
By: **Delegates Smigiel, Kelley, Rosenberg, and Sossi**

Introduced and read first time: February 10, 2006

Assigned to: Environmental Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Maryland Agricultural Land Preservation Foundation and Rural Legacy**
3 **Program - Priority Preservation Areas - Protecting Public Investment in**
4 **Land Preservation**

5 FOR the purpose of altering the maximum amount that may be expended from the
6 Maryland Agricultural Land Preservation Foundation Fund for certain
7 purchases of easements; providing that certain areas receive a certain portion of
8 funding for certain purchases; requiring the Foundation and the Department of
9 Planning to adopt regulations relating to the evaluation and certification of
10 certain areas; requiring the Foundation and the Department to evaluate certain
11 areas for certification in accordance with certain criteria; requiring the Rural
12 Legacy Board to award funds to certain areas in accordance with certain
13 criteria; requiring the Foundation, the Department, and the Board to make
14 certain reports to the Governor and the General Assembly; defining certain
15 terms; and generally relating to the Maryland Agricultural Land Preservation
16 Foundation and the Rural Legacy Program.

17 BY repealing and reenacting, with amendments,
18 Article - Agriculture
19 Section 2-508 and 2-509
20 Annotated Code of Maryland
21 (1999 Replacement Volume and 2005 Supplement)

22 BY repealing and reenacting, with amendments,
23 Article - Natural Resources
24 Section 5-9A-05
25 Annotated Code of Maryland
26 (2005 Replacement Volume and 2005 Supplement)

27 BY repealing and reenacting, without amendments,
28 Article - State Finance and Procurement
29 Section 5-307(a)
30 Annotated Code of Maryland

1 (2001 Replacement Volume and 2005 Supplement)

2 BY repealing and reenacting, with amendments,

3 Article - State Finance and Procurement

4 Section 5-307(b)

5 Annotated Code of Maryland

6 (2001 Replacement Volume and 2005 Supplement)

7 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF

8 MARYLAND, That the Laws of Maryland read as follows:

9 **Article - Agriculture**

10 2-508.

11 (a) (1) For purposes of this subtitle, the following words have the meanings
12 indicated.

13 (2) "Total amount to be allotted" means the amount, as certified by the
14 Comptroller, which remains in the Maryland Agricultural Land Preservation Fund at
15 the beginning of the fiscal year after payment of all expenses of the Foundation and
16 the board of trustees during the previous fiscal year as specified in § 2-505(c)(1) and
17 (2) of this subtitle, and after subtraction of funds committed for payment as
18 consideration for easements purchased during previous fiscal years, and after
19 subtraction of any money remaining in the Fund as a result of a transfer of local
20 Program Open Space funds made pursuant to § 5-903 of the Natural Resources
21 Article.

22 (3) "General purchases of easements" means purchases of agricultural
23 land preservation easements under this subtitle in which the governing body of the
24 county in which the land is located is not required to make a contribution to the
25 Maryland Agricultural Land Preservation Fund.

26 (4) "Matching purchases of easements" means purchases of agricultural
27 land preservation easements under this subtitle in which the governing body of the
28 county in which the land is located is required to make a contribution to the Maryland
29 Agricultural Land Preservation Fund of an amount equal to at least 40 percent of the
30 value of the easement for each such purchase.

31 (5) "Allotted purchases" means general or matching purchases made
32 pursuant to offers to buy tendered by the Foundation on or before January 31 of any
33 fiscal year.

34 (6) "County" means any county containing productive agricultural land
35 which is being actively farmed and which meets the criteria for land for which
36 easements may be purchased.

1 (7) "Eligible county" means a county as defined in paragraph (6) of this
2 subsection which has secured approval from the Foundation for a local agricultural
3 land preservation program.

4 (8) "COUNTY PRIORITY PRESERVATION AREA" MEANS A DELINEATED
5 GEOGRAPHIC AREA ESTABLISHED IN A COUNTY'S COMPREHENSIVE PLAN AS THE
6 COUNTY'S PRIORITY AREA FOR THE PRESERVATION OF AGRICULTURAL LAND AND
7 SUPPORT OF PROFITABLE FARMING AND FOREST PRODUCTION.

