

HOUSE BILL 1331

M4

(71r3070)

ENROLLED BILL

— *Environmental Matters/ Education, Health, and Environmental Affairs* —

Introduced by **Delegates Cane, Conway, Eckardt, Elmore, Glassman, Haddaway, Jennings, Mathias, Rudolph, Smigiel, Stull, and Weldon**

Read and Examined by Proofreaders:

Proofreader.

Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this _____ day of _____ at _____ o'clock, _____ M.

Speaker.

CHAPTER _____

- 1 AN ACT concerning
- 2 **Maryland Agricultural Land Preservation Foundation - Removal of Districts**
- 3 FOR the purpose of altering the requirements relating to the purchase of easements
- 4 by the Maryland Agricultural Land Preservation Foundation; removing the
- 5 requirement for the establishment of agricultural districts on a certain date;
- 6 eliminating districts from the Foundation by a certain date subject to certain
- 7 exceptions; prohibiting the Foundation from accepting a district petition after a
- 8 certain date; correcting certain cross-references; making stylistic changes; and
- 9 generally relating to agricultural land preservation easements.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike-out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.

Italics indicate opposite chamber / conference committee amendments.



1 BY repealing and reenacting, with amendments,
 2 Article – Agriculture
 3 Section 2–509 and 2–510(a)
 4 Annotated Code of Maryland
 5 (1999 Replacement Volume and 2006 Supplement)

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

8 **Article – Agriculture**

9 2–509.

10 (a) **(1) THE FOUNDATION SHALL FOLLOW THE PROVISIONS UNDER**
 11 **THIS SECTION FOR THE EASEMENT APPLICATION PROCESS FOR:**

12 **(I) PROPERTIES WITHOUT ESTABLISHED DISTRICTS; AND**

13 **(II) PROPERTIES ENTERING INTO A DISTRICT.**

14 **(2)** The Foundation shall adopt regulations and procedures for:

15 **[(1)] (I)** Establishment and monitoring of agricultural districts **AND**
 16 **EASEMENTS;**

17 **[(2)] (II)** Evaluation of land to be included within agricultural
 18 districts **OR LAND TO BE SUBJECT TO AN EASEMENT;** and

19 **[(3)] (III)** Purchase of easements, including the purchase of easements
 20 under an installment purchase agreement.

21 (b) Regulations and procedures adopted by the Foundation for the
 22 establishment and monitoring of agricultural districts **AND FOR THE PURCHASE OF**
 23 **EASEMENTS** shall provide that:

24 (1) One or more owners of land actively devoted to agricultural use
 25 may file a petition with the county governing body requesting the establishment of an
 26 agricultural district [composed of] **OR AN APPLICATION FOR THE PURCHASE OF AN**
 27 **EASEMENT BY THE FOUNDATION ON** the land owned by the petitioners. The petition
 28 shall include maps and descriptions of the current use of land in the proposed district
 29 **OR FOR THE PROPOSED EASEMENT.**

1 (2) Upon receipt of a petition to establish an agricultural district **OR**
2 **APPLICATION TO PURCHASE AN EASEMENT** the local governing body shall refer the
3 petition **OR APPLICATION** and accompanying materials both to the agricultural
4 preservation advisory board and to the county planning and zoning body.

5 (i) Within 60 days of the referral of a petition **OR**
6 **APPLICATION**, the agricultural preservation advisory board shall advise the county
7 governing body as to whether or not the land in the proposed district **OR PROPOSED**
8 **EASEMENT** meets the qualifications established by the Foundation under subsection
9 **[(c)] (D)** of this section, and whether or not the advisory board recommends
10 establishment of the district **OR THE PURCHASE OF THE EASEMENT**.

11 (ii) Within 60 days of the referral of a petition **OR**
12 **APPLICATION**, the county planning and zoning body shall advise the local governing
13 body as to whether or not establishment of the district **OR THE PURCHASE OF THE**
14 **EASEMENT** is compatible with existing and approved county plans and overall county
15 policy, and whether or not the planning and zoning body recommends establishment of
16 the district **OR THE PURCHASE OF THE EASEMENT**.

17 (3) If either the agricultural preservation advisory board or the
18 planning and zoning body recommends approval, the county governing body shall hold
19 a public hearing on the petition **OR FOR THE PROPOSED EASEMENT**. Adequate
20 notice of the hearing shall be given to all landowners in the proposed district **OR THE**
21 **PROPOSED EASEMENT**, and to the Foundation.

