

Department of Legislative Services
Maryland General Assembly
2005 Session

FISCAL AND POLICY NOTE

House Bill 74

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

Environmental Matters

Education, Health, and Environmental
Affairs

**Maryland Agricultural Land Preservation Easement Termination - County
Notification**

This departmental bill extends the time period, from 30 to 90 days, within which a county is required to notify the Maryland Agricultural Land Preservation Foundation (MALPF) of the outcome of a request for the termination of a MALPF easement.

Fiscal Summary

State Effect: None. The bill would not directly affect State operations or finances.

Local Effect: None. The bill allows counties more time to decide and process termination requests.

Small Business Effect: The Maryland Department of Agriculture (MDA) has determined that this bill has minimal or no impact on small business (attached). Legislative Services concurs with this assessment.

Analysis

Current Law/Background: 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. For an

easement purchased prior to October 1, 2004, at any time after 25 years from the date of purchase of an easement, the landowner may request that the easement be reviewed for possible termination. Upon request for a review, MALPF must conduct an inquiry to determine the feasibility of profitable farming on the land. MALPF must conclude the inquiry and reach a decision within 180 days after the request. MALPF must inspect the site and, after adequate public notice, conduct a public hearing within the county containing the land.

An easement may be terminated only with the approval of the governing body of the county containing the land. The county government must receive the recommendation of the county agricultural preservation advisory board. The decision of the county governing body must be made after the public hearing is held. The county governing body must notify MALPF of its decision within 30 days after the public hearing.

Upon the affirmative vote of a majority of MALPF members at-large and approval by the Secretary of Agriculture and the State Treasurer, the request for termination is approved and the landowner notified. If the request is denied or the landowner fails to repurchase the easement within a specified period of time, the landowner may not again request termination of the easement until five years after the last request was made.

Chapter 375 of 2004 provides that an easement whose purchase by MALPF is approved by the Board of Public Works on or after October 1, 2004 is perpetual. For easements purchased on or before September 30, 2004, Chapter 375 requires MALPF to provide landowners with the opportunity for a hearing prior to making a decision regarding a termination and establishes an appeals process for landowners applying for easement terminations.

The first easement was purchased by MALPF in October 1980. Accordingly, the first repurchase request could occur in October 2005.

MDA advises that a comprehensive review of the termination process indicates that 30 days is insufficient for local governments. As a result, MDA is seeking to change the time of notification from 30 to 90 days.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Maryland Department of Agriculture, Department of Legislative Services

Fiscal Note History: First Reader - January 24, 2005
n/ljm

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