
By: **Delegates Stull, Cane, Bartlett, Elliott, Hogan, McKee, Myers, Shank,
Sossi, Walkup, and Weldon**

Introduced and read first time: February 28, 2005

Assigned to: Rules and Executive Nominations

A BILL ENTITLED

1 AN ACT concerning

2 **Maryland Agricultural Land Preservation Fund - Priority Preservation**
3 **Areas - New Funding Sources**

4 FOR the purpose of altering the composition of the Maryland Agricultural Land
5 Preservation Fund; restricting the use of certain moneys in the Fund to certain
6 purposes; requiring counties to include a priority preservation areas element in
7 the county's comprehensive plan; requiring a priority preservation area to meet
8 certain criteria; requiring a certain acreage goal in a priority preservation area;
9 requiring an update of a county's comprehensive plan to include a certain
10 evaluation relating to priority preservation areas; requiring priority
11 preservation areas to be certified jointly by the Department of Planning and the
12 Foundation; establishing a certain program for certification of a county's
13 priority preservation areas; establishing the application process for certification
14 of priority preservation areas; requiring the Department and the Foundation to
15 make a certain report; imposing a State property tax surcharge on certain real
16 property in the State; establishing and providing for the collection of the State
17 property tax surcharge by the counties and Baltimore City; requiring the
18 Comptroller to distribute the revenue from the State property tax surcharge to
19 the Fund; establishing a separate subclass for property tax purposes for real
20 property that is located in certain priority funding areas; imposing a State
21 transfer tax on the transfer of controlling interest in certain entities owning
22 certain interests in real property in Maryland; requiring the filing of a certain
23 report; providing for a certain filing fee; providing for interest and a penalty for
24 certain filings; requiring the Department of Assessments and Taxation to adopt
25 certain regulations; providing for the distribution of certain transfer tax revenue
26 to the Maryland Agricultural Land Preservation Fund; altering the rate of the
27 State transfer tax for the transfer of certain property; altering the rate of the
28 agricultural land transfer tax; defining certain terms; and generally relating to
29 the Maryland Agricultural Land Preservation Fund and certain funding for
30 agricultural land preservation in the State.

31 BY repealing and reenacting, with amendments,
32 Article 66B - Land Use
33 Section 1.03(a)(1) and 3.05(a)(4)

1 Annotated Code of Maryland
2 (2003 Replacement Volume and 2004 Supplement)

3 BY repealing and reenacting, without amendments,
4 Article 66B - Land Use
5 Section 3.05(a)(1)
6 Annotated Code of Maryland
7 (2003 Replacement Volume and 2004 Supplement)

8 BY repealing and reenacting, with amendments,
9 Article - Agriculture
10 Section 2-505
11 Annotated Code of Maryland
12 (1999 Replacement Volume and 2004 Supplement)

13 BY adding to
14 Article - Agriculture
15 Section 2-517
16 Annotated Code of Maryland
17 (1999 Replacement Volume and 2004 Supplement)

18 BY adding to
19 Article - State Finance and Procurement
20 Section 5-409
21 Annotated Code of Maryland
22 (2001 Replacement Volume and 2004 Supplement)

23 BY repealing and reenacting, with amendments,
24 Article - Tax - Property
25 Section 6-301(a), 8-101(b), 13-203(a), and 13-303(a)
26 Annotated Code of Maryland
27 (2001 Replacement Volume and 2004 Supplement)

28 BY adding to
29 Article - Tax - Property
30 Section 13-202.1
31 Annotated Code of Maryland
32 (2001 Replacement Volume and 2004 Supplement)

33 Preamble

34 WHEREAS, Development is increasingly compromising the ability of the
35 Maryland Agricultural Land Preservation Foundation to achieve its legislative goals
36 of preserving farmland for the production of food and fiber, controlling development

1 and its impacts on farms, and preserving 1,030,000 acres of productive agricultural
2 land by 2022; and

3 WHEREAS, By 2022, State and local land preservation efforts are projected to
4 fall 400,000 acres short of the 1,030,000-acre goal established by the General
5 Assembly in 2002; and

6 WHEREAS, Real estate and agricultural land transfer taxes do not provide
7 effective disincentives for development and nonagricultural uses in rural areas and do
8 not generate sufficient public revenue to fund rural land preservation efforts
9 commensurate with public goals; and

10 WHEREAS, To achieve State and local conservation goals and ensure a good
11 return on continued public investment in land preservation, additional funding
12 sources should be concentrated in priority preservation areas established by counties,
13 protected by county zoning, and certified by the Foundation and the Maryland
14 Department of Planning; now, therefore,

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

17 **Article 66B - Land Use**

18 1.03.

19 (a) (1) When developing a comprehensive plan for a charter county, a
20 planning commission shall include:

21 (i) A transportation plan element which shall:

22 1. Propose the most appropriate and desirable patterns for
23 the general location, character, and extent of the channels, routes, and terminals for
24 transportation facilities, and for the circulation of persons and goods on a schedule
25 that extends as far into the future as is reasonable;

26 2. Provide for bicycle and pedestrian access and travelways;
27 and

28 3. Include an estimate of the probable utilization of any
29 proposed improvement;

30 (ii) If current geological information is available, a mineral
31 resources plan element that:

32 1. Identifies undeveloped land that should be kept in its
33 undeveloped state until the land can be used to provide or assist in providing a
34 continuous supply of minerals, as defined in § 15-801(i) of the Environment Article;

35 2. Identifies appropriate postexcavation uses for the land
36 that are consistent with the county's land planning process;