8 (9) "CERTIFIED PRIORITY PRESERVATION AREA" MEANS A COUNTY
9 PRIORITY PRESERVATION AREA THAT HAS BEEN APPROVED BY THE FOUNDATION
10 AND THE DEPARTMENT OF PLANNING, BASED ON AN ASSESSMENT OF THE COUNTY'S
11 ABILITY TO PROTECT PUBLIC INVESTMENT IN PRESERVATION WITHIN THE PRIORITY
12 PRESERVATION AREA, IN ACCORDANCE WITH THE CRITERIA DESCRIBED IN § 2-509(F)
13 OF THIS SUBTITLE.

14 (b) (1) Beginning with fiscal year 1979, and in each fiscal year thereafter,
15 the Foundation shall determine the maximum amount which may be expended for
16 allotted purchases of easements on land located within each county. The maximum
17 amount which may be expended for allotted purchases of easements in any county in
18 any fiscal year shall be:

19 [(1)] (I) An amount, to be used for general allotted purchases, equal to
20 [one twenty-third] A PORTION of one half of the total amount to be allotted TO A
21 COUNTY IN ACCORDANCE WITH PARAGRAPH (2) OF THIS SUBSECTION; and

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

27 (2) FOR GENERAL ALLOTTED PURCHASES, EACH COUNTY WITH A
28 CERTIFIED PRIORITY PRESERVATION AREA SHALL RECEIVE AN AMOUNT EQUAL TO
29 THREE TIMES THE AMOUNT RECEIVED BY EACH COUNTY LACKING A CERTIFIED
30 PRIORITY PRESERVATION AREA.

31 (c) If the Foundation receives acceptances of offers to buy in insufficient
32 numbers to expend the total amount to be allotted for allotted purchases, the
33 Foundation, to the extent feasible, shall tender additional offers to buy in sufficient
34 numbers to expend the total amount to be allotted. Any such additional offers to buy
35 shall be tendered:

36 (1) To landowners who have applied to sell easements on land which was
37 otherwise acceptable, but who had not received an offer to buy solely because of
38 limitations on the amount of money to be spent for allotted purchases;

39 (2) To applicants on a statewide basis as provided by the priority ranking
40 system established under § 2-510(e) of this subtitle; and

1 (3) Only after the expiration of the period allowed for acceptance of offers
2 to buy under allotted general and matching purchases.

3 2-509.

4 (a) The Foundation shall adopt regulations and procedures for:

5 (1) Establishment and monitoring of agricultural districts;

6 (2) Evaluation of land to be included within agricultural districts; [and]

7 (3) Purchase of easements, including the purchase of easements under
8 an installment purchase agreement; AND

9 (4) EVALUATION AND CERTIFICATION OF COUNTY PRIORITY
10 PRESERVATION AREAS.

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

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

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

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

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

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

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

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

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

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

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

11 (ii) The petition has been approved by the county governing body;
12 and

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

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

19 (7) (i) If the Foundation approves the petition, the agricultural district
20 shall be established by an ordinance of the county governing body, however, the
21 establishment shall not take effect until all landowners in the proposed district have
22 executed and recorded along with land records an agreement with the Foundation
23 stipulating that for a period of five years from the establishment of the agricultural
24 district, the landowner agrees to keep his land in agricultural use and has the right to
25 offer to sell an easement for development rights on his land to the Foundation under
26 the provisions of this subtitle.

27 (ii) In the event of severe economic hardship the Foundation, with
28 the concurrence of the county governing body, may release the landowner's property
29 from the agricultural district. Any person aggrieved by a decision of the Foundation
30 regarding a determination of severe economic hardship is entitled to judicial review.

31 (iii) Nothing in this section shall preclude the landowner from
32 selling his property.

