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

Introduced and read first time: January 30, 2006

Assigned to: Environmental Matters

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 15, 2006

CHAPTER _____

1 AN ACT concerning

2 **Maryland Agricultural Land Preservation Foundation - Restrictions of**
3 **Released Lots**

4 FOR the purpose of ~~altering the maximum lot size for exclusions from an agricultural~~
5 ~~land preservation easement under certain circumstances;~~ authorizing the
6 ~~county agricultural preservation advisory board and the local planning and~~
7 ~~zoning authority~~ Maryland Agricultural Land Preservation Foundation to waive
8 restrictions concerning maximum lot sizes for released lots in preservation
9 easements under certain circumstances; and generally relating to the use of
10 land for easements within the Maryland Agricultural Land Preservation
11 Foundation.

12 BY repealing and reenacting, without amendments,
13 Article - Agriculture
14 Section 2-513(a)
15 Annotated Code of Maryland
16 (1999 Replacement Volume and 2005 Supplement)

17 BY repealing and reenacting, with amendments,
18 Article - Agriculture
19 Section 2-513(b)
20 Annotated Code of Maryland
21 (1999 Replacement Volume and 2005 Supplement)

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

1

Article - Agriculture

2 2-513.

3 (a) Agricultural land preservation easements may be purchased under this
4 subtitle for any land in agricultural use which meets the minimum criteria
5 established under § 2-509 of this subtitle if the easement and county regulations
6 governing the use of the land include the following provisions:

7 (1) Any farm use of land is permitted.

8 (2) Operation at any time of any machinery used in farm production or
9 the primary processing of agricultural products is permitted.

10 (3) All normal agricultural operations performed in accordance with
11 good husbandry practices which do not cause bodily injury or directly endanger
12 human health are permitted including, but not limited to, sale of farm products
13 produced on the farm where such sales are made.

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

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

18 (ii) As otherwise provided under this section.

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

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

26 1. 1 lot if the size of the easement property is 20 acres or
27 more but fewer than 70 acres;

28 2. 2 lots if the size of the easement property is 70 acres or
29 more but fewer than 120 acres; or

30 3. 3 lots if the size of the easement property is 120 acres or
31 more.

32 (ii) The resulting density on the property may not exceed the
33 density allowed under zoning of the property before the Foundation purchased the
34 easement.

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

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

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

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

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

14 (vi) Any release or preliminary release issued under this paragraph
15 shall include:

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

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

21 A. Approval by the Foundation; or

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

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

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

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

36 (i) The resulting density on the property shall be less than the
37 density allowed under zoning of the property before the Foundation purchased the
38 easement;

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

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

5 (iv) The landowner shall agree not to subdivide further for
6 residential purposes any acreage allowed to be released, and the agreement shall be
7 recorded among the land records where the land is located and shall bind all future
8 owners;

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

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

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

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

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

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

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

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

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

36 1. Regulations adopted by the Department of the
37 Environment require ~~THAT~~ a minimum lot size for a dwelling house ~~BE LARGER THAN~~
38 ~~1 ACRE~~ of not less than 2 acres in areas where there is less than 4 feet of unsaturated

1 and unconsolidated soil material below the bottom of an on-site sewage disposal
2 system or in areas located within 2,500 feet of the normal water level of an existing or
3 proposed water supply reservoir; or

4
5 2. Regulations adopted by the jurisdiction in which the land
6 is situated require that a lot for a dwelling house be larger than 1 acre.

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

10 (7) THE RESTRICTIONS OF PARAGRAPHS (2) AND (5) OF THIS
11 SUBSECTION CONCERNING MAXIMUM LOT SIZES MAY BE WAIVED BY THE
12 FOUNDATION SO THAT THE MAXIMUM LOT SIZE IS 2 ACRES IF ~~RECOMMENDED BY~~ :

13 (I) THE FOUNDATION RECEIVES A RECOMMENDATION TO ALLOW
14 A MAXIMUM LOT SIZE OF MORE THAN 1 ACRE FROM THE COUNTY AGRICULTURAL
15 PRESERVATION ADVISORY BOARD AND THE PLANNING AND ZONING AUTHORITY OF
16 THE JURISDICTION WHERE THE LAND IS SITUATED ; AND

17 (II) THE FOUNDATION MAKES A DETERMINATION THAT A LOT SIZE
18 GREATER THAN 1 ACRE WILL NOT INTERFERE SIGNIFICANTLY WITH THE
19 AGRICULTURAL USE OF THE LAND UNDER EASEMENT.

20 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
21 ~~October~~ July 1, 2006.