

Department of Legislative Services
Maryland General Assembly
2006 Session

FISCAL AND POLICY NOTE

House Bill 1268 (Delegate Smigiel)
Environmental Matters

Land Use - Transfer of Development Rights - Restriction

This bill provides that development rights transferred under a transfer of development rights (TDR) program may not be transferred to a zoning district for which the local legislative body sanctions preservation easements.

Fiscal Summary

State Effect: None.

Local Effect: Local governments that currently allow rural-to-rural transfers would need to amend their TDR programs to prohibit them; it is assumed that this would not have a significant impact on local finances. According to the Maryland Department of Planning (MDP), some local governments may take the next step to create TDR receiving areas in development zones.

Small Business Effect: Potential meaningful impact in affected areas. Some developers that specialize in major subdivisions of rural areas may have fewer development opportunities, but this may be offset by new development options in TDR receiving areas. In counties that currently allow rural-to-rural transfers, farmers could benefit from the bill's changes to the extent the bill results in a decrease in development in the vicinity of their farms.

Analysis

Current Law: A local legislative body that exercises authority granted under Article 66B may establish a program for the transfer of development rights to encourage the

preservation of natural resources and facilitate orderly growth and development in the State.

Background: A TDR program is one tool used by local jurisdictions to protect land in certain areas from development. A TDR program allows landowners in designated “sending” areas to strip off the development rights and sell them to landowners in designated “receiving” areas. The buyer then can use the development rights to achieve a higher density than otherwise would be permitted.

According to MDP, most counties do not have TDR programs, and those that do exist are mostly inactive. However, MDP advises that the following counties have TDR programs that allow for rural-to-rural transfers: Calvert, Harford, Howard, Queen Anne’s, St. Mary’s, Talbot, and Wicomico. Cecil County also has a rural-to-rural component, although the county is amending its TDR program to eliminate rural-to-rural transfers.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Maryland Department of Planning, Kent County, Prince George’s County, Washington County, City of Annapolis, City of Bowie, City of Takoma Park, Town of Elkton, Town of Thurmont, Department of Legislative Services

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