

# HOUSE BILL 1354

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By: **Chair, Environmental Matters Committee (By Request – Departmental – Agriculture)**

Introduced and read first time: March 2, 2007

Assigned to: Rules and Executive Nominations

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## A BILL ENTITLED

1 AN ACT concerning

2 **Certification of County Priority Preservation Areas**

3 FOR the purpose of altering certain requirements for priority preservation areas;  
4 prohibiting the Department of Planning and the Maryland Agricultural Land  
5 Preservation Program from certifying the priority preservation area of a county  
6 unless certain requirements are met; and generally relating to certification of  
7 priority preservation areas.

8 BY repealing and reenacting, with amendments,  
9 Article – Agriculture  
10 Section 2–518  
11 Annotated Code of Maryland  
12 (1999 Replacement Volume and 2006 Supplement)

13 BY repealing and reenacting, with amendments,  
14 Article – State Finance and Procurement  
15 Section 5–408  
16 Annotated Code of Maryland  
17 (2006 Replacement Volume and 2006 Supplement)

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

20 **Article – Agriculture**

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



2-518.

(a) In this section, “area” means a priority preservation area.

(b) A county may include a priority preservation area element in the county’s comprehensive plan.

(c) An area shall:

(1) (i) Contain productive agricultural or forest soils; or

(ii) Be capable of supporting profitable agricultural and forestry enterprises where productive soils are lacking;

(2) Be governed by local policies, **ORDINANCES, REGULATIONS, AND PROCEDURES** that:

(I) [stabilize] **STABILIZE** the agricultural and forest land base so that development does not convert or compromise agricultural or forest resources; **AND**

(II) **SUPPORT THE ABILITY OF WORKING FARMS IN THE PRIORITY PRESERVATION AREA TO ENGAGE IN NORMAL AGRICULTURAL ACTIVITIES;** and

(3) Be large enough to support [the kind of agricultural operations that the county seeks to preserve,] **NORMAL AGRICULTURAL AND FORESTRY ACTIVITIES IN CONJUNCTION WITH THE AMOUNT OF DEVELOPMENT PERMITTED BY THE COUNTY IN THE PRIORITY PRESERVATION AREA,** as represented in its adopted comprehensive plan.

(d) An area may:

(1) Consist of a single parcel of land, multiple connected parcels of land, or multiple unconnected parcels of land; and

(2) Include rural legacy areas.

(e) A county’s acreage goal for land to be preserved through easements and zoning within an area shall be equal to at least 80% of the remaining undeveloped land in the area, as calculated at the time of application for State certification of an area.

1 (f) Each time a county's comprehensive plan is updated, the update shall  
2 include an evaluation of:

3 (1) The county's progress toward meeting the goals of the Foundation;

4 (2) Any shortcomings in the county's ability to achieve the goals of the  
5 Foundation; and

6 (3) Past, current, and planned actions to correct any identified  
7 shortcomings.

8 (g) In accordance with § 5–408 of the State Finance and Procurement Article  
9 and any regulations adopted under the authority of that section, the Department of  
10 Planning and the Maryland Agricultural Land Preservation Foundation shall jointly  
11 certify an area.

## 12 **Article – State Finance and Procurement**

13 5–408.

14 (a) There is within the Department a program for certification of effective  
15 county agricultural land preservation programs.

16 (b) A county may apply to the Department and the Maryland Agricultural  
17 Land Preservation Foundation for certification under this section only if the county  
18 agricultural preservation advisory board and the governing body of the county both:

19 (1) approve the program established at the county level as being an  
20 effective approach to agricultural land preservation; and

21 (2) approve the county's application for certification.

22 (c) (1) A county may apply for certification under this section if the  
23 county has established programs to encourage participation of farmers in agricultural  
24 land preservation efforts at the county level, including purchase of development rights  
25 or financial enhancements related to purchase of development rights, outside of the  
26 State Agricultural Land Preservation Foundation.

27 (2) County programs shall include:

28 (i) any program that the Department and the Foundation:

1                               1.     determine is necessary for an effective county  
2 agricultural land preservation program; and

3                               2.     require by regulation; and

4                               (ii)   beginning in fiscal year 2009, a priority preservation area  
5 element established in accordance with § 2-518 of the Agriculture Article.

6               (d)   (1)   To apply for certification under this section, a county shall file with  
7 the Maryland Agricultural Land Preservation Foundation and the Department an  
8 application in the form that the Department and the Foundation jointly require by  
9 regulation.

10                   (2)   Within 60 days after notification of an application for certification:

11                               (i)   the Foundation shall advise the Department as to whether it  
12 approves the application; and

13                               (ii)   the Department shall notify the county as to whether the  
14 county's application for certification has been approved.

15               (e)   The Department and the Foundation may not certify a county under this  
16 section unless the Department and the Foundation determine that:

17                               (1)   the proposed county program for the purchase of development  
18 rights or financial enhancements related to the purchase of development rights is  
19 likely to be successful;

20                               (2)   the county has committed to spend additional local funds for the  
21 purchase of development rights or enhancements related to the purchase of  
22 development rights in an amount equal to or exceeding the amount of the additional  
23 funds that will be available as a result of certification; and

24                               (3)   beginning in fiscal year 2009:

25                               (i)   the county's priority preservation area has been established  
26 in accordance with § 2-518 of the Agriculture Article; and

27                               (ii)   the county's priority preservation area element in the  
28 comprehensive plan meets the requirements set forth in subsection (f) of this section.

