest related
2 uses and home occupations; or

3 (ii) As otherwise provided under this section.

4 (2) Except as provided in paragraphs (3) and (6) of this subsection, on
5 written application, the Foundation shall release free of easement restrictions only
6 for the landowner who originally sold an easement, 1 acre or less for the purpose of
7 constructing a dwelling house for the use only of that landowner or child of the
8 landowner, up to a maximum of three lots, subject to the following conditions:

9 (i) The number of lots allowed to be released under this section,
10 except as provided in paragraph (6) of this subsection, may not exceed:

11 1. 1 lot if the size of the easement property is 20 acres or
12 more but fewer than 70 acres;

13 2. 2 lots if the size of the easement property is 70 acres or
14 more but fewer than 120 acres; or

15 3. 3 lots if the size of the easement property is 120 acres or
16 more.

17 (ii) The resulting density on the property may not exceed the
18 density allowed under zoning of the property before the Foundation purchased the
19 easement.

20 (iii) The landowner shall pay the State for any acre or portion
21 released at the price per acre that the State paid the owner for the easement.

22 (iv) Before any conveyance or release, the landowner and the child,
23 if there is a conveyance to a child, shall agree not to subdivide further for residential
24 purposes any acreage allowed to be released. The agreement shall be recorded among
25 the land records where the land is located and shall bind all future owners.

26 (v) After certifying that the landowner or child of the landowner
27 has met the conditions provided in subparagraphs (i) through (iv) of this paragraph,
28 the Foundation shall issue a preliminary release which shall:

29 1. Become final when the Foundation receives and certifies a
30 nontransferable building permit in the name of the landowner or child of the
31 landowner for construction of a dwelling house; or

32 2. Become void upon the death of the person for whose
33 benefit the release was intended if the Foundation has not yet received a building
34 permit as provided in this subparagraph.

35 (vi) Any release or preliminary release issued under this paragraph
36 shall include a statement of the conditions under which it was issued, a certification

1 by the Foundation that all necessary conditions for release or preliminary release
2 have been met, and copies of any pertinent documents.

3 (vii) Any release, preliminary release, building permit, or other
4 document issued or submitted in accordance with this paragraph shall be recorded
5 among the land records where the land is located and shall bind all future owners.

6 (viii) The Foundation may not restrict the ability of a landowner who
7 originally sold an easement to acquire a release under this paragraph beyond the
8 requirements provided in this section.

9 (3) A landowner may reserve the right to exclude 1 unrestricted lot from
10 an easement in lieu of all owner's and children's lots to which the landowner would
11 otherwise be entitled under paragraph (2) of this subsection, subject to the following
12 conditions:

13 (i) The resulting density on the property shall be less than the
14 density allowed under zoning of the property before the Foundation purchased the
15 easement;

16 (ii) An unrestricted lot may be subdivided by the landowner from
17 the easement and sold to anyone to construct one residential dwelling;

18 (iii) The size of an unrestricted lot shall be 1 acre or less, except as
19 provided in paragraph (6) of this subsection;

20 (iv) The landowner shall agree not to subdivide further for
21 residential purposes any acreage allowed to be released, and the agreement shall be
22 recorded among the land records where the land is located and shall bind all future
23 owners;

24 (v) The right to the lot is taken into consideration in the appraisal
25 of fair market value and determination of easement value;

26 (vi) The lot can be subdivided at any time and the location of the lot
27 to be subdivided is subject to the approval of the local agricultural advisory board and
28 the Foundation; and

29 (vii) If the property is transferred before the right to exclude the lot
30 has been exercised, the right may be transferred with the property.

31 (4) (I) [A] SUBJECT TO THE APPROVAL OF THE FOUNDATION, A
32 landowner may construct housing for tenants fully engaged in operation of the farm[,
33 but this construction may not exceed 1 tenant house per 100 acres].

34 (II) CONSTRUCTION MAY NOT EXCEED 1 TENANT HOUSE PER 100
35 ACRES, UNLESS THE FOUNDATION GRANTS AN EXCEPTION BASED ON A SHOWING OF
36 COMPELLING NEED.

1 (III) The land on which a tenant house is constructed may not be
2 subdivided or conveyed to any person. In addition, the tenant house may not be
3 conveyed separately from the original parcel.

4 (IV) THE FOUNDATION SHALL ADOPT REGULATIONS FOR THE SIZE
5 AND LOCATION OF TENANT HOUSES.

6 (5) Except as provided in paragraph (6) of this subsection, on request to
7 the Foundation, an owner may exclude from the easement restrictions 1 acre per each
8 single dwelling, which existed at the time of the sale of the easement, as an owner's,
9 children's, or unrestricted lot to which the owner is entitled under paragraph (2) of
10 this subsection, by a land survey and recordation provided at the expense of the
11 owner. However, before an exclusion is granted, an owner shall agree with the
12 Foundation not to subdivide further for residential purposes any acreage allowed to
13 be released. This agreement shall be recorded among the land records where the land
14 is located and shall bind all future owners.

15 (6) (i) The restrictions of paragraphs (2) and (5) of this subsection
16 concerning maximum lot sizes are altered so that the maximum lot size is 2 acres if:

17 1. Regulations adopted by the Department of the
18 Environment require a minimum lot size for a dwelling house of not less than 2 acres
19 in areas where there is less than 4 feet of unsaturated and unconsolidated soil
20 material below the bottom of an on-site sewage disposal system or in areas located
21 within 2,500 feet of the normal water level of an existing or proposed water supply
22 reservoir; or

23 2. Regulations adopted by the jurisdiction in which the land
24 is situated require that a lot for a dwelling house be larger than 1 acre.

25 (ii) For exclusions provided under paragraph (5) of this subsection,
26 the landowner shall pay the State for any acre or portion released in excess of the 1
27 acre per single dwelling that existed at the time of easement.

28 (7) On or before September 30, 2004, a landowner who originally sold an
29 easement may, upon written application to the Foundation, apply for a release of 1
30 acre free of easement restrictions for the construction of a dwelling for one
31 subsequent landowner which may not be separately subdivided from the property if:

32 (i) A dwelling house did not exist on the property covered by the
33 easement at the time of the sale of the easement;

34 (ii) The easement was purchased by the Foundation prior to
35 January 1, 1990;

36 (iii) The property covered by the easement contains 50 acres or
37 more;

38 (iv) The property covered by the easement contains all of the land
39 described in the deed or deeds of record at the time of the sale of the easement;

1 (v) The landowner who originally sold the easement has not
2 exercised the right to 1 acre for the construction of a dwelling house pursuant to
3 paragraph (2) of this subsection;

4 (vi) Prior to the release, the landowner shall pay the State for 1 acre
5 at the price per acre that the State paid for the easement; and

6 (vii) The property is located in Carroll County.

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