

Department of Legislative Services
Maryland General Assembly
2004 Session

FISCAL AND POLICY NOTE

House Bill 770

(Delegate Cane, *et al.*)

Environmental Matters

Education, Health, and Environmental
Affairs

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

This bill provides that the construction of tenant houses on land subject to an easement purchased by the Maryland Agricultural Land Preservation Foundation (MALPF) is subject to the approval of the foundation. In addition, the bill authorizes MALPF to grant an exception, based on a showing of compelling need, to the number of tenant houses allowed to be constructed under current law (one house per 100 acres). MALPF must adopt regulations for the size and location of tenant houses.

Fiscal Summary

State Effect: The bill's changes could be handled with existing resources.

Local Effect: The bill would not materially affect local operations or finances.

Small Business Effect: Minimal.

Analysis

Current Law: MALPF was created in 1977 to, among other things, protect agricultural land in the State. 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. Once land is placed within a district, the owner is eligible to sell a development rights easement on that land to MALPF. Subject to some limitations, once an easement has been sold, the property is protected from further development.

A landowner whose land is subject to an easement, among other things, may construct housing for tenants fully engaged in the farm operation of up to one tenant house per 100 acres. The land on which a tenant house is constructed may not be subdivided or conveyed, and the tenant house may not be conveyed separately from the original parcel.

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 legislative proposals; Chapter 473 of 2002 re-established the task force and extended its charge through May 31, 2004. This bill is a direct result of the task force's work.

MALPF advises that, until recently, it interpreted the statute governing tenant houses to mean that any easement property could qualify for at least one tenant house. On advice of counsel, however, MALPF has determined that the standards and the process by which tenant houses are approved need to be clarified, especially for properties smaller than 100 acres. According to MALPF, there has been uncertainty with respect to its review process for tenant house requests.

MALPF's Board of Trustees adopted a new policy in August 2002, which generally provides that no tenant houses shall be constructed without the written approval of MALPF. Under the policy, an approval is not an absolute right but shall be reviewed by MALPF on a case-by-case basis. Each request will be reviewed to determine if the proposed tenant house is needed based on the nature of the farming operation. Further, given its purpose as housing for tenants fully engaged in the operation of the farm, the construction of the tenant house should make sense in terms of the size and proposed location on the property; accordingly, under the new policy, MALPF is directed to approve the location and size of proposed tenant houses. In addition, although statute was reinterpreted to mean that one tenant house could be allowed per *full* 100 acres, under the new policy, a request may be considered by MALPF for properties at least 50 acres in size, when warranted. MALPF advises that the need for this flexibility has increased with the success of the tobacco buyout in Southern Maryland where many smaller farms are seeking to adjust into alternative farming operations that may require intensive labor use and on-site tenancy.

Many of the provisions of the August 2002 policy were implemented through regulation. This bill provides explicit authority to MALPF to approve tenant-house requests and authorizes MALPF to consider a request for a tenant house on properties less than 100 acres in size.

Additional Information

Prior Introductions: None.

Cross File: SB 367 (Senators Dyson and Middleton) – Education, Health, and Environmental Affairs.

Information Source(s): Maryland Department of Agriculture (Maryland Agricultural Land Preservation Foundation), Department of Legislative Services

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