
By: **Delegates Jennings and Cane**
 Introduced and read first time: February 6, 2006
 Assigned to: Environmental Matters

A BILL ENTITLED

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 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; and generally relating to agricultural land
 14 preservation easements.

15 BY repealing and reenacting, with amendments,
 16 Article - Agriculture
 17 Section 2-508(b), 2-509(b), 2-510(l), and 2-511
 18 Annotated Code of Maryland
 19 (1999 Replacement Volume and 2005 Supplement)

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

22 **Article - Agriculture**

23 2-508.

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

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

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

9 2-509.

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

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

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

19 (i) Within 60 days of the referral of a petition, the agricultural
20 preservation advisory board shall advise the county governing body as to whether or
21 not the land in the proposed district meets the qualifications established by the
22 Foundation under subsection (c) of this section, and whether or not the advisory board
23 recommends establishment of the district.

24 (ii) Within 60 days of the referral of a petition, the county planning
25 and zoning body shall advise the local governing body as to whether or not
26 establishment of the district is compatible with existing and approved county plans
27 and overall county policy, and whether or not the planning and zoning body
28 recommends establishment of the district.

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

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

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

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

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

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

7 (ii) The petition has been approved by the county governing body;
8 and

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

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

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

17 (II) [, however, the] THE establishment OF THE DISTRICT shall not
18 take effect until all landowners in the proposed district have executed and recorded
19 along with land records an agreement with the Foundation stipulating that for a
20 [period of five years] SPECIFIED PERIOD OF TIME from the establishment of the
21 agricultural district, the landowner agrees to keep his land in agricultural use and
22 has the right to offer to sell an easement for development rights on his land to the
23 Foundation under the provisions of this subtitle.

24 (III) IN THE ORDINANCE THAT ESTABLISHES AN AGRICULTURAL
25 DISTRICT:

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

29 2. THE TIME PERIOD OF THE DISTRICT AGREEMENT SHALL
30 BE FROM 1 TO 5 YEARS, BOTH INCLUSIVE.

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

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

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

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

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

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

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

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

16 2-510.

17 (1) [(1)] On or before June 30, the Foundation shall notify all landowners
18 whose applications had been rejected during that fiscal year. The Foundation shall
19 specify the reasons for that rejection.

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

23 2-511.

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

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

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

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

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

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

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

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

16 (E) (1) THIS SUBSECTION APPLIES TO LAND THAT:

17 (I) HAS NO RESIDENTIAL DEVELOPMENT VALUE AS DETERMINED
18 BY THE DEPARTMENT OF GENERAL SERVICES;

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

20 (III) HAS AT LEAST 75% CLASS I OR II SOILS, OR WOODLAND
21 EQUIVALENTS, AS ESTABLISHED BY THE LAND CAPABILITY CLASSIFICATION SYSTEM
22 OF THE NATURAL RESOURCES CONSERVATION SERVICE OF THE U.S. DEPARTMENT
23 OF AGRICULTURE.

24 (2) FOR LAND THAT MEETS THE REQUIREMENTS UNDER PARAGRAPH (1)
25 OF THIS SUBSECTION, THE DEPARTMENT OF GENERAL SERVICES MAY DETERMINE
26 THE FAIR MARKET VALUE OF THE LAND.

27 [(e)] (F) (1) [If] EXCEPT FOR LAND VALUED IN ACCORDANCE WITH
28 SUBSECTION (E) OF THIS SECTION, IF the landowner and Foundation do not agree on
29 the value of the easement as determined by the State, either the landowner or the
30 Foundation may request, no later than September 30 of the year following the
31 determination of the value, that the matter be referred to the property tax assessment
32 appeal board as provided under § 3-107 of the Tax - Property Article, for arbitration
33 as to the value of the easement.

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

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