

**ENROLLED BILL**

-- *Environmental Matters/Education, Health, and Environmental Affairs* --

Introduced by **Delegates Jennings and Cane, Cane, Glassman, Lawton,  
Montgomery, Sossi, Stull, and Weir**

Read and Examined by Proofreaders:

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Proofreader.

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Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this  
\_\_\_\_ day of \_\_\_\_\_ at \_\_\_\_\_ o'clock, \_\_\_\_ M.

\_\_\_\_\_  
Speaker.

CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Maryland Agricultural Land Preservation Foundation - Easements -**  
3 **Program Requirements**

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 the period of time that land is required to  
7 remain within an agricultural district; requiring the county governing body to  
8 establish, by ordinance, the time period required for an agricultural district  
9 within its jurisdiction, but requiring the period to be within a certain number of  
10 years; ~~repealing~~ altering certain restrictions for the reapplication process for an  
11 easement; ~~authorizing the Department of General Services to determine the fair~~  
12 ~~market value of a certain type of land under certain circumstances; providing for~~  
13 ~~the application of certain provisions; encouraging counties to provide property~~  
14 ~~tax credits for agricultural districts; requiring the Foundation, on or before a~~  
15 ~~certain date, to report to the General Assembly on certain matters concerning~~  
16 the elimination of agricultural districts from the Maryland Agricultural Land

1 Preservation Program; and generally relating to agricultural land preservation  
2 easements.

3 BY repealing and reenacting, with amendments,  
4 Article - Agriculture  
5 Section 2-508(b), 2-509(b), 2-510(l), and 2-511  
6 Annotated Code of Maryland  
7 (1999 Replacement Volume and 2005 Supplement)

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

10 **Article - Agriculture**

11 2-508.

12 (b) Beginning with fiscal year 1979, and in each fiscal year thereafter, the  
13 Foundation shall determine the maximum amount which may be expended for  
14 allotted purchases of easements on land located within each county. The maximum  
15 amount which may be expended for allotted purchases of easements in any county in  
16 any fiscal year shall be:

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

19 (2) An amount, to be used for matching allotted purchases, which shall  
20 be computed for each eligible county by dividing one half of the total amount to be  
21 allotted equally among those counties having an approved program. The maximum  
22 amount available from the Foundation for the Foundation's share in matching  
23 allotted purchases may not exceed [\$1 million] \$2,000,000 in any county in any fiscal  
24 year.

25 2-509.

26 (b) Regulations and procedures adopted by the Foundation for the  
27 establishment and monitoring of agricultural districts shall provide that:

28 (1) One or more owners of land actively devoted to agricultural use may  
29 file a petition with the county governing body requesting the establishment of an  
30 agricultural district composed of the land owned by the petitioners. The petition shall  
31 include maps and descriptions of the current use of land in the proposed district.

32 (2) Upon receipt of a petition to establish an agricultural district the  
33 local governing body shall refer the petition and accompanying materials both to the  
34 agricultural preservation advisory board and to the county planning and zoning body.

35 (i) Within 60 days of the referral of a petition, the agricultural  
36 preservation advisory board shall advise the county governing body as to whether or  
37 not the land in the proposed district meets the qualifications established by the

1 Foundation under subsection (c) of this section, and whether or not the advisory board  
2 recommends establishment of the district.

3 (ii) Within 60 days of the referral of a petition, the county planning  
4 and zoning body shall advise the local governing body as to whether or not  
5 establishment of the district is compatible with existing and approved county plans  
6 and overall county policy, and whether or not the planning and zoning body  
7 recommends establishment of the district.

8 (3) If either the agricultural preservation advisory board or the planning  
9 and zoning body recommends approval, the county governing body shall hold a public  
10 hearing on the petition. Adequate notice of the hearing shall be given to all  
11 landowners in the proposed district, and to the Foundation.

12 (4) (i) Within 120 days after the receipt of the petition, the county  
13 governing body shall render a decision as to whether or not the petition shall be  
14 recommended to the Foundation for approval.

15 (ii) If the county governing body decides to recommend approval of  
16 the petition, it shall so notify the Foundation and forward to the Foundation the  
17 petition and all accompanying materials, including the recommendations of the  
18 advisory board and county planning and zoning body.

19 (iii) If the county governing body recommends denial of the petition,  
20 it shall so inform the Foundation and the petitioners.

21 (5) The Foundation may approve a petition for the establishment of an  
22 agricultural district only if:

23 (i) The land within the proposed district meets the qualifications  
24 established under subsection (c) of this section;

25 (ii) The petition has been approved by the county governing body;  
26 and

27 (iii) The establishment of the district is approved by a majority of  
28 the Foundation board of trustees at-large, by the Secretary, and by the State  
29 Treasurer.