- 1 regulations:
2
- 3 3. Incorporates land use policies and recommendations for
4 uses; and
- 5 A. To balance mineral resource extraction with other land
6 mineral resources extraction by other uses; and
- 7 B. To the extent feasible, to prevent the preemption of
8 mineral resources extraction by other uses; and
- 9 4. Has been reviewed by the Department of the Environment
10 to determine whether the proposed comprehensive plan is consistent with the
11 programs and goals of the Department;
- 12 (iii) An element which contains the planning commission's
13 recommendation for land development regulations to implement the comprehensive
14 plan and which encourages:
- 15 1. Streamlined review of applications for development,
16 including permit review and subdivision plat review within the areas designated for
17 growth in the comprehensive plan;
- 18 2. The use of flexible development regulations to promote
19 innovative and cost-saving site design and protect the environment; and
- 20 3. Economic development in areas designated for growth in
21 the comprehensive plan through the use of innovative techniques; [and]
- 22 (iv) A sensitive areas element that contains goals, objectives,
23 principles, policies, and standards designed to protect sensitive areas from the
24 adverse effects of development; AND
- 25 (V) A PRIORITY PRESERVATION AREAS ELEMENT THAT IS
26 DEVELOPED AS PROVIDED FOR IN § 2-517 OF THE AGRICULTURE ARTICLE.
- 27 3.05.
- 28 (a) (1) A planning commission shall make and approve a plan which the
29 commission shall recommend to the local legislative body for adoption.
- 30 (4) The plan shall contain at a minimum the following elements:
- 31 (i) A statement of goals and objectives, principles, policies, and
32 standards, which shall serve as a guide for the development and economic and social
33 well-being of the local jurisdiction;
- 34 (ii) A land use plan element, which:
- 35 1. Shall propose the most appropriate and desirable patterns
36 for the general location, character, extent, and interrelationship of the uses of public
37 and private land, on a schedule that extends as far into the future as is reasonable;

1 (vi) An element which shall contain the planning commission's
 2 recommendation for land development regulations to implement the plan and which
 3 encourages the following:

4 1. Streamlined review of applications for development,
 5 including permit review and subdivision plat review within the areas designated for
 6 growth in the plan;

7 2. The use of flexible development regulations to promote
 8 innovative and cost-saving site design and protect the environment; and

9 3. Economic development in areas designated for growth in
 10 the plan through the use of innovative techniques;

11 (vii) Recommendations for the determination, identification, and
 12 designation of areas within the county that are of critical State concern; [and]

13 (viii) A sensitive area element that contains goals, objectives,
 14 principles, policies, and standards designed to protect sensitive areas from the
 15 adverse effects of development; AND

16 (IX) A PRIORITY PRESERVATION AREAS ELEMENT THAT IS
 17 DEVELOPED AS PROVIDED FOR IN § 2-517 OF THE AGRICULTURE ARTICLE.

18 **Article - Agriculture**

19 2-505.

20 (a) The Maryland Agricultural Land Preservation Fund is created and
 21 continued for the purposes specified in this subtitle.

22 (b) The Maryland Agricultural Land Preservation Fund shall comprise:

23 (1) THE FOLLOWING REVENUES:

24 (I) THE PORTION OF THE STATE TRANSFER TAX REVENUE
 25 ALLOCATED TO THE FUND UNDER § 13-209 OF THE TAX - PROPERTY ARTICLE;

26 (II) THE PORTION OF THE STATE AGRICULTURAL LAND TRANSFER
 27 TAX REVENUE DEPOSITED IN THE FUND; AND

28 (III) THE STATE PROPERTY TAX SURCHARGE IMPOSED FOR THE
 29 FUND UNDER § 6-301(B) OF THE TAX - PROPERTY ARTICLE;

30 (2) Any OTHER money made available to the Fund by general or special
 31 fund appropriations; and

32 [(2)] (3) Any money made available to the Fund by grants or transfers
 33 from governmental or private sources.

1 (c) The Comptroller of the Treasury may not disburse any money from the
2 Maryland Agricultural Land Preservation Fund other than:

3 (1) For costs associated with the staffing and administration of the
4 Maryland Agricultural Land Preservation Foundation;

5 (2) For reasonable expenses incurred by the members of the board of
6 trustees of the Maryland Agricultural Land Preservation Foundation in the
7 performance of official duties; and

8 (3) For consideration in the purchase of agricultural land preservation
9 easements beginning with fiscal year 1979 and each fiscal year thereafter.

10 (d) Any money remaining in the Fund at the end of a fiscal year may not
11 revert to the general funds of the State, but shall remain in the Maryland
12 Agricultural Land Preservation Fund to be used for the purposes specified in this
13 subtitle. It is the intent of the General Assembly that, to the extent feasible, the
14 Foundation utilize the full amount of money available for the purchase of easements
15 in any fiscal year so as to minimize the amount of money remaining in the Fund at
16 the end of any fiscal year.

17 (e) If a portion of a local subdivision's allocation of Program Open Space funds
18 is transferred to the Maryland Agricultural Land Preservation Fund pursuant to the
19 provisions of § 5-903 of the Natural Resources Article, the Foundation may utilize
20 such transferred funds only for purchases of easements on land located within the
21 boundaries of the subdivision which requested the transfer of funds. Such transferred
22 open space funds shall be available in addition to any funds which would otherwise be
23 allotted under this subtitle for purchases of easements in the county which requested
24 the transfer of funds; and at the discretion of the local governing body, such
25 transferred open space funds may be used for general purchases, or applied as the
26 local contribution in matching purchases as required in §§ 2-508(a)(3) and
27 2-512(b)(1) of this subtitle.

28 (f) Money in the Fund from the sale of tax-exempt general obligation bonds
29 may not be used to purchase easements under:

30 (1) An installment purchase agreement, as provided in § 2-510(k)(2) of
31 this subtitle; or

32 (2) A schedule of installments financed with certificates of deposit, as
33 provided in § 2-510(k)(1) of this subtitle.

