
By: **Delegates Bates and Miller**
 Introduced and read first time: February 8, 2006
 Assigned to: Environmental Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Maryland Agricultural Land Preservation Foundation - Use of Land for**
 3 **Existing Easements**

4 FOR the purpose of altering the number of lots that may be released free of easement
 5 restriction for a landowner whose property is subject to an agricultural land
 6 preservation easement; altering the conditions required for the release of certain
 7 lots; and generally relating to the use of existing easements within the
 8 Maryland Agricultural Land Preservation Foundation.

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

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

16 **Article - Agriculture**

17 2-513.

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

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

22 (ii) As otherwise provided under this section.

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

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

- 3 1. 1 lot if the size of the easement property is 20 acres or
4 more but fewer than 70 acres;
- 5 2. 2 lots if the size of the easement property is 70 acres or
6 more but fewer than 120 acres; or
- 7 3. 3 lots if the size of the easement property is 120 acres or
8 more.]

9 (I) THE LOTS SHALL BE SUBDIVIDED BY 1 LOT PER 50 ACRES, NOT
10 TO EXCEED 6 SUBDIVIDED LOTS.

11 [(ii) [The resulting density on the property may not exceed the
12 density allowed under zoning of the property before the Foundation purchased the
13 easement.] A LOT RELEASED IN ACCORDANCE WITH THIS SUBSECTION SHALL BE
14 UNRESTRICTED.

15 (III) THE LOCATION OF THE LOTS TO BE SUBDIVIDED SHALL BE
16 SUBJECT TO THE APPROVAL OF THE LOCAL AGRICULTURAL ADVISORY BOARD OR
17 THE FOUNDATION.

18 [(iii)] (IV) The landowner shall pay the State for any acre or portion
19 released at the price per acre that the State paid the owner for the easement.

20 (V) A LANDOWNER SHALL RELINQUISH A RIGHT RESERVED UNDER
21 AN EASEMENT AGREEMENT FOR THE LOTS OF AN OWNER OR OWNER'S CHILD.

22 [(iv)] (VI) Before any conveyance or release, the landowner and the
23 child, if there is a conveyance to a child, shall agree not to subdivide further for
24 residential purposes any acreage allowed to be released. The agreement shall be
25 recorded among the land records where the land is located and shall bind all future
26 owners.

27 [(v)] (VII) After certifying that the landowner or child of the
28 landowner has met the conditions provided in subparagraphs (i) through [(iv)] (VI) of
29 this paragraph, the Foundation shall issue a preliminary release which shall:

- 30 1. Become final when the Foundation receives and certifies a
31 nontransferable building permit in the name of the landowner or child of the
32 landowner for construction of a dwelling house; or
- 33 2. Become void upon the death of the person for whose
34 benefit the release was intended if the Foundation has not yet received a building
35 permit as provided in this subparagraph.

36 [(vi)] (VIII) Any release or preliminary release issued under this
37 paragraph shall include:

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

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

6 A. Approval by the Foundation; or

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

11 [(vii)] (IX) Any release, preliminary release, building permit, or
12 other document issued or submitted in accordance with this paragraph shall be
13 recorded among the land records where the land is located and shall bind all future
14 owners.

15 [(viii)] (X) The Foundation may not restrict the ability of a
16 landowner who originally sold an easement to acquire a release under this paragraph
17 beyond the requirements provided in this section.

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

22 (i) The resulting density on the property shall be less than the
23 density allowed under zoning of the property before the Foundation purchased the
24 easement;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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