22 (4) (i) Within 120 days after the receipt of the petition **OR**
23 **APPLICATION**, the county governing body shall render a decision as to whether or not
24 the petition **OR APPLICATION** shall be recommended to the Foundation for approval.

25 (ii) If the county governing body decides to recommend approval
26 of the petition **OR APPLICATION**, it shall so notify the Foundation and forward to the
27 Foundation the petition **OR APPLICATION** and all accompanying materials, including
28 the recommendations of the advisory board and county planning and zoning body.

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

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

1 (i) The land within the proposed district meets the
2 qualifications established under subsection [(c)] (D) of this section;

3 (ii) The petition has been approved by the county governing
4 body; and

5 (iii) The establishment of the district **OR THE PURCHASE OF**
6 **THE EASEMENT** is approved by a majority of the Foundation board of trustees
7 at-large, by the Secretary, and by the State Treasurer.

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

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

13 (ii) The establishment of the district shall not take effect until
14 all landowners in the proposed district have executed and recorded [along with]
15 **AMONG THE** land records an agreement with the Foundation stipulating that for a
16 specified period of time from the establishment of the agricultural district, the
17 landowner agrees to keep his land in agricultural use and has the right to offer to sell
18 an easement for development rights on his land to the Foundation under the
19 provisions of this subtitle.

20 (iii) In the ordinance that establishes an agricultural district:

21 1. The county governing body shall establish the length
22 of time required for a district agreement under subparagraph (ii) of this paragraph;
23 and

24 2. The time period of the district agreement shall be
25 from 3 to 10 years, both inclusive.

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

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

1 (8) At any time after the period of time stipulated in the district
2 agreement, a landowner may terminate his property as an agricultural district by
3 notifying the Foundation one year in advance of his intention to do so.

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

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

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

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

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

15 (c) Regulations and procedures adopted by the Foundation for the
16 establishment and monitoring of agricultural districts **AND EASEMENTS** may not
17 require, in Garrett County or Allegany County, a natural gas rights owner or lessee to
18 subordinate its interest to the Foundation's interest if the Foundation determines that
19 exercise of the natural gas rights will not interfere with an agricultural operation
20 conducted on land in the agricultural district **OR LAND SUBJECT TO AN EASEMENT**.

21 (d) Regulations and criteria developed by the Foundation relating to land
22 which may be included in an agricultural district **OR SUBJECT TO AN EASEMENT**
23 shall provide that:

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

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

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

1 (4) Land within the boundaries of a 10-year water and sewer service
2 district may be included in an agricultural district **OR EASEMENT** only if that land is
3 outstanding in productivity and is of significant size; and

4 (5) Land may be included in an agricultural district **OR EASEMENT**
5 only if the county regulations governing the land permit the activities listed under §
6 2-513(a) of this subtitle.

7 [(e) The Foundation may not purchase an easement on land which is located
8 outside an agricultural district established under this subtitle.]

9 2-510.

10 (a) An owner of agricultural land [located in an agricultural district
11 established] **THAT HAS AN EASEMENT APPROVED BY THE COUNTY** under this
12 subtitle may [offer by written application to] sell an easement to the Foundation on
13 the [entire] contiguous acreage of such agricultural land.

14 SECTION 2. AND BE IT FURTHER ENACTED, That:

15 (a) Effective July 1, 2007, districts may not be a requirement for the
16 easement application process to the Maryland Agricultural Land Preservation
17 Foundation; and

18 (b) Except as provided in Section 3 of this Act, as of ~~June 20~~ June 30, 2012,
19 all districts in the Maryland Agricultural Land Preservation Foundation shall be
20 terminated and a landowner may not be bound to the terms of any Foundation district
21 agreement.

22 SECTION 3. AND BE IT FURTHER ENACTED, That the following
23 agricultural land preservation districts established under § 2-509 of the Agriculture
24 Article or by a county shall remain in force and may not be terminated:

25 (a) Any district in which an easement has been transferred to the
26 Foundation; and

27 (b) Any district established by a county and a landowner for the purpose of
28 providing a property tax credit to the landowner.

29 SECTION 4. AND BE IT FURTHER ENACTED, That the Foundation may not
30 accept a district petition for any purpose after June 30, 2008.

1 SECTION 5. AND BE IT FURTHER ENACTED, That this Act shall take effect
2 July 1, 2007.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.