

HOUSE BILL 1331

M4

71r3070

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

Introduced and read first time: February 28, 2007

Assigned to: Rules and Executive Nominations

A BILL ENTITLED

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.

10 BY repealing and reenacting, with amendments,
11 Article – Agriculture
12 Section 2–509 and 2–510(a)
13 Annotated Code of Maryland
14 (1999 Replacement Volume and 2006 Supplement)

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

17 **Article – Agriculture**

18 2–509.

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

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (I) PROPERTIES WITHOUT ESTABLISHED DISTRICTS; AND

2 (II) PROPERTIES ENTERING INTO A DISTRICT.

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

4 [(1)] (I) Establishment and monitoring of agricultural districts AND
5 EASEMENTS;

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

8 [(3)] (III) Purchase of easements, including the purchase of easements
9 under an installment purchase agreement.

10 (b) Regulations and procedures adopted by the Foundation for the
11 establishment and monitoring of agricultural districts AND FOR THE PURCHASE OF
12 EASEMENTS shall provide that:

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

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

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

1 (ii) Within 60 days of the referral of a petition **OR**
2 **APPLICATION**, the county planning and zoning body shall advise the local governing
3 body as to whether or not establishment of the district **OR THE PURCHASE OF THE**
4 **EASEMENT** is compatible with existing and approved county plans and overall county
5 policy, and whether or not the planning and zoning body recommends establishment of
6 the district **OR THE PURCHASE OF THE EASEMENT**.

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

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

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

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

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

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

25 (ii) The petition has been approved by the county governing
26 body; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 2-510.

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

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

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

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

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

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

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

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

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