
By: **Delegates Stocksdale, Aumann, Boschert, Bozman, Elliott, Elmore,
Gilleland, Kach, Kohl, Krebs, Parker, Shewell, and Stull**

Introduced and read first time: January 30, 2006

Assigned to: Environmental Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Maryland Agricultural Land Preservation Foundation - Easements - Funds**
3 **and Released Lots**

4 FOR the purpose of altering the maximum amount of funds available from the
5 Maryland Agricultural Land Preservation Foundation for matching certain
6 purchases of easements; altering certain restrictions on released lots in property
7 subject to easements by authorizing the county agricultural preservation
8 advisory board and the local planning and zoning authority to recommend
9 requirements concerning maximum lot sizes for released lots; and generally
10 relating to agricultural land preservation easements.

11 BY repealing and reenacting, with amendments,
12 Article - Agriculture
13 Section 2-508(b) and 2-513(b)
14 Annotated Code of Maryland
15 (1999 Replacement Volume and 2005 Supplement)

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

18 **Article - Agriculture**

19 2-508.

20 (b) Beginning with fiscal year 1979, and in each fiscal year thereafter, the
21 Foundation shall determine the maximum amount which may be expended for
22 allotted purchases of easements on land located within each county. The maximum
23 amount which may be expended for allotted purchases of easements in any county in
24 any fiscal year shall be:

25 (1) An amount, to be used for general allotted purchases, equal to one
26 twenty-third of one half of the total amount to be allotted; and

1 (2) An amount, to be used for matching allotted purchases, which shall
2 be computed for each eligible county by dividing one half of the total amount to be
3 allotted equally among those counties having an approved program. The maximum
4 amount available from the Foundation for the Foundation's share in matching
5 allotted purchases may not exceed [§1] \$2 million in any county in any fiscal year.

6 2-513.

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

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

11 (ii) As otherwise provided under this section.

12 (2) Except as provided in paragraphs (3) and (6) of this subsection, on
13 written application, the Foundation shall release free of easement restrictions only
14 for the landowner who originally sold an easement, 1 acre or less for the purpose of
15 constructing a dwelling house for the use only of that landowner or child of the
16 landowner, up to a maximum of three lots, subject to the following conditions:

17 (i) The number of lots allowed to be released under this section,
18 except as provided in paragraph (6) of this subsection, may not exceed:

19 1. 1 lot if the size of the easement property is 20 acres or
20 more but fewer than 70 acres;

21 2. 2 lots if the size of the easement property is 70 acres or
22 more but fewer than 120 acres; or

23 3. 3 lots if the size of the easement property is 120 acres or
24 more.

25 (ii) The resulting density on the property may not exceed the
26 density allowed under zoning of the property before the Foundation purchased the
27 easement.

28 (iii) The landowner shall pay the State for any acre or portion
29 released at the price per acre that the State paid the owner for the easement.

30 (iv) Before any conveyance or release, the landowner and the child,
31 if there is a conveyance to a child, shall agree not to subdivide further for residential
32 purposes any acreage allowed to be released. The agreement shall be recorded among
33 the land records where the land is located and shall bind all future owners.

34 (v) After certifying that the landowner or child of the landowner
35 has met the conditions provided in subparagraphs (i) through (iv) of this paragraph,
36 the Foundation shall issue a preliminary release which shall:

1 1. Become final when the Foundation receives and certifies a
2 nontransferable building permit in the name of the landowner or child of the
3 landowner for construction of a dwelling house; or

4 2. Become void upon the death of the person for whose
5 benefit the release was intended if the Foundation has not yet received a building
6 permit as provided in this subparagraph.

7 (vi) Any release or preliminary release issued under this paragraph
8 shall include:

9 1. A statement of the conditions under which it was issued, a
10 certification by the Foundation that all necessary conditions for release or
11 preliminary release have been met, and copies of any pertinent documents; and

12 2. A statement that the owner's or child's lot may not be
13 transferred for 5 years from the date of the final release, except on:

14 A. Approval by the Foundation; or

15 B. Notwithstanding any conditions on transfers imposed
16 under item 1 of this subparagraph, a lender providing notice to the Foundation of a
17 transfer pursuant to a bona fide foreclosure of a mortgage or deed of trust or to a deed
18 in lieu of foreclosure.

