By: **Delegates Stocksdale and Aumann** Introduced and read first time: February 10, 2005 Assigned to: Environmental Matters

A BILL ENTITLED

1 AN ACT concerning

2 3	Maryland Agricultural Land Preservation Foundation - Request for Release by Landowner's Estate
4 5 6 7 8 9	FOR the purpose of requiring the Maryland Agricultural Land Preservation Foundation, upon written application submitted by the estate of a deceased landowner whose land is subject to a certain agricultural easement and within a certain time period after the death of the landowner, to release free of easement restrictions on certain lots under certain circumstances; and generally relating to the release of land from agricultural easement restrictions.
10 11 12 13 14	Annotated Code of Maryland
15 16	SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:
17	Article - Agriculture
18	2-513.
19 20	(b) (1) A landowner whose land is subject to an easement may not use the land for any commercial, industrial, or residential purpose except:
20 21	
20 21	land for any commercial, industrial, or residential purpose except:(i) As determined by the Foundation, for farm and forest related

UNOFFICIAL COPY OF HOUSE BILL 933

1 house for the use only of that landowner or child of the landowner, up to a maximum 2 of three lots, subject to the following conditions: 3 (i) The number of lots allowed to be released under this section, 4 except as provided in paragraph (6) of this subsection, may not exceed: 5 1. 1 lot if the size of the easement property is 20 acres or 6 more but fewer than 70 acres; 7 2. 2 lots if the size of the easement property is 70 acres or 8 more but fewer than 120 acres; or 9 3. 3 lots if the size of the easement property is 120 acres or 10 more. 11 (ii) The resulting density on the property may not exceed the 12 density allowed under zoning of the property before the Foundation purchased the 13 easement. The landowner OR THE LANDOWNER'S ESTATE shall pay the 14 (iii) 15 State for any acre or portion released at the price per acre that the State paid the 16 owner for the easement. 17 (iv) Before any conveyance or release, the landowner OR THE 18 LANDOWNER'S ESTATE and the child, if there is a conveyance to a child, shall agree 19 not to subdivide further for residential purposes any acreage allowed to be released. 20 The agreement shall be recorded among the land records where the land is located 21 and shall bind all future owners. After certifying that the landowner, THE LANDOWNER'S 22 (v) 23 ESTATE, or child of the landowner has met the conditions provided in subparagraphs 24 (i) through (iv) of this paragraph, the Foundation shall issue a preliminary release 25 which shall: 26 Become final when the Foundation receives and certifies a 1. nontransferable building permit in the name of the landowner or child of the 27 28 landowner for construction of a dwelling house; or 29 2. Become void upon the death of the person for whose 30 benefit the release was intended if the Foundation has not yet received a building 31 permit as provided in this subparagraph. 32 (vi) Any release or preliminary release issued under this paragraph 33 shall include: 34 A statement of the conditions under which it was issued, a 1. 35 certification by the Foundation that all necessary conditions for release or

36 preliminary release have been met, and copies of any pertinent documents; and

2

UNOFFICIAL COPY OF HOUSE BILL 933

12.A statement that the owner's or child's lot may not be2transferred for 5 years from the date of the final release, except on:
A. Approval by the Foundation; or
B. Notwithstanding any conditions on transfers imposed under item 1 of this subparagraph, a lender providing notice to the Foundation of a transfer pursuant to a bona fide foreclosure of a mortgage or deed of trust or to a deed in lieu of foreclosure.
8 (vii) Any release, preliminary release, building permit, or other 9 document issued or submitted in accordance with this paragraph shall be recorded 10 among the land records where the land is located and shall bind all future owners.
11 (viii) The Foundation may not restrict the ability of a landowner who 12 originally sold an easement to acquire a release under this paragraph beyond the 13 requirements provided in this section.
14 (3) A landowner may reserve the right to exclude 1 unrestricted lot from 15 an easement in lieu of all owner's and children's lots to which the landowner would 16 otherwise be entitled under paragraph (2) of this subsection, subject to the following 17 conditions:
18 (i) The resulting density on the property shall be less than the 19 density allowed under zoning of the property before the Foundation purchased the 20 easement;
 21 (ii) An unrestricted lot may be subdivided by the landowner from 22 the easement and sold to anyone to construct one residential dwelling;
 23 (iii) The size of an unrestricted lot shall be 1 acre or less, except as 24 provided in paragraph (6) of this subsection;
25 (iv) The landowner shall agree not to subdivide further for 26 residential purposes any acreage allowed to be released, and the agreement shall be 27 recorded among the land records where the land is located and shall bind all future 28 owners;
 (v) The right to the lot is taken into consideration in the appraisal of fair market value and determination of easement value;
 (vi) The lot can be subdivided at any time and the location of the lot to be subdivided is subject to the approval of the local agricultural advisory board and the Foundation; and
34 (vii) If the property is transferred before the right to exclude the lot 35 has been exercised, the right may be transferred with the property.
36(4)(i)Subject to the approval of the Foundation, a landowner may37construct housing for tenants fully engaged in operation of the farm.

3

UNOFFICIAL COPY OF HOUSE BILL 933

Construction may not exceed 1 tenant house per 100 acres, 1 (ii) 2 unless the Foundation grants an exception based on a showing of compelling need. 3 (iii) The land on which a tenant house is constructed may not be 4 subdivided or conveyed to any person. In addition, the tenant house may not be 5 conveyed separately from the original parcel. The Foundation shall adopt regulations for the size and location 6 (iv) 7 of tenant houses. 8 Except as provided in paragraph (6) of this subsection, on request to (5)9 the Foundation, an owner may exclude from the easement restrictions 1 acre per each 10 single dwelling, which existed at the time of the sale of the easement, as an owner's, 11 children's, or unrestricted lot to which the owner is entitled under paragraph (2) of 12 this subsection, by a land survey and recordation provided at the expense of the 13 owner. However, before any exclusion is granted, an owner shall agree with the 14 Foundation not to subdivide further for residential purposes any acreage allowed to 15 be released. This agreement shall be recorded among the land records where the land 16 is located and shall bind all future owners. 17 The restrictions of paragraphs (2) and (5) of this subsection (6)(i) 18 concerning maximum lot sizes are altered so that the maximum lot size is 2 acres if: 19 1. Regulations adopted by the Department of the 20 Environment require a minimum lot size for a dwelling house of not less than 2 acres 21 in areas where there is less than 4 feet of unsaturated and unconsolidated soil 22 material below the bottom of an on-site sewage disposal system or in areas located 23 within 2,500 feet of the normal water level of an existing or proposed water supply 24 reservoir; or 25 2. Regulations adopted by the jurisdiction in which the land 26 is situated require that a lot for a dwelling house be larger than 1 acre. 27 For exclusions provided under paragraph (5) of this subsection, (ii) the landowner shall pay the State for any acre or portion released in excess of the 1 28

29 acre per single dwelling that existed at the time of easement.

30 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take 31 effect October 1, 2005.

4