34 (G) (1) (I) IN THIS SUBSECTION THE FOLLOWING WORDS HAVE THE
35 MEANINGS INDICATED.

36 (II) "AGRICULTURAL LAND" MEANS REAL PROPERTY THAT IS
37 ASSESSED ON THE BASIS OF FARM OR AGRICULTURAL USE UNDER § 8-209 OF THE
38 TAX - PROPERTY ARTICLE.

1 (III) "PRIORITY FUNDING AREA" MEANS AN AREA THAT IS
2 CONSIDERED A PRIORITY FUNDING AREA UNDER TITLE 5, SUBTITLE 7B OF THE
3 STATE FINANCE AND PROCUREMENT ARTICLE.

4 (2) THE MARYLAND AGRICULTURAL LAND PRESERVATION FOUNDATION
5 MAY USE THE FOLLOWING MONEYS IN THE FUND ONLY TO ACQUIRE EASEMENTS IN
6 PRIORITY PRESERVATION AREAS ESTABLISHED UNDER § 2-517 OF THIS SUBTITLE:

7 (I) 50% OF THE REVENUES AVAILABLE TO THE FUND FROM THE
8 IMPOSITION OF THE TRANSFER TAX UNDER § 13-202 OF THE TAX - PROPERTY FOR
9 THE TRANSFER OF PROPERTY OTHER THAN AGRICULTURAL LAND OR PROPERTY
10 LOCATED IN A PRIORITY FUNDING AREA;

11 (II) 50% OF THE AGRICULTURAL LAND TRANSFER TAX REVENUES
12 MADE AVAILABLE TO THE FUND;

13 (III) THE REVENUE FROM THE STATE PROPERTY TAX SURCHARGE
14 IMPOSED UNDER § 6-301 OF THE TAX - PROPERTY ARTICLE; AND

15 (IV) THE REVENUE DISTRIBUTED TO THE FUND FROM THE
16 CONTROLLING INTEREST TRANSFER TAX IMPOSED UNDER § 13-202.1 OF THE TAX -
17 PROPERTY ARTICLE.

18 [(g)] (H) The estimated budget of the Foundation for the next fiscal year shall
19 be included with the budget of the Department.

20 [(h)] (I) The Fund shall be audited annually by the Legislative Auditor in the
21 manner prescribed by law.

22 2-517.

23 (A) IN THIS SECTION, "AREA" MEANS A PRIORITY PRESERVATION AREA.

24 (B) A COUNTY SHALL INCLUDE A PRIORITY PRESERVATION AREA ELEMENT IN
25 THE COUNTY'S COMPREHENSIVE PLAN.

26 (C) AN AREA SHALL:

27 (1) (I) CONTAIN PRODUCTIVE AGRICULTURAL OR FOREST SOILS; OR

28 (II) BE CAPABLE OF SUPPORTING PROFITABLE AGRICULTURAL
29 AND FORESTRY ENTERPRISES WHERE PRODUCTIVE SOILS ARE LACKING;

30 (2) BE CAPABLE OF STABILIZING THE AGRICULTURAL AND FOREST
31 LAND BASE SO THAT DEVELOPMENT DOES NOT COMPROMISE RESOURCES; AND

32 (3) BE LARGE ENOUGH TO SUPPORT THE KIND OF AGRICULTURAL
33 OPERATIONS THAT THE COUNTY HOPES TO PRESERVE.

34 (D) AN AREA MAY:

1 (1) CONSIST OF A SINGLE PARCEL OF LAND, MULTIPLE CONNECTED
2 PARCELS OF LAND, OR MULTIPLE UNCONNECTED PARCELS OF LAND; AND

3 (2) INCLUDE RURAL LEGACY AREAS.

4 (E) A COUNTY'S ACREAGE GOAL FOR LAND TO BE PRESERVED THROUGH
5 EASEMENTS AND ZONING WITHIN AN AREA SHALL BE EQUAL TO AT LEAST 80% OF
6 THE REMAINING UNDEVELOPED AREAS OF LAND IN THE AREA.

7 (F) EACH TIME A COUNTY'S COMPREHENSIVE PLAN IS UPDATED, THE UPDATE
8 SHALL INCLUDE AN EVALUATION OF:

9 (1) THE COUNTY'S PROGRESS TOWARD MEETING THE GOALS OF THE
10 FOUNDATION;

11 (2) ANY SHORTCOMINGS IN THE COUNTY'S ABILITY TO ACHIEVE THE
12 GOALS OF THE FOUNDATION; AND

13 (3) ACTIONS BEING TAKEN TO CORRECT ANY IDENTIFIED
14 SHORTCOMINGS.

15 (G) AREAS ARE TO BE CERTIFIED JOINTLY BY THE DEPARTMENT OF
16 PLANNING AND THE FOUNDATION IN ACCORDANCE WITH REGULATIONS ADOPTED
17 UNDER THE AUTHORITY OF § 5-409 OF THE STATE FINANCE AND PROCUREMENT
18 ARTICLE.

19 **Article - State Finance and Procurement**

20 5-409.

21 (A) IN THIS SECTION, "FOUNDATION" MEANS THE MARYLAND AGRICULTURAL
22 LAND PRESERVATION FOUNDATION.

23 (B) THERE IS WITHIN THE DEPARTMENT A PROGRAM FOR CERTIFICATION OF
24 PRIORITY PRESERVATION AREAS ESTABLISHED UNDER § 2-517 OF THE AGRICULTURE
25 ARTICLE.

26 (C) (1) TO APPLY FOR CERTIFICATION UNDER THIS SECTION, A COUNTY
27 SHALL FILE WITH THE FOUNDATION AND THE DEPARTMENT AN APPLICATION IN
28 THE FORM THAT THE DEPARTMENT AND THE FOUNDATION JOINTLY REQUIRE BY
29 REGULATION.