33 (8) At any time after five years from the establishment of a district a
34 landowner may terminate his property as an agricultural district by notifying the
35 Foundation one year in advance of his intention to do so.

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

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

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

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

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

10 (c) Regulations and procedures adopted by the Foundation for the
11 establishment and monitoring of agricultural districts may not require, in Garrett
12 County or Allegany County, a natural gas rights owner or lessee to subordinate its
13 interest to the Foundation's interest if the Foundation determines that exercise of the
14 natural gas rights will not interfere with an agricultural operation conducted on land
15 in the agricultural district.

16 (d) Regulations and criteria developed by the Foundation relating to land
17 which may be included in an agricultural district shall provide that:

18 (1) Subject to item (2) of this subsection, land shall meet productivity,
19 acreage, and locational criteria determined by the Foundation to be necessary for the
20 continuation of farming;

21 (2) As long as all other criteria are met, land that is at least 50 acres in
22 size shall qualify for inclusion in an agricultural district;

23 (3) The Foundation shall attempt to preserve the minimum number of
24 acres in a given district which may reasonably be expected to promote the continued
25 availability of agricultural suppliers and markets for agricultural goods;

26 (4) Land within the boundaries of a 10-year water and sewer service
27 district may be included in an agricultural district only if that land is outstanding in
28 productivity and is of significant size; and

29 (5) Land may be included in an agricultural district only if the county
30 regulations governing the land permit the activities listed under § 2-513(a) of this
31 subtitle.

32 (e) The Foundation may not purchase an easement on land which is located
33 outside an agricultural district established under this subtitle.

34 (F) (1) BEGINNING WITH FISCAL YEAR 2008, AND IN EACH FISCAL YEAR
35 THEREAFTER, THE FOUNDATION AND THE DEPARTMENT OF PLANNING SHALL
36 EVALUATE AND DETERMINE WHETHER A COUNTY PRIORITY PRESERVATION AREA,
37 ESTABLISHED IN THE PRIOR FISCAL YEAR, MAY BE CERTIFIED.

1 (2) THE FOUNDATION AND THE DEPARTMENT OF PLANNING MAY NOT
2 CERTIFY A COUNTY PRIORITY PRESERVATION AREA UNLESS THE FOUNDATION AND
3 THE DEPARTMENT OF PLANNING BOTH DETERMINE THAT COUNTY PLANS, POLICIES,
4 AND PROGRAMS ARE LIKELY TO BE EFFECTIVE IN PROTECTING PUBLIC INVESTMENT
5 IN PRESERVATION WITHIN THE PRIORITY PRESERVATION AREA, BASED ON THE
6 FOLLOWING CRITERIA:

7 (I) THE ABILITY OF ZONING AND RELATED LAND USE TOOLS TO:

8 1. STABILIZE LAND USE AND LIMIT SUBDIVISION AND
9 DEVELOPMENT COMMENSURATE WITH DEVELOPMENT PRESSURE;

10 2. PROVIDE TIME FOR EASEMENT PURCHASES TO PRESERVE
11 LARGE BLOCKS OF PRODUCTIVE LAND; AND

12 3. MAINTAIN A RURAL LANDSCAPE CAPABLE OF
13 SUPPORTING SOME DIVERSITY OF PROFITABLE FARMING AND FORESTRY
14 OPERATIONS THAT IS NOT EXCESSIVELY COMPROMISED AND RESTRICTED BY
15 DEVELOPMENT OR BY THE IMPACTS OF DEVELOPMENT, SUCH AS TRAFFIC,
16 CONFLICTS BETWEEN FARMERS AND THE NONFARM POPULATION, AND
17 INTERFERENCE WITH FARMERS' ABILITY TO ENGAGE IN ACCEPTED FARMING
18 PRACTICES;

19 (II) THE PERFORMANCE OF PRESERVATION EFFORTS, ESPECIALLY
20 IN PRESERVING LARGE BLOCKS OF PRODUCTIVE LAND;