1 (f) The Department and the Foundation may not certify a priority  
2 preservation area of a county under this section unless the Department and the  
3 Foundation agree that the county's comprehensive plan:

4 (1) establishes appropriate goals for the amount and types of  
5 agricultural resource land to be preserved in the priority preservation area;

6 (2) describes [the kinds of agricultural production the county intends  
7 to support and the amount of development the county intends to allow];

8 (I) THE COUNTY'S STRATEGY TO SUPPORT NORMAL  
9 AGRICULTURAL AND FORESTRY ACTIVITIES IN CONJUNCTION WITH THE  
10 AMOUNT OF DEVELOPMENT PERMITTED IN THE PRIORITY PRESERVATION AREA;  
11 AND

12 (II) THE ORDINANCES, REGULATIONS, AND PROCEDURES  
13 THE COUNTY IS USING IN THE PRIORITY PRESERVATION AREA TO SUPPORT THE  
14 ABILITY OF WORKING FARMS TO ENGAGE IN NORMAL AGRICULTURAL AND  
15 FORESTRY ACTIVITIES;

16 (3) includes maps showing the county's priority preservation area;

17 (4) describes the priority preservation area in the context of the  
18 county's growth management plans;

19 (5) describes the way in which preservation goals will be accomplished  
20 in the priority preservation area, including the county's strategy to:

21 (i) protect land from development through zoning;

22 (ii) preserve the desired amount of land with permanent  
23 easements; and

24 (iii) maintain a rural environment capable of supporting [the  
25 kind of production intended] **NORMAL AGRICULTURAL AND FORESTRY ACTIVITIES;**

26 (6) includes an evaluation of the ability of the county's zoning and  
27 other land use management practices to:

28 (i) limit the impact of subdivision and development;

(ii) allow time for easement purchase; and

(iii) achieve [each of] the Foundation's goals before [the goals are irreparably undermined or impaired by development] **DEVELOPMENT EXCESSIVELY COMPROMISES THE AGRICULTURAL AND FOREST RESOURCE LAND;**

(7) identifies shortcomings in the abilities of the county's zoning and land management practices and identifies current or future actions to correct the shortcomings; and

(8) describes the methods the county will use to concentrate preservation funds and other supporting efforts in the priority preservation area to achieve the goals of the Foundation and the county's acreage preservation goal.

(g) In certifying a county's priority preservation area, the Department and the Foundation shall ensure that:

(1) the county has included all the information required by subsection (f) of this section in the county's comprehensive plan; and

(2) the size of the county's priority preservation area is appropriate in relation to the county's acreage preservation goal.

(h) (1) A county that has been certified under this section as having established an effective county agricultural land preservation program is eligible for:

(i) the additional funds available to certified counties under § 2-508.1 of the Agriculture Article and § 13-306 of the Tax – Property Article; and

(ii) as of July 1, 2008, funds provided for the Maryland Agricultural Land Preservation Foundation over and above the funding the Foundation receives in accordance with § 2-508.1 of the Agriculture Article and §§ 13-209 and 13-306 of the Tax – Property Article.

(2) A county that has been certified under this section may use the additional funds available as a result of certification:

(i) for the purposes stated under § 2-508.1 of the Agriculture Article and § 13-306 of the Tax – Property Article;

(ii) to purchase easements in its priority preservation area;

- 1 (iii) for a Critical Farms Program approved by the Foundation;
- 2 (iv) for an installment purchase agreement program approved by
- 3 the Foundation; or
- 4 (v) for the Next Generation Farmland Acquisition Program
- 5 approved by the Foundation.

6 (i) (1) A certification under this section is effective for 3 years and the

7 decision by the Department and the Foundation as to certification is final with no

8 right to appeal.

9 (2) At the request of the county, the Department and the Foundation

10 shall recertify under this section a county agricultural land preservation program if:

11 (i) the county has maintained a successful program of purchase

12 of development rights or financial enhancements related to purchase of development

13 rights during the period of certification;

14 (ii) conditions in the county priority preservation area remain in

15 accordance with the requirements of § 2–518 of the Agriculture Article;

16 (iii) the county provides an update on the method, evaluation,

17 shortcomings, and future actions that the county is using or will use to achieve

18 preservation goals, as required under subsection (f)(6) through (8) of this section; and

19 (iv) the update demonstrates significant progress toward

20 achievement of preservation goals in the priority preservation area.

21 (j) The Department and the Foundation shall jointly adopt regulations for

22 administration of the certification program.

23 (k) In accordance with the requirements of § 2–1246 of the State Government

24 Article, the Department and the Foundation shall report on the certification program

25 on or before January 15 of each year to:

- 26 (1) the Governor;
- 27 (2) the Secretary of Agriculture and the Secretary of Planning;
- 28 (3) the Senate Budget and Taxation Committee and the Senate
- 29 Education, Health, and Environmental Affairs Committee; and

1                   (4)     the House Appropriations Committee, the House Environmental  
2 Matters Committee, and the House Committee on Ways and Means.

3                   SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
4 October 1, 2007.