30 (2) WITHIN 45 DAYS AFTER NOTIFICATION OF AN APPLICATION FOR
31 CERTIFICATION:

32 (1) THE FOUNDATION SHALL ADVISE THE DEPARTMENT AS TO
33 WHETHER IT APPROVES THE APPLICATION; AND

1 (II) THE DEPARTMENT SHALL NOTIFY THE COUNTY AS TO
2 WHETHER THE COUNTY'S APPLICATION FOR CERTIFICATION OF A PRIORITY
3 PRESERVATION AREA HAS BEEN APPROVED.

4 (D) THE DEPARTMENT AND THE FOUNDATION MAY NOT CERTIFY A PRIORITY
5 PRESERVATION AREA OF A COUNTY UNDER THIS SECTION UNLESS THE
6 DEPARTMENT AND THE FOUNDATION DETERMINE THAT THE COUNTY'S
7 COMPREHENSIVE PLAN:

8 (1) ESTABLISHES GOALS FOR THE AMOUNT AND TYPES OF
9 AGRICULTURAL RESOURCE LAND TO BE PRESERVED IN THE PRIORITY
10 PRESERVATION AREA;

11 (2) DESCRIBES THE KINDS OF AGRICULTURAL PRODUCTION THE
12 COUNTY INTENDS TO SUPPORT AND THE AMOUNT OF DEVELOPMENT THE COUNTY
13 INTENDS TO ALLOW;

14 (3) INCLUDES MAPS SHOWING THE COUNTY'S PRIORITY PRESERVATION
15 AREA;

16 (4) DESCRIBES THE PRIORITY PRESERVATION AREA IN THE CONTEXT OF
17 THE COUNTY'S GROWTH MANAGEMENT PLANS;

18 (5) DESCRIBES THE WAY IN WHICH PRESERVATION GOALS WILL BE
19 ACCOMPLISHED IN THE PRIORITY PRESERVATION AREA, INCLUDING THE COUNTY'S
20 STRATEGY TO:

21 (I) PROTECT LAND FROM DEVELOPMENT THROUGH ZONING;

22 (II) PRESERVE THE DESIRED AMOUNT OF LAND WITH PERMANENT
23 EASEMENTS; AND

24 (III) MAINTAIN A RURAL ENVIRONMENT CAPABLE OF SUPPORTING
25 THE KIND OF PRODUCTION ENVISIONED;

26 (6) INCLUDES AN EVALUATION OF THE ABILITY OF THE COUNTY'S
27 ZONING AND OTHER LAND USE MANAGEMENT TOOLS TO:

28 (I) LIMIT THE IMPACTS OF SUBDIVISION AND DEVELOPMENT;

29 (II) ALLOW TIME FOR EASEMENT PURCHASE; AND

30 (III) ACHIEVE EACH OF THE MARYLAND AGRICULTURAL LAND
31 PRESERVATION FOUNDATION'S GOALS BEFORE THEY ARE UNDERMINED OR
32 EXCESSIVELY COMPROMISED BY DEVELOPMENT;

33 (7) IDENTIFIES SHORTCOMINGS IN THE ABILITIES OF THE COUNTY'S
34 ZONING AND LAND MANAGEMENT TOOLS AND IDENTIFIES ACTIONS THAT ARE
35 BEING TAKEN TO CORRECT THE SHORTCOMINGS; AND

1 (8) DESCRIBES THE METHODS THE COUNTY WILL USE TO
 2 CONCENTRATE PRESERVATION FUNDS AND OTHER SUPPORTING EFFORTS IN THE
 3 PRIORITY PRESERVATION AREA TO ACHIEVE THE GOALS OF THE FOUNDATION AND
 4 THE COUNTY'S ACREAGE PRESERVATION GOAL.

5 (E) IN CERTIFYING A COUNTY'S PRIORITY PRESERVATION AREA, THE
 6 DEPARTMENT AND THE FOUNDATION SHALL ENSURE THAT:

7 (1) THE COUNTY HAS INCLUDED ALL THE INFORMATION REQUIRED BY
 8 SUBSECTION (C) OF THIS SECTION IN THE COUNTY'S COMPREHENSIVE PLAN; AND

9 (2) THE SIZE OF THE COUNTY'S PRIORITY PRESERVATION AREA IS
 10 APPROPRIATE IN RELATION TO THE COUNTY'S ACREAGE PRESERVATION GOAL.

11 (F) A COUNTY THAT HAS BEEN CERTIFIED UNDER THIS SECTION AS HAVING
 12 ESTABLISHED THE PRIORITY PRESERVATION AREA IS ELIGIBLE FOR THE
 13 ADDITIONAL FUNDS AVAILABLE TO PRIORITY PRESERVATION AREAS UNDER §
 14 2-505(G) OF THE AGRICULTURE ARTICLE.

15 (G) THE DEPARTMENT AND THE FOUNDATION SHALL JOINTLY ADOPT
 16 REGULATIONS FOR ADMINISTRATION OF THE CERTIFICATION PROGRAM.

17 (H) THE DEPARTMENT AND THE FOUNDATION SHALL REPORT, IN
 18 ACCORDANCE WITH § 2-1246 OF THE STATE GOVERNMENT ARTICLE, ON THE
 19 CERTIFICATION PROGRAM ON OR BEFORE JANUARY 15 OF EACH YEAR TO:

20 (1) THE GOVERNOR;

21 (2) THE PRESIDENT OF THE SENATE;

22 (3) THE SPEAKER OF THE HOUSE;

23 (4) THE JOINT SUBCOMMITTEE FOR PROGRAM OPEN SPACE AND THE
 24 MARYLAND AGRICULTURAL LAND PRESERVATION FOUNDATION;

25 (5) THE SECRETARY OF PLANNING;

26 (6) THE SECRETARY OF AGRICULTURE;

27 (7) THE SENATE BUDGET AND TAXATION COMMITTEE;

28 (8) THE HOUSE APPROPRIATIONS COMMITTEE; AND

29 (9) THE HOUSE COMMITTEE ON WAYS AND MEANS.