21 (III) THE COMBINED PERFORMANCE OF CURRENT PLANNING, LAND
22 USE, AND CONSERVATION TOOLS, ESPECIALLY THE LIKELIHOOD THAT THESE
23 EFFORTS WILL RESULT IN RELATIVELY LARGE RURAL AREAS FREE FROM EXCESSIVE
24 DEVELOPMENT IMPACTS AND CAPABLE OF SUPPORTING PROFITABLE
25 AGRICULTURAL AND FOREST PRODUCTION; AND

26 (IV) ANY OTHER CRITERIA THAT THE FOUNDATION AND THE
27 DEPARTMENT OF PLANNING DETERMINE ARE IMPORTANT TO SUPPORT
28 ACHIEVEMENT OF THE FOUNDATION'S GOALS.

29 (G) (1) (I) A CERTIFICATION OF A COUNTY PRIORITY PRESERVATION
30 AREA IS EFFECTIVE FOR TWO FISCAL YEARS.

31 (II) A DECISION BY THE FOUNDATION AND THE DEPARTMENT OF
32 PLANNING AS TO CERTIFICATION IS FINAL WITH NO RIGHT TO APPEAL.

33 (2) AT THE REQUEST OF THE COUNTY, IF THE FOUNDATION AND THE
34 DEPARTMENT OF PLANNING BOTH DETERMINE THAT COUNTY PLANS AND
35 PROGRAMS REMAIN LIKELY TO BE EFFECTIVE IN PROTECTING PUBLIC INVESTMENT
36 IN PRESERVATION WITHIN THE PRIORITY PRESERVATION AREA, THE FOUNDATION
37 AND THE DEPARTMENT OF PLANNING SHALL RECERTIFY A COUNTY PRIORITY
38 PRESERVATION AREA.

1 (3) EACH YEAR, IN THE FOUNDATION'S ANNUAL REPORT, FILED IN
2 ACCORDANCE WITH § 2-506 OF THIS SUBTITLE, THE FOUNDATION SHALL INCLUDE A
3 SECTION, PRODUCED JOINTLY WITH THE DEPARTMENT OF PLANNING THAT:

4 (I) IDENTIFIES CERTIFIED COUNTY PRIORITY PRESERVATION
5 AREAS AND AREAS THAT HAVE BEEN DENIED CERTIFICATION; AND

6 (II) EXPLAINS THE REASONS FOR THOSE DECISIONS IN TERMS OF
7 THE CONSIDERATIONS AND CRITERIA SPECIFIED IN THIS SUBSECTION.

8 (4) THE FOUNDATION AND THE DEPARTMENT OF PLANNING SHALL
9 JOINTLY ADOPT REGULATIONS FOR ADMINISTRATION OF PROCEDURES RELATING
10 TO THE CERTIFICATION OF COUNTY PRIORITY PRESERVATION AREAS UNDER THIS
11 SUBSECTION.

12 Article - Natural Resources

13 5-9A-05.

14 (a) A sponsor may file an application to designate a Rural Legacy Area in
15 accordance with a schedule established by the Board. A local government may not
16 apply for or approve an application for a Rural Legacy Area designation inside
17 another jurisdiction's boundaries without that jurisdiction's approval.

18 (b) (1) The application shall describe the proposed Rural Legacy Area,
19 include a Rural Legacy Area Plan, identify existing protected lands, state the
20 anticipated level of initial landowner participation in the Program and the amount of
21 the grant requested, and comply with the criteria set forth below.

22 (2) To qualify for additional funds appropriated above the level
23 appropriated in fiscal year 2000 as provided for in § 12-1007(d) of the Public Safety
24 Article, an application shall include a certification that the local jurisdiction has not
25 adopted any local amendments to the Maryland Building Rehabilitation Code.

