
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 **Maryland Agricultural Land Preservation Foundation - Request for Release**
3 **by Landowner's Estate**

4 FOR the purpose of requiring the Maryland Agricultural Land Preservation
5 Foundation, upon written application submitted by the estate of a deceased
6 landowner whose land is subject to a certain agricultural easement and within a
7 certain time period after the death of the landowner, to release free of easement
8 restrictions on certain lots under certain circumstances; and generally relating
9 to the release of land from agricultural easement restrictions.

10 BY repealing and reenacting, with amendments,
11 Article - Agriculture
12 Section 2-513(b)
13 Annotated Code of Maryland
14 (1999 Replacement Volume and 2004 Supplement)

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

17 **Article - Agriculture**

18 2-513.

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

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

23 (ii) As otherwise provided under this section.

24 (2) Except as provided in paragraphs (3) and (6) of this subsection, on
25 written application BY THE LANDOWNER OR, WITHIN 1 YEAR OF THE DATE OF THE
26 LANDOWNER'S DEATH, THE LANDOWNER'S ESTATE, the Foundation shall release free
27 of easement restrictions only for the landowner who originally sold an easement OR
28 THE LANDOWNER'S ESTATE, 1 acre or less for the purpose of constructing a dwelling

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.

14 (iii) The landowner OR THE LANDOWNER'S ESTATE shall pay the
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.

22 (v) After certifying that the landowner, THE LANDOWNER'S
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 1. Become final when the Foundation receives and certifies a
27 nontransferable building permit in the name of the landowner or child of the
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 1. A statement of the conditions under which it was issued, a
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

1 (ii) Construction may not exceed 1 tenant house per 100 acres,
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.

6 (iv) The Foundation shall adopt regulations for the size and location
7 of tenant houses.

8 (5) Except as provided in paragraph (6) of this subsection, on request to
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 (6) (i) The restrictions of paragraphs (2) and (5) of this subsection
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 (ii) For exclusions provided under paragraph (5) of this subsection,
28 the landowner shall pay the State for any acre or portion released in excess of the 1
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.