30 **Article - Tax - Property**

31 6-301.

32 (a) (1) Except as provided in PARAGRAPH (2) OF THIS SUBSECTION AND
 33 subsection (b) of this section, the Board of Public Works annually shall set the rates

1 for State property tax for the next taxable year as authorized by the General
2 Assembly.

3 (2) (I) 1. IN THIS PARAGRAPH THE FOLLOWING WORDS HAVE THE
4 MEANINGS INDICATED.

5 2. "AGRICULTURAL LAND" MEANS REAL PROPERTY THAT IS
6 ASSESSED ON THE BASIS OF FARM OR AGRICULTURAL USE UNDER § 8-209 OF THIS
7 ARTICLE.

8 3. "PRIORITY FUNDING AREA" MEANS AN AREA THAT IS
9 CONSIDERED A PRIORITY FUNDING AREA UNDER TITLE 5, SUBTITLE 7B OF THE
10 STATE FINANCE AND PROCUREMENT ARTICLE.

11 (II) 1. EXCEPT AS PROVIDED IN SUB-SUBPARAGRAPH 2 OF THIS
12 SUBPARAGRAPH, IN ADDITION TO THE RATES OF STATE PROPERTY TAX AS
13 CERTIFIED BY THE BOARD OF PUBLIC WORKS UNDER § 8-134 OF THE STATE FINANCE
14 AND PROCUREMENT ARTICLE THAT ARE NECESSARY FOR THE PAYMENT OF DEBT
15 SERVICE ON STATE BONDS, A STATE PROPERTY TAX SURCHARGE AT THE RATE OF 0.5
16 CENTS PER \$100 OF ASSESSED VALUE IS IMPOSED ON ALL REAL PROPERTY IN THE
17 STATE.

18 2. THE STATE PROPERTY TAX SURCHARGE IMPOSED UNDER
19 THIS SUB-SUBPARAGRAPH 1 OF THIS SUBPARAGRAPH DOES NOT APPLY TO REAL
20 PROPERTY THAT:

21 A. IS LOCATED IN A PRIORITY FUNDING AREA; OR

22 B. IS AGRICULTURAL LAND.

23 (III) THE MAYOR AND CITY COUNCIL OF BALTIMORE CITY AND THE
24 GOVERNING BODY OF EACH COUNTY SHALL COLLECT THE SURCHARGE IMPOSED
25 UNDER THIS PARAGRAPH AND SHALL REMIT THE SURCHARGE COLLECTED TO THE
26 COMPTROLLER AND THE COMPTROLLER SHALL DISTRIBUTE THE REVENUE TO THE
27 MARYLAND AGRICULTURAL LAND PRESERVATION FUND ESTABLISHED UNDER §
28 2-505 OF THE AGRICULTURE ARTICLE.

29 8-101.

30 (b) Real property is a class of property and is divided into the following
31 subclasses:

32 (1) land that is actively devoted to farm or agricultural use, assessed
33 under § 8-209 of this title;

34 (2) marshland, assessed under § 8-210 of this title;

35 (3) woodland, assessed under § 8-211 of this title;

1 (4) land of a country club or golf course, assessed under §§ 8-212 through
2 8-217 of this title;

3 (5) land that is used for a planned development, assessed under §§ 8-220
4 through 8-225 of this title;

5 (6) rezoned real property that is used for residential purposes, assessed
6 under §§ 8-226 through 8-228 of this title;

7 (7) operating real property of a railroad;

8 (8) operating real property of a public utility;

9 (9) REAL PROPERTY THAT IS LOCATED IN AN AREA THAT IS
10 CONSIDERED A PRIORITY FUNDING AREA UNDER TITLE 5, SUBTITLE 7B OF THE
11 STATE FINANCE AND PROCUREMENT ARTICLE; and

12 [(9)] (10) all other real property that is directed by this article to be
13 assessed.

14 13-202.1.

15 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
16 INDICATED.

17 (2) "CONTROLLING INTEREST" MEANS:

18 (I) MORE THAN 80% OF THE TOTAL VALUE OF ALL CLASSES OF
19 STOCK OF A CORPORATION;

20 (II) MORE THAN 80% OF THE TOTAL INTEREST IN CAPITAL AND
21 PROFITS OF A PARTNERSHIP, ASSOCIATION, LIMITED LIABILITY COMPANY, OR OTHER
22 UNINCORPORATED FORM OF DOING BUSINESS; OR

23 (III) MORE THAN 80% OF THE BENEFICIAL INTEREST IN A TRUST.

24 (3) "FINAL TRANSFER" MEANS THAT TRANSFER OF ANY PORTION OF A
25 CONTROLLING INTEREST WHICH COMPLETES THE TRANSFER OF A CONTROLLING
26 INTEREST IN A REAL PROPERTY ENTITY.

27 (4) (I) "PLAN OF TRANSFER" MEANS AN INTENTIONAL PLAN OR
28 PROGRAM TO TRANSFER THE CONTROLLING INTEREST IN A REAL PROPERTY ENTITY.

29 (II) "PLAN OF TRANSFER" DOES NOT INCLUDE A SERIES OF SALES
30 OF SHARES OF A PUBLICLY TRADED ENTITY.

31 (5) (I) "REAL PROPERTY" MEANS REAL PROPERTY LOCATED IN THE
32 STATE.