26 (c) The Board shall evaluate and compare applications in accordance with the
27 following criteria in order to select those that best carry forward the goals and
28 objectives of the Program set forth in § 5-9A-01 of this subtitle:

29 (1) The significance of the agricultural, forestry, and natural resources
30 proposed for protection, including:

31 (i) The degree to which proposed fee or easement purchases will
32 protect the location, proximity, and size of contiguous blocks of lands, green belts or
33 greenways, or agricultural, forestry, or natural resource corridors;

34 (ii) The nature, size, and importance of the land area to be
35 protected, such as farmland, forests, wetlands, wildlife habitat and plant species,
36 vegetative buffers, or bay or waterfront access; and

37 (iii) The quality and public or economic value of the land;

- 1 (2) The degree of threat to the resources and character of the area
2 proposed for preservation, as reflected by patterns and trends of development and
3 landscape modifications in and surrounding the proposed Rural Legacy Area;
- 4 (3) The significance and extent of the cultural resources proposed for
5 protection through fee simple purchases, including the importance of historic sites
6 and significant archaeological areas;
- 7 (4) The economic value of the resource-based industries or services
8 proposed for protection through land conservation, such as agriculture, forestry,
9 recreation, and tourism;
- 10 (5) The overall quality and completeness of the Rural Legacy Plan,
11 including:
- 12 (i) The degree to which existing planning, zoning, and growth
13 management policies contribute to land conservation and the protection of cultural
14 resources;
- 15 (ii) The degree to which the proposed plan is consistent with the
16 applicable local comprehensive plan, including protection of sensitive areas and
17 mineral resources;
- 18 (iii) How well existing or new conservation programs are
19 coordinated with the proposed acquisition plan;
- 20 (iv) How well the plan will maximize acquisition of real property
21 interests in contiguous blocks of land within the Rural Legacy Area while providing
22 for protection of isolated acquisitions important to the plan;
- 23 (v) Provisions for protection of resources, such as voluntarily
24 granted or purchased easements, fee estate purchases, or gifts of lands;
- 25 (vi) How the sponsor plans to manage, prioritize, and sequence
26 easement and land acquisitions;
- 27 (vii) Methodology for prioritizing and valuing or appraising
28 easements;
- 29 (viii) Proposed titleholders for easement or fee estate acquisitions;
30 and
- 31 (ix) The quality of the proposed stewardship program for holding
32 and monitoring of easement restrictions in perpetuity;
- 33 (6) The strength and quality of partnerships created for land
34 conservation among federal, State, and local governments and land trusts for
35 implementing the plan, including:
- 36 (i) Financial support;

- 1 (ii) Dedication of staff and resources; and
- 2 (iii) Commitment to and development of local land conservation
- 3 policies, such as changes in zoning and use of transferable development rights;

4 (7) The extent to which federal or other grant programs will serve as a

5 funding match; and

6 (8) A sponsor's ability to carry out the proposed Rural Legacy Plan and

7 the goals and objectives of the Program.

8 (d) The Board:

9 (1) Shall review applications and may request additional information

10 from a sponsor;

11 (2) Shall submit applications to appropriate State agencies and to the

12 advisory committee established by this subtitle and consider any recommendations

