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By: ~~Delegates Jennings and Cane~~ Cane, Glassman, Lawton, Montgomery, Sossi, Stull, and Weir

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Assigned to: Environmental Matters

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Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 15, 2006

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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~~  
17 ~~Preservation Program; and generally relating to agricultural land preservation~~  
18 easements.

19 BY repealing and reenacting, with amendments,  
20 Article - Agriculture  
21 Section 2-508(b), 2-509(b), 2-510(l), and 2-511  
22 Annotated Code of Maryland  
23 (1999 Replacement Volume and 2005 Supplement)

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

1

**Article - Agriculture**

2 2-508.

3 (b) Beginning with fiscal year 1979, and in each fiscal year thereafter, the  
4 Foundation shall determine the maximum amount which may be expended for  
5 allotted purchases of easements on land located within each county. The maximum  
6 amount which may be expended for allotted purchases of easements in any county in  
7 any fiscal year shall be:

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

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

16 2-509.

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

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

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

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

31 (ii) Within 60 days of the referral of a petition, the county planning  
32 and zoning body shall advise the local governing body as to whether or not  
33 establishment of the district is compatible with existing and approved county plans  
34 and overall county policy, and whether or not the planning and zoning body  
35 recommends establishment of the district.

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

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

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

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

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

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

14 (ii) The petition has been approved by the county governing body;  
 15 and

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

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

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

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

31 (III) IN THE ORDINANCE THAT ESTABLISHES AN AGRICULTURAL  
 32 DISTRICT:

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

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

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

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

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

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

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

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

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

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

23 2-510.

24 (1) ~~{(1)}~~ On or before June 30, the Foundation shall notify all landowners  
 25 whose applications had been rejected during that fiscal year. The Foundation shall  
 26 specify the reasons for that rejection.

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

30 (2) A LANDOWNER WHO REJECTS AN OFFER FROM THE FOUNDATION TO  
 31 PURCHASE AN EASEMENT ON THE SAME LAND DURING TWO CONSECUTIVE YEARS,  
 32 FOR A REASON OTHER THAN INSUFFICIENT FOUNDATION FUNDS, MAY NOT REAPPLY  
 33 TO SELL AN EASEMENT ON THE SAME LAND FOR THE FOLLOWING TWO  
 34 CONSECUTIVE YEARS.

1 2-511.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

19     ~~SECTION 3. AND BE IT FURTHER ENACTED, That, on or before January 31,~~  
20 ~~2007, the Maryland Agricultural Land Preservation Foundation shall submit to the~~  
21 ~~General Assembly, in accordance with § 2-1246 of the State Government Article, a~~  
22 ~~report outlining procedures, laws, and regulations that the Foundation determines to~~  
23 ~~be necessary in order to implement the elimination of agricultural districts from the~~  
24 ~~Maryland Agricultural Land Preservation Program. The report shall include:~~

25     ~~(a)     an implementation timeline;~~

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

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

31     ~~(d)     a provision for optional county districts;~~

32     ~~(e)     a provision that requires participating counties to establish a~~  
33 ~~right-to-farm ordinance;~~

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

36     ~~(g)     a provision that allows for the continuation of tax credits for existing~~  
37 ~~districts.~~

1 SECTION ~~2.4~~ AND BE IT FURTHER ENACTED, That this Act shall take  
2 effect ~~October~~ July 1, 2006.