

**Department of Legislative Services**  
Maryland General Assembly  
2004 Session

**FISCAL AND POLICY NOTE**  
**Revised**

House Bill 164

(Chairman, Environmental Matters Committee)  
(By Request – Departmental – Agriculture)

Environmental Matters

Education, Health, and Environmental Affairs

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**Maryland Agricultural Land Preservation Foundation**

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This departmental bill modifies the conditions necessary for a release or preliminary release of dwelling house lots from easement restrictions by the Maryland Agricultural Land Preservation Foundation (MALPF). Specifically, the bill provides that a release must include a statement that the owner's or child's lot may not be transferred for five years from the date of the final release unless approved by MALPF or unless a lender notifies MALPF of a transfer pursuant to a bona fide foreclosure of a mortgage or deed of trust or to a deed in lieu of foreclosure.

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**Fiscal Summary**

**State Effect:** The bill would not materially affect State finances.

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

**Small Business Effect:** The Maryland Department of Agriculture has determined that this bill has minimal or no impact on small business (attached). Legislative Services concurs with this assessment. (The attached assessment does not reflect amendments to the bill.)

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**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. Subject to some limitations, once an easement has been sold, the property is protected from further development.

Upon written application, MALPF must release, free from easement restrictions only for the landowner who originally sold an easement, one acre or less for the purpose of constructing a dwelling house for the use of that landowner or the landowner's child. The landowner must pay the State for any acre or portion released at the price per acre that the State paid the owner for the easement. An owner must agree not to subdivide further for residential purposes any acreage allowed to be released.

Chapter 258 of 2003 modified 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.

For family lots, any release or preliminary release issued must include a statement of the conditions under which it was issued, a certification by MALPF that all necessary conditions for release or preliminary release have been met, and copies of any pertinent documents.

**Background:** According to MALPF, most program participants understand the restrictions on the development rights that they have sold to MALPF. However, MALPF reports that sometimes there is an incentive to develop family lots for commercial profit by selling those lots to ineligible third parties. Though the two-stage lot release process makes it difficult for the lot to be transferred to an ineligible third party before a house is constructed, a substantial incentive still exists to build a house as a speculative investment to be sold to a third party once the house is ready for occupancy. Under current law, MALPF has no way to verify that lots are developed for legitimate purposes. This bill is intended to allow MALPF to review the subsequent transfer of family lots for five years after they have been released from the easement to verify that the transfer is legitimate.

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## Additional Information

**Prior Introductions:** None.

**Cross File:** None.

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

**Fiscal Note History:** First Reader - January 26, 2004  
mh/ljm Revised - House Third Reader - March 19, 2004

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