13 made regarding the applications; and

14 (3) May negotiate the terms of an application and proposed Rural Legacy

15 Area and plan with a sponsor.

16 (e) (1) (I) IN THIS SUBSECTION THE FOLLOWING WORDS HAVE THE

17 MEANINGS INDICATED.

18 (II) "STRONG SUPPORTING PROGRAMS" MEANS PROGRAMS THAT

19 ARE PROTECTING RURAL RESOURCES AND PRESERVATION INVESTMENT

20 EFFECTIVELY.

21 (III) "LOW DEVELOPMENT PRESSURE" MEANS THAT DEVELOPMENT

22 IMPACTS ARE NOT LIKELY TO COMPROMISE CONSERVATION OBJECTIVES BEFORE

23 LARGE BLOCKS OF RESOURCE LAND HAVE BEEN PRESERVED, WITH OR WITHOUT

24 LAND USE PROTECTION.

25 (IV) "WEAK SUPPORTING PROGRAMS" MEANS PROGRAMS THAT ARE

26 NOT PROTECTING RURAL RESOURCES AND PRESERVATION INVESTMENTS

27 EFFECTIVELY OR ARE GIVING ONLY MARGINAL PROTECTION THAT, IN LIGHT OF

28 DEVELOPMENT PRESSURE, WILL NOT SUPPORT ACHIEVEMENT OF THE PROGRAM'S

29 GOALS.

30 (2) THE BOARD SHALL AWARD FUNDS ACCORDING TO THE PROCEDURE

31 SET FORTH IN THIS SUBSECTION.

32 (3) TO ENSURE THAT RURAL RESOURCES AND PRESERVATION

33 INVESTMENTS IN RURAL LEGACY AREAS ARE PROTECTED FROM THE

34 COMPROMISING IMPACTS OF DEVELOPMENT, THE BOARD, ASSISTED BY THE

35 DEPARTMENT OF PLANNING, SHALL EVALUATE THE ABILITY OF LOCAL ZONING,

36 RELATED LAND USE TOOLS, AND OTHER PRESERVATION PROGRAMS IN EACH

37 ESTABLISHED AND PROPOSED RURAL LEGACY AREA TO:

1 (I) STABILIZE LAND USE AND LIMIT SUBDIVISION AND
2 DEVELOPMENT COMMENSURATE WITH DEVELOPMENT PRESSURE;

3 (II) PROVIDE TIME FOR EASEMENT PURCHASES TO PRESERVE
4 LARGE BLOCKS OF RESOURCE LAND THAT ARE NOT EXCESSIVELY COMPROMISED BY
5 DEVELOPMENT AND THE RELATED IMPACTS OF DEVELOPMENT;

6 (III) MAINTAIN A RURAL LANDSCAPE CAPABLE OF SUPPORTING THE
7 NATURAL, AGRICULTURAL, FORESTRY, AND CULTURAL RESOURCES AND
8 RESOURCE-BASED INDUSTRIES TARGETED FOR CONSERVATION IN THE RURAL
9 LEGACY AREA; AND

10 (IV) MAKE FEASIBLE THE SUCCESSFUL PRESERVATION OF THE
11 NATURAL, AGRICULTURAL, ENVIRONMENTAL, FORESTRY, AND CULTURAL
12 RESOURCES, AS WELL AS THE FARMING, FORESTRY, AND OTHER RESOURCE-BASED
13 USES OF THE AREA.

14 (4) BASED ON THE CONSIDERATIONS DESCRIBED IN PARAGRAPH (3) OF
15 THIS SUBSECTION, SUPPORTING PROGRAMS AND DEVELOPMENT PRESSURE IN EACH
16 AREA SHALL BE CLASSIFIED IN ONE OF THE FOLLOWING WAYS:

17 (I) STRONG SUPPORTING PROGRAMS;

18 (II) LOW DEVELOPMENT PRESSURE; OR

19 (III) WEAK SUPPORTING PROGRAMS.

20 (5) (I) RURAL LEGACY AREAS WITH STRONG SUPPORTING PROGRAMS
21 OR LOW DEVELOPMENT PRESSURE SHALL BE PRIMARY INVESTMENT AREAS AND
22 SHALL RECEIVE GRANTS IN ACCORDANCE WITH PARAGRAPH (6)(I) OF THIS
23 SUBSECTION.

24 (II) AREAS WITH WEAK SUPPORTING PROGRAMS SHALL BE
25 SECONDARY INVESTMENT AREAS AND SHALL RECEIVE GRANTS IN ACCORDANCE
26 WITH PARAGRAPH (6)(II) OF THIS SUBSECTION.

27 (6) BEGINNING WITH FISCAL YEAR 2008, AND IN EACH FISCAL YEAR
28 THEREAFTER:

29 (I) PRIMARY INVESTMENT AREAS SHALL RECEIVE GRANTS THAT,
30 ON AVERAGE, TOTAL 75% OR MORE OF ALL FUNDS AWARDED ANNUALLY, EXCEPT AS
31 PROVIDED IN PARAGRAPH (7) OF THIS SUBSECTION; AND

32 (II) SECONDARY INVESTMENT AREAS SHALL RECEIVE GRANTS
33 THAT, ON AVERAGE, TOTAL 25% OR LESS OF ALL FUNDS AWARDED ANNUALLY,
34 EXCEPT AS PROVIDED IN PARAGRAPH (7) OF THIS SUBSECTION.