19 (vii) Any release, preliminary release, building permit, or other
20 document issued or submitted in accordance with this paragraph shall be recorded
21 among the land records where the land is located and shall bind all future owners.

22 (viii) The Foundation may not restrict the ability of a landowner who
23 originally sold an easement to acquire a release under this paragraph beyond the
24 requirements provided in this section.

25 (3) A landowner may reserve the right to exclude 1 unrestricted lot from
26 an easement in lieu of all owner's and children's lots to which the landowner would
27 otherwise be entitled under paragraph (2) of this subsection, subject to the following
28 conditions:

29 (i) The resulting density on the property shall be less than the
30 density allowed under zoning of the property before the Foundation purchased the
31 easement;

32 (ii) An unrestricted lot may be subdivided by the landowner from
33 the easement and sold to anyone to construct one residential dwelling;

34 (iii) The size of an unrestricted lot shall be 1 acre or less, except as
35 provided in paragraph (6) of this subsection;

36 (iv) The landowner shall agree not to subdivide further for
37 residential purposes any acreage allowed to be released, and the agreement shall be

1 recorded among the land records where the land is located and shall bind all future
2 owners;

3 (v) The right to the lot is taken into consideration in the appraisal
4 of fair market value and determination of easement value;

5 (vi) The lot can be subdivided at any time and the location of the lot
6 to be subdivided is subject to the approval of the local agricultural advisory board and
7 the Foundation; and

8 (vii) If the property is transferred before the right to exclude the lot
9 has been exercised, the right may be transferred with the property.

10 (4) (i) Subject to the approval of the Foundation, a landowner may
11 construct housing for tenants fully engaged in operation of the farm.

12 (ii) Construction may not exceed 1 tenant house per 100 acres,
13 unless the Foundation grants an exception based on a showing of compelling need.

14 (iii) The land on which a tenant house is constructed may not be
15 subdivided or conveyed to any person. In addition, the tenant house may not be
16 conveyed separately from the original parcel.

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

19 (5) Except as provided in paragraph (6) of this subsection, on request to
20 the Foundation, an owner may exclude from the easement restrictions 1 acre per each
21 single dwelling, which existed at the time of the sale of the easement, as an owner's,
22 children's, or unrestricted lot to which the owner is entitled under paragraph (2) of
23 this subsection, by a land survey and recordation provided at the expense of the
24 owner. However, before any exclusion is granted, an owner shall agree with the
25 Foundation not to subdivide further for residential purposes any acreage allowed to
26 be released. This agreement shall be recorded among the land records where the land
27 is located and shall bind all future owners.

28 (6) (i) The restrictions of paragraphs (2) and (5) of this subsection
29 concerning maximum lot sizes are altered so that the maximum lot size is 2 acres if:

30 1. Regulations adopted by the Department of the
31 Environment require a minimum lot size for a dwelling house of not less than 2 acres
32 in areas where there is less than 4 feet of unsaturated and unconsolidated soil
33 material below the bottom of an on-site sewage disposal system or in areas located
34 within 2,500 feet of the normal water level of an existing or proposed water supply
35 reservoir; or

36 2. [Regulations adopted by] THE AGRICULTURAL
37 PRESERVATION ADVISORY BOARD AND THE PLANNING AND ZONING AUTHORITY OF
38 the jurisdiction [in which] WHERE the land is situated [require] RECOMMEND that a
39 lot for a dwelling house be larger than 1 acre.

1 (ii) For exclusions provided under paragraph (5) of this subsection,
2 the landowner shall pay the State for any acre or portion released in excess of the 1
3 acre per single dwelling that existed at the time of easement.

4 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
5 October 1, 2006.