33 (II) "REAL PROPERTY" DOES NOT INCLUDE:

1 1. A LEASEHOLD, UNLESS CREATED BY A LEASE THAT IS
2 REQUIRED TO BE RECORDED UNDER § 3-101(A) OF THE REAL PROPERTY ARTICLE; OR

3 2. ANY MORTGAGE, DEED OF TRUST, OR OTHER LIEN UPON
4 OR SECURITY INTEREST IN REAL PROPERTY THAT SECURES AN INDEBTEDNESS.

5 (6) (I) "REAL PROPERTY ENTITY" MEANS A CORPORATION,
6 PARTNERSHIP, ASSOCIATION, LIMITED LIABILITY COMPANY, LIMITED LIABILITY
7 PARTNERSHIP, OTHER UNINCORPORATED FORM OF DOING BUSINESS, OR TRUST
8 THAT DIRECTLY OR BENEFICIALLY OWNS REAL PROPERTY THAT:

9 1. CONSTITUTES AT LEAST 80% OF THE VALUE OF ITS
10 ASSETS; AND

11 2. HAS AN AGGREGATE VALUE OF AT LEAST \$1,000,000.

12 (II) FOR THE PURPOSES OF THIS PARAGRAPH, THE VALUE OF REAL
13 PROPERTY SHALL BE DETERMINED WITHOUT REDUCTION FOR ANY MORTGAGE,
14 DEED OF TRUST, OR OTHER LIEN UPON OR SECURITY INTEREST IN THE REAL
15 PROPERTY.

16 (III) "REAL PROPERTY ENTITY" DOES NOT INCLUDE AN ENTITY
17 WITH LAND HOLDINGS THAT, OTHER THAN HOMESITES OR AREAS OF COMMERCIAL
18 ACTIVITY RELATED TO AGRICULTURAL PRODUCTION, ARE ENTIRELY SUBJECT TO AN
19 AGRICULTURAL USE ASSESSMENT UNDER § 8-209 OF THIS ARTICLE.

20 (B) (1) THE TRANSFER TAX IS IMPOSED ON THE TRANSFER OF A
21 CONTROLLING INTEREST IN A REAL PROPERTY ENTITY AS IF THE REAL PROPERTY
22 DIRECTLY OR BENEFICIALLY OWNED BY THE REAL PROPERTY ENTITY WERE
23 CONVEYED BY AN INSTRUMENT OF WRITING THAT IS RECORDED WITH THE CLERK
24 OF THE CIRCUIT COURT FOR A COUNTY OR FILED WITH THE DEPARTMENT UNDER §
25 13-202 OF THIS SUBTITLE.

26 (2) (1) THE TRANSFER TAX IS IMPOSED ON THE CONSIDERATION
27 PAYABLE FOR THE TRANSFER OF THE CONTROLLING INTEREST IN THE REAL
28 PROPERTY ENTITY.

29 (II) THE CONSIDERATION TO WHICH THE TRANSFER TAX APPLIES
30 INCLUDES THE AMOUNT OF:

31 1. ANY MORTGAGE, DEED OF TRUST, OR OTHER LIEN UPON
32 OR SECURITY INTEREST IN THE REAL PROPERTY DIRECTLY OR BENEFICIALLY
33 OWNED BY THE REAL PROPERTY ENTITY; AND

34 2. ANY OTHER DEBT OR ENCUMBRANCE OF THE REAL
35 PROPERTY ENTITY.

36 (III) THE CONSIDERATION TO WHICH THE TRANSFER TAX APPLIES
37 IS REDUCED BY THE AMOUNT ALLOCABLE TO THE ASSETS OF THE REAL PROPERTY
38 ENTITY OTHER THAN REAL PROPERTY.

1 (IV) THE REAL PROPERTY ENTITY HAS THE BURDEN OF
2 ESTABLISHING TO THE SATISFACTION OF THE DEPARTMENT THE CONSIDERATION
3 REFERRED TO IN SUBPARAGRAPH (I) OF THIS PARAGRAPH AND THE AMOUNT OF ANY
4 CONSIDERATION ALLOCABLE TO ASSETS OTHER THAN REAL PROPERTY REFERRED
5 TO IN SUBPARAGRAPH (III) OF THIS PARAGRAPH.

6 (V) IF THE REAL PROPERTY ENTITY FAILS TO ESTABLISH THE
7 AMOUNT OF CONSIDERATION REFERRED TO IN SUBPARAGRAPH (I) OF THIS
8 PARAGRAPH, THE TRANSFER TAX IS IMPOSED ON THE VALUE OF THE REAL
9 PROPERTY DIRECTLY OR BENEFICIALLY OWNED BY THE REAL PROPERTY ENTITY
10 DETERMINED BY THE DEPARTMENT AT THE DATE OF FINALITY IMMEDIATELY
11 BEFORE THE DATE OF THE FINAL TRANSFER.

12 (3) THE TRANSFER TAX IS APPLIED TO THE TRANSFER OF A
13 CONTROLLING INTEREST IN A REAL PROPERTY ENTITY AT THE RATES SET UNDER §
14 13-203 OF THIS SUBTITLE AS IF THE REAL PROPERTY DIRECTLY OR BENEFICIALLY
15 OWNED BY THE REAL PROPERTY ENTITY WERE CONVEYED BY AN INSTRUMENT OF
16 WRITING THAT IS RECORDED WITH THE CLERK OF THE CIRCUIT COURT FOR A
17 COUNTY OR FILED WITH THE DEPARTMENT UNDER § 13-202 OF THIS SUBTITLE.

18 (C) (1) THE TRANSFER OF A CONTROLLING INTEREST IN A REAL PROPERTY
19 ENTITY IS NOT SUBJECT TO TRANSFER TAX IF THE TRANSFER OF THE REAL
20 PROPERTY BY AN INSTRUMENT OF WRITING BETWEEN THE SAME PARTIES AND
21 UNDER THE SAME CIRCUMSTANCES WOULD HAVE BEEN EXEMPT UNDER § 13-207 OF
22 THIS SUBTITLE.