35 (7) PERCENTAGES OF FUNDS DISTRIBUTED AMONG PRIMARY AND
36 SECONDARY INVESTMENT AREAS MAY VARY FROM THOSE REQUIRED UNDER

1 PARAGRAPH (6) OF THIS SUBSECTION FOR ONE OR MORE OF THE FOLLOWING
2 REASONS:

3 (I) THE BOARD CONCLUDES THAT SPONSORS OF PRIMARY
4 INVESTMENT AREAS ARE UNABLE TO EFFECTIVELY USE FUNDS IN THE AMOUNTS
5 THE SPONSORS WOULD RECEIVE UNDER THE DISTRIBUTION FORMULA REQUIRED
6 UNDER PARAGRAPH (6) OF THIS SUBSECTION IN A FISCAL YEAR;

7 (II) THE BOARD CONCLUDES THAT IT IS ESSENTIAL TO TAKE
8 ADVANTAGE OF OPPORTUNITIES TO PRESERVE SPECIFIC PROPERTIES OF
9 EXCEPTIONAL RESOURCE VALUE IN SECONDARY INVESTMENT AREAS IN A FISCAL
10 YEAR; OR

11 (III) THE BOARD CONCLUDES FOR OTHER REASONS, AND
12 ARTICULATES THOSE REASONS, THAT IT WILL BETTER SERVE THE PURPOSE OF THE
13 RURAL LEGACY PROGRAM TO ALLOCATE A HIGHER SHARE OF TOTAL FUNDS TO
14 SECONDARY INVESTMENT AREAS IN A FISCAL YEAR.

15 (8) SECONDARY INVESTMENT AREAS SHALL BECOME THE PRIMARY
16 INVESTMENT AREAS WHEN IT IS DETERMINED THAT THEY MERIT
17 RECLASSIFICATION ACCORDING TO THE EVALUATION AND CLASSIFICATION
18 PROCEDURES SET FORTH IN PARAGRAPHS (3) AND (4) OF THIS SUBSECTION.

19 (9) EACH YEAR, IN THE BOARD'S ANNUAL REPORT, FILED IN
20 ACCORDANCE WITH § 5-9A-07(G) OF THIS SUBTITLE, THE BOARD SHALL INCLUDE A
21 SECTION, PRODUCED JOINTLY WITH THE DEPARTMENT OF PLANNING, THAT:

22 (I) IDENTIFIES PRIMARY AND SECONDARY INVESTMENT AREAS;

23 (II) IDENTIFIES THE AMOUNT OF FUNDS AWARDED TO EACH AREA;
24 AND

25 (III) EXPLAINS THE REASONS FOR THOSE DECISIONS IN TERMS OF
26 THE CONSIDERATIONS AND CRITERIA SPECIFIED IN THIS SUBSECTION.

27 (F) (1) A sponsor shall assure adequate public participation in the
28 development of an application and provide the Board with a summary of that
29 participation.

30 (2) (i) If an application proposes a Rural Legacy Area be located
31 within 1 mile of the boundary of a municipal corporation, the municipal corporation
32 shall have 45 days to review and comment on the application before the application is
33 submitted to the Board.

34 (ii) The sponsor shall submit to the Board with the completed
35 application a summary of the comments from the municipal corporation.

36 [(f)] (G) (1) A land trust shall consult with a local government prior to filing
37 an application.

1 (2) The Board may not approve or amend an application without local
2 government approval.

3 [(g)] (H) The right of public access may not be required under a conservation
4 easement.

5 [(h)] (I) A land trust may not hold exclusive title to real property interests
6 acquired under this subtitle.