30 (6) The Foundation shall render its decision on a petition to establish an  
31 agricultural district within 60 days of the receipt of the petition, and shall inform the  
32 county governing body and the petitioners of its decision.

33 (7) (i) If the Foundation approves the petition, the agricultural district  
34 shall be established by an ordinance of the county governing body.

35 (II) [, however, the] THE establishment OF THE DISTRICT shall not  
36 take effect until all landowners in the proposed district have executed and recorded  
37 along with land records an agreement with the Foundation stipulating that for a  
38 [period of five years] SPECIFIED PERIOD OF TIME from the establishment of the

1 agricultural district, the landowner agrees to keep his land in agricultural use and  
 2 has the right to offer to sell an easement for development rights on his land to the  
 3 Foundation under the provisions of this subtitle.

4 (III) IN THE ORDINANCE THAT ESTABLISHES AN AGRICULTURAL  
 5 DISTRICT:

6 1. THE COUNTY GOVERNING BODY SHALL ESTABLISH THE  
 7 LENGTH OF TIME REQUIRED FOR A DISTRICT AGREEMENT UNDER SUBPARAGRAPH  
 8 (II) OF THIS PARAGRAPH; AND

9 2. THE TIME PERIOD OF THE DISTRICT AGREEMENT SHALL  
 10 BE FROM ~~1 TO 5~~ 3 TO 10 YEARS, BOTH INCLUSIVE.

11 [(ii)] (IV) In the event of severe economic hardship the Foundation,  
 12 with the concurrence of the county governing body, may release the landowner's  
 13 property from the agricultural district. Any person aggrieved by a decision of the  
 14 Foundation regarding a determination of severe economic hardship is entitled to  
 15 judicial review.

16 [(iii)] (V) Nothing in this section shall preclude the landowner  
 17 from selling his property.

18 (8) At any time after [five years from the establishment of a district]  
 19 THE PERIOD OF TIME STIPULATED IN THE DISTRICT AGREEMENT, a landowner may  
 20 terminate his property as an agricultural district by notifying the Foundation one  
 21 year in advance of his intention to do so.

22 (9) After the establishment of an agricultural district the county  
 23 governing body or the Foundation may review the use of land within the district.

24 (10) The Foundation may approve alteration or abolition of a district only  
 25 if:

26 (i) The use of land within the district has so changed as to cause  
 27 land within the district to fail to meet the qualifications established under subsection  
 28 (c) of this section;

29 (ii) The alteration or abolition of the district has been recommended  
 30 by the county governing body; and

31 (iii) The alteration or abolition is approved by a majority of the  
 32 Foundation board of trustees at-large, by the Secretary, and by the State Treasurer.

33 2-510.

34 (l) ~~{(1)}~~ On or before June 30, the Foundation shall notify all landowners  
 35 whose applications had been rejected during that fiscal year. The Foundation shall  
 36 specify the reasons for that rejection.

1 [(2) A landowner whose application has been rejected for a reason other  
 2 than insufficient Foundation funds may not reapply to sell an easement on the same  
 3 land on the same terms until two years after the date of the original application.]

4 (2) A LANDOWNER WHO REJECTS AN OFFER FROM THE FOUNDATION TO  
 5 PURCHASE AN EASEMENT ON THE SAME LAND DURING TWO CONSECUTIVE YEARS,  
 6 FOR A REASON OTHER THAN INSUFFICIENT FOUNDATION FUNDS, MAY NOT REAPPLY  
 7 TO SELL AN EASEMENT ON THE SAME LAND FOR THE FOLLOWING TWO  
 8 CONSECUTIVE YEARS.

9 2-511.

10 (a) The maximum value of any easement to be purchased shall be the asking  
 11 price or the difference between the fair market value of the land and the agricultural  
 12 value of the land, whichever is lower.

13 (b) The fair market value of the land is the price as of the valuation date for  
 14 the highest and best use of the property which a vendor, willing but not obligated to  
 15 sell, would accept for the property, and which a purchaser, willing but not obligated to  
 16 buy, would pay for the property if the property was not subject to any restriction  
 17 imposed under this subtitle.

18 (c) The agricultural value of land is the price as of the valuation date which a  
 19 vendor, willing but not obligated to sell, would accept for the property, and which a  
 20 purchaser, willing but not obligated to buy, would pay for the property as a farm unit,  
 21 to be used for agricultural purposes.

22 (d) (1) (i) The value of the easement is determined at the time the  
 23 Foundation is requested in writing to purchase the easement.