23 (2) THE TRANSFER TAX IS NOT IMPOSED ON THE TRANSFER OF A
24 CONTROLLING INTEREST IN A REAL PROPERTY ENTITY EFFECTED IN MORE THAN
25 ONE TRANSACTION IF:

26 (I) THE TRANSFER IS COMPLETED OVER A PERIOD OF MORE THAN
27 12 MONTHS; OR

28 (II) THE TRANSFER IS NOT MADE IN ACCORDANCE WITH A PLAN OF
29 TRANSFER.

30 (3) THE TRANSFER TAX IS NOT IMPOSED ON THE TRANSFER OF A
31 CONTROLLING INTEREST IN A REAL PROPERTY ENTITY TO ANOTHER BUSINESS IF
32 THE OWNERSHIP INTERESTS IN THE TRANSFEREE BUSINESS ENTITY ARE HELD BY
33 THE SAME PERSONS AND IN THE SAME PROPORTION AS IN THE REAL PROPERTY
34 ENTITY THE CONTROLLING INTEREST OF WHICH WAS TRANSFERRED.

35 (4) THE TRANSFER TAX IS NOT IMPOSED ON THE TRANSFER OF A
36 CONTROLLING INTEREST IN A REAL PROPERTY ENTITY IF EACH TRANSFEROR, EACH
37 TRANSFEREE, AND EACH REAL PROPERTY ENTITY IS:

38 (I) A SUBSIDIARY CORPORATION, ALL OF THE STOCK OF WHICH IS
39 OWNED, DIRECTLY OR INDIRECTLY, BY A COMMON PARENT CORPORATION;

1 (II) A PARTNERSHIP, ALL OF THE INTERESTS IN WHICH ARE
2 OWNED, DIRECTLY OR INDIRECTLY, BY ONE OR MORE SUBSIDIARIES OR THE
3 COMMON PARENT CORPORATION; OR

4 (III) THE COMMON PARENT CORPORATION.

5 (5) THE TRANSFER TAX IS NOT IMPOSED ON THE TRANSFER OF A
6 CONTROLLING INTEREST IN A REAL PROPERTY ENTITY IF THE TRANSFEREE OF THE
7 CONTROLLING INTEREST IN THE REAL PROPERTY ENTITY IS:

8 (I) A NONSTOCK CORPORATION ORGANIZED UNDER TITLE 5,
9 SUBTITLE 2 OF THE CORPORATIONS AND ASSOCIATIONS ARTICLE; AND

10 (II) REGISTERED WITH THE DEPARTMENT OF AGING AS A
11 CONTINUING CARE RETIREMENT COMMUNITY UNDER ARTICLE 70B, § 9 OF THE CODE.

12 (6) THE REAL PROPERTY ENTITY HAS THE BURDEN OF ESTABLISHING
13 TO THE SATISFACTION OF THE DEPARTMENT THE APPLICABILITY OF ANY
14 EXEMPTION REFERRED TO IN PARAGRAPHS (1) THROUGH (5) OF THIS SUBSECTION.

15 (D) (1) THE REAL PROPERTY ENTITY SHALL FILE WITH THE DEPARTMENT A
16 REPORT OF ANY TRANSFER OF A CONTROLLING INTEREST IN THE REAL PROPERTY
17 ENTITY THAT IS COMPLETED WITHIN A PERIOD OF 12 MONTHS OR LESS WITHIN 30
18 DAYS FOLLOWING THE DATE OF THE FINAL TRANSFER.

19 (2) THE REPORT SHALL INCLUDE ALL INFORMATION TO ESTABLISH TO
20 THE SATISFACTION OF THE DEPARTMENT:

21 (I) THE CONSIDERATION REFERRED TO IN SUBSECTION (B)(2)(I) OF
22 THIS SECTION;

23 (II) THE AMOUNT OF ASSETS OTHER THAN REAL ESTATE
24 REFERRED TO IN SUBSECTION (B)(2)(II) OF THIS SECTION; AND

25 (III) ANY EXEMPTION PROVIDED FOR IN SUBSECTION (C) OF THIS
26 SECTION.

27 (3) THE REPORT SHALL BE ACCOMPANIED BY PAYMENT OF:

28 (I) A \$20 FILING FEE; AND

29 (II) ANY TAX, INTEREST, AND PENALTY THAT IS DUE.

30 (E) (1) IF ANY TAX DUE UNDER THIS SECTION REMAINS UNPAID FOR 30
31 DAYS AFTER THE DATE OF THE FINAL TRANSFER, THEN:

32 (I) INTEREST ON THE UNPAID AMOUNT SHALL ACCRUE
33 THEREAFTER AT THE RATE OF 1% PER MONTH; AND

34 (II) A PENALTY OF 10% OF THE UNPAID AMOUNT SHALL BE DUE.

1 (2) ANY TAX, INTEREST, AND PENALTY DUE UNDER THIS SECTION IS AN
2 OBLIGATION OF THE REAL PROPERTY ENTITY.

3 (3) FOR REASONABLE CAUSE, THE DEPARTMENT MAY WAIVE THE
4 IMPOSITION OF INTEREST OR PENALTY.