7 [(i)] (J) An easement acquired under this subtitle is perpetual and may not
8 be extinguished or released.

9 [(j)] (K) (1) With the approval of a landowner, funds under this Program
10 may be used to purchase a development right as part of an easement or fee estate
11 acquisition. A development right shall be held by the titleholder and the Board and
12 may be sold only within the same jurisdiction pursuant to local law.

13 (2) In a county with a locally adopted transferable development rights
14 program and with the approval of the county, funds under this Program may be used
15 to purchase transferable development rights in the county in accordance with the
16 locally adopted transferable development rights program.

17 (3) The right to resell the development right shall be stated in the
18 instrument of purchase.

19 (4) The Rural Legacy Board shall maintain records concerning:

20 (i) Real property from which transferable development rights are
21 purchased; and

22 (ii) Real property to which rights are resold and transferred.

23 (5) The county shall provide to the Board information relating to the
24 records required in paragraph (4) of this subsection.

25 (6) Transferable development rights may be resold only to owners or
26 option purchasers of real property located in priority funding areas, including
27 municipalities, within the county in which the rights were purchased.

28 (7) (i) The proceeds associated with the resale of transferable
29 development rights shall be distributed only as described in this paragraph.

30 (ii) Fifty percent of the proceeds shall be used by the local
31 government in which the development using transferable development rights is
32 located to fund capital projects in the county or municipal corporation which is
33 receiving transferable development rights. Funds shall be distributed to the
34 municipal corporation if the receiving area is within the corporate limits of a
35 municipal corporation.

1 (iii) Fifty percent of the proceeds shall be returned to the Rural
2 Legacy Program for use in the county in which the proceeds were generated.

3 (iv) Proceeds may not be used for operating expenses.

4 [(k)] (L) All easement acquisitions must be recorded among the land records
5 where the real property is located.

6 [(l)] (M) State or local condemnation authority may not be used to acquire real
7 property interests under this Program.

8 [(m)] (N) Funds may be used for the protection of historic sites or significant
9 archeological areas that otherwise meet the goals of this Program only if the sponsor
10 is acquiring real property interests through a fee simple purchase.

11 [(n)] (O) A land or mineral owner who participates in this Program may
12 reserve mineral rights for extraction in accordance with applicable law and the terms
13 of the easement or fee acquisition.

14 [(o)] (P) In its determination under subsection (c) of this section, the Rural
15 Legacy Board may not make its determination solely on the basis of whether a county
16 has adopted a transferable development rights program authorizing Rural Legacy
17 Board purchases and sales of transferable development rights.

18 **Article - State Finance and Procurement**

19 5-307.

20 (a) Each year, no later than 60 days before the General Assembly convenes for
21 its regular session, the Department shall submit a report to the Governor.

22 (b) The annual report shall include:

23 (1) a summary and description of the nature of every section of the State
24 Development Plan that has been:

25 (i) added, deleted, or revised since the last annual report; and

26 (ii) filed by the Governor under § 5-605 of this title;

27 (2) a summary of each important study wholly or partly completed by the
28 Department since the last annual report; [and]

29 (3) summaries of the work of the Department and of the State Economic
30 Growth, Resource Protection, and Planning Commission; AND

31 (4) A SUMMARY OF THE DEPARTMENT'S FINDINGS AND CONCLUSIONS
32 ABOUT THE EFFECTIVENESS OF STATE LAND AND RESOURCE CONSERVATION
33 EXPENDITURES, IN ACCORDANCE WITH ITS RESPONSIBILITIES TO:

1 (I) EVALUATE AND CERTIFY COUNTY PRIORITY PRESERVATION
2 AREAS, IN ACCORDANCE WITH § 2-509(F) AND (G) OF THE AGRICULTURE ARTICLE;
3 AND

4 (II) EVALUATE AND CLASSIFY RURAL LEGACY AREAS, IN
5 ACCORDANCE WITH § 5-9A-05 OF THE NATURAL RESOURCES ARTICLE.

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