24 (ii) The fair market value shall be determined by the Department of  
 25 General Services based on one or more appraisals by the State appraisers, and  
 26 appraisals, if any, of the landowner.

27 (iii) The entire contiguous acreage shall be included in the  
 28 determination of the value of the easement, less 1 acre per single dwelling; however,  
 29 except as provided in § 2-513(b)(2) of this subtitle, the entire contiguous acreage,  
 30 including the 1 acre per single dwelling, is subject to the easement restrictions.

31 (2) (i) Subject to subparagraph (ii) of this paragraph, the agricultural  
 32 value of land shall be determined by a formula approved by the Department that  
 33 measures the farm productivity of the land on which the applicant has applied to sell  
 34 an easement by taking into consideration weighted factors that may include rents,  
 35 location, soil types, development pressure, interest rates, and potential agricultural  
 36 use.

37 (ii) The agricultural value determined under subparagraph (i) of  
 38 this paragraph is subject to the approval of the Department.

39 ~~(E) (1) THIS SUBSECTION APPLIES TO LAND THAT:~~

1                    ~~(I) HAS NO RESIDENTIAL DEVELOPMENT VALUE AS DETERMINED~~  
 2 ~~BY THE DEPARTMENT OF GENERAL SERVICES;~~

3                    ~~(II) IS AS LEAST 100 ACRES IN SIZE; AND~~

4                    ~~(III) HAS AT LEAST 75% CLASS I OR II SOILS, OR WOODLAND~~  
 5 ~~EQUIVALENTS, AS ESTABLISHED BY THE LAND CAPABILITY CLASSIFICATION SYSTEM~~  
 6 ~~OF THE NATURAL RESOURCES CONSERVATION SERVICE OF THE U.S. DEPARTMENT~~  
 7 ~~OF AGRICULTURE.~~

8                    ~~(2) FOR LAND THAT MEETS THE REQUIREMENTS UNDER PARAGRAPH (1)~~  
 9 ~~OF THIS SUBSECTION, THE DEPARTMENT OF GENERAL SERVICES MAY DETERMINE~~  
 10 ~~THE FAIR MARKET VALUE OF THE LAND.~~

11    ~~{(e)}~~    ~~(F)~~    (1)    ~~{if}~~ EXCEPT FOR LAND VALUED IN ACCORDANCE WITH  
 12 ~~SUBSECTION (E) OF THIS SECTION, IF~~ the landowner and Foundation do not agree on  
 13 the value of the easement as determined by the State, either the landowner or the  
 14 Foundation may request, no later than September 30 of the year following the  
 15 determination of the value, that the matter be referred to the property tax assessment  
 16 appeal board as provided under § 3-107 of the Tax - Property Article, for arbitration  
 17 as to the value of the easement.

18                    (2)    The value determined by that arbitration shall be binding upon the  
 19 owner and the Foundation in a purchase of the easement made subsequent to the  
 20 arbitration for a period of 2 years, unless the landowner and the Foundation agree  
 21 upon a lesser value or the landowner or the Foundation appeals the results of the  
 22 arbitration to the Maryland Tax Court, and either party may further appeal from the  
 23 Tax Court as provided in § 13-532 of the Tax - General Article.

24    SECTION 2. AND BE IT FURTHER ENACTED, That counties are encouraged  
 25 to provide property tax credits for agricultural districts.

26    SECTION 3. AND BE IT FURTHER ENACTED, That, on or before January 31,  
 27 2007, the Maryland Agricultural Land Preservation Foundation shall submit to the  
 28 General Assembly, in accordance with § 2-1246 of the State Government Article, a  
 29 report outlining procedures, laws, and regulations that the Foundation determines to  
 30 be necessary in order to implement the elimination of agricultural districts from the  
 31 Maryland Agricultural Land Preservation Program. The report shall include:

32    (a)    an implementation timeline;

33    (b)    statutory language for the repeal and reenactment of §§ 2-509 and 2-510  
 34 of the Agriculture Article, including the removal of the requirement for districts from  
 35 the easement application process to become effective July 1, 2007, and the elimination  
 36 of districts from the program to become effective June 30, 2008;

37    (c)    a process for county and State approval of easement applications;

38    (d)    a provision for optional county districts;

1 (e) a provision that requires participating counties to establish a  
2 right-to-farm ordinance;

3 (f) a provision that prohibits properties from being developed or subdivided  
4 during the easement application process; and

5 (g) a provision that allows for the continuation of tax credits for existing  
6 districts.

7 SECTION ~~2-4~~ 4. AND BE IT FURTHER ENACTED, That this Act shall take  
8 effect ~~October~~ July 1, 2006.