5 (F) THIS SECTION DOES NOT APPLY TO:

6 (1) A PLEDGE OF STOCK OR OTHER INTEREST IN A REAL PROPERTY
7 ENTITY AS SECURITY FOR A LOAN; OR

8 (2) THE ADMISSION TO THE REAL PROPERTY ENTITY OF ADDITIONAL
9 SHAREHOLDERS, PARTNERS, BENEFICIAL OWNERS, OR OTHER MEMBERS INCIDENT
10 TO THE RAISING OF ADDITIONAL CAPITAL THROUGH A PUBLIC OR PRIVATE
11 OFFERING OF STOCK OR OTHER INTERESTS IN THE REAL PROPERTY ENTITY IF:

12 (I) THE EFFECTIVE MANAGEMENT OF THE REAL PROPERTY
13 ENTITY IS NOT SUBSTANTIALLY CHANGED; AND

14 (II) UNDER THE TERMS OF THE OFFERING, NONE OF THE NEW
15 MEMBERS IS EXPECTED TO PARTICIPATE IN THE DAY-TO-DAY MANAGEMENT OF THE
16 REAL PROPERTY ENTITY.

17 (G) NOTWITHSTANDING THE PROVISIONS OF § 13-209 OF THIS SUBTITLE, THE
18 REVENUE FROM THE TRANSFER TAX IMPOSED UNDER THIS SECTION SHALL BE
19 DISTRIBUTED TO THE MARYLAND AGRICULTURAL PRESERVATION FUND
20 ESTABLISHED UNDER § 2-505 OF THE AGRICULTURE ARTICLE.

21 (H) (1) THE DEPARTMENT SHALL ADOPT REGULATIONS TO ADMINISTER
22 THIS SECTION.

23 (2) THE REGULATIONS SHALL INCLUDE ANY ADDITIONAL STANDARDS
24 AND EXEMPTIONS TO ASSURE THAT:

25 (I) A TAX IS IMPOSED WHEN A TRANSACTION IS STRUCTURED
26 INVOLVING A CONTROLLING INTEREST IN A REAL PROPERTY ENTITY TO AVOID
27 PAYMENT OF THE TRANSFER TAX;

28 (II) EXEMPTIONS PROVIDED BY LAW WHEN REAL PROPERTY IS
29 TRANSFERRED BY AN INSTRUMENT OF WRITING ARE APPLICABLE; AND

30 (III) THERE IS NO DOUBLE TAXATION OF A SINGLE TRANSACTION.

31 13-203.

32 (a) (1) (I) IN THIS SUBSECTION THE FOLLOWING WORDS HAVE THE
33 MEANINGS INDICATED.

34 (II) "AGRICULTURAL LAND" MEANS REAL PROPERTY THAT IS
35 ASSESSED ON THE BASIS OF FARM OR AGRICULTURAL USE UNDER § 8-209 OF THE
36 TAX - PROPERTY ARTICLE.

1 (III) "PRIORITY FUNDING AREA" MEANS AN AREA THAT IS
2 CONSIDERED A PRIORITY FUNDING AREA UNDER TITLE 5, SUBTITLE 7B OF THE
3 STATE FINANCE AND PROCUREMENT ARTICLE.

4 (2) Except as provided in PARAGRAPH (3) OF THIS SUBSECTION AND
5 subsection (b) of this section, the rate of the transfer tax is [0.5%] 1.0% of the
6 consideration payable for the instrument of writing. The consideration includes the
7 amount of any mortgage or deed of trust assumed by the grantee.

8 (3) THE RATE OF THE TRANSFER TAX IS 0.5% FOR A TRANSFER OF REAL
9 PROPERTY THAT:

10 (I) IS AGRICULTURAL LAND; OR

11 (II) IS LOCATED IN A PRIORITY FUNDING AREA.

12 (b) (1) In this subsection, "first-time Maryland home buyer" means an
13 individual who has never owned in the State residential real property that has been
14 the individual's principal residence.

15 (2) If there are two or more grantees, this subsection does not apply
16 unless each grantee is a first-time Maryland home buyer or a co-maker or guarantor
17 of a purchase money mortgage or purchase money deed of trust as defined in §
18 12-108(i) of this article for the property and the co-maker or guarantor will not
19 occupy the residence as the co-maker's or guarantor's principal residence.

20 (3) Notwithstanding any other provision of law, for a sale of improved
21 residential real property to a first-time Maryland home buyer who will occupy the
22 property as a principal residence, the rate of the transfer tax is [0.25% of] ONE-HALF
23 OF THE RATE SPECIFIED IN SUBSECTION (A) OF THIS SECTION, APPLIED TO the
24 consideration payable for the instrument of writing, and the transfer tax shall be paid
25 entirely by the seller.

26 (4) To qualify for the exemption under paragraph (3) of this subsection,
27 each grantee or an agent of the grantee shall provide a statement that is signed under
28 oath by the grantee or agent of the grantee stating that:

29 (i) 1. the grantee is an individual who has never owned in the
30 State residential real property that has been the individual's principal residence; and

31 2. the residence will be occupied by the grantee as the
32 grantee's principal residence; or

33 (ii) 1. the grantee is a co-maker or guarantor of a purchase
34 money mortgage or purchase money deed of trust as defined in § 12-108(i) of this
35 article for the property; and

36 2. the grantee will not occupy the residence as the
37 co-maker's or guarantor's principal residence.

1 (5) A statement under paragraph (4) of this subsection by an agent of a
2 grantee shall state that the statement:

3 (i) is based on a diligent inquiry made by the agent with respect to
4 the facts set forth in the statement; and

5 (ii) is true to the best of the knowledge, information, and belief of
6 the agent.

7 13-303.

8 (a) The agricultural land transfer tax applies at the following rates:

9 (1) for a transfer of 20 acres or more of agricultural land, [5%] 10%;

10 (2) except as provided in item (3) of this subsection, for a transfer of less
11 than 20 acres of agricultural land assessed for agricultural use or as unimproved
12 agricultural land, [4%] 8%; or

13 (3) for a transfer of less than 20 acres of agricultural land assessed as
14 improved agricultural land or agricultural land with site improvements, [3%] 6%.

15 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
16 July 1, 2005.