

HOUSE BILL 1354

M4

71r0021

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

Introduced and read first time: March 2, 2007

Assigned to: Rules and Executive Nominations

Re-referred to: Environmental Matters, March 6, 2007

Committee Report: Favorable

House action: Adopted

Read second time: March 20, 2007

CHAPTER _____

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)

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.



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

Article – Agriculture

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

1 (2) Include rural legacy areas.

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

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

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

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

11 (3) Past, current, and planned actions to correct any identified
12 shortcomings.

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

17 **Article – State Finance and Procurement**

18 5–408.

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

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

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

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

27 (c) (1) A county may apply for certification under this section if the
28 county has established programs to encourage participation of farmers in agricultural
29 land preservation efforts at the county level, including purchase of development rights

1 or financial enhancements related to purchase of development rights, outside of the
2 State Agricultural Land Preservation Foundation.

3 (2) County programs shall include:

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

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

7 2. require by regulation; and

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

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

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

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

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

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

21 (1) the proposed county program for the purchase of development
22 rights or financial enhancements related to the purchase of development rights is
23 likely to be successful;

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

28 (3) beginning in fiscal year 2009:

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

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

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

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

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

12 (I) THE COUNTY'S STRATEGY TO SUPPORT NORMAL
13 AGRICULTURAL AND FORESTRY ACTIVITIES IN CONJUNCTION WITH THE
14 AMOUNT OF DEVELOPMENT PERMITTED IN THE PRIORITY PRESERVATION AREA;
15 AND

16 (II) THE ORDINANCES, REGULATIONS, AND PROCEDURES
17 THE COUNTY IS USING IN THE PRIORITY PRESERVATION AREA TO SUPPORT THE
18 ABILITY OF WORKING FARMS TO ENGAGE IN NORMAL AGRICULTURAL AND
19 FORESTRY ACTIVITIES;

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

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

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

25 (i) protect land from development through zoning;

26 (ii) preserve the desired amount of land with permanent
27 easements; and

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

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

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

4 (ii) allow time for easement purchase; and

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

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

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

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

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

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

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

23 (i) the additional funds available to certified counties under §
24 2-508.1 of the Agriculture Article and § 13-306 of the Tax – Property Article; and

25 (ii) as of July 1, 2008, funds provided for the Maryland
26 Agricultural Land Preservation Foundation over and above the funding the
27 Foundation receives in accordance with § 2-508.1 of the Agriculture Article and §§
28 13-209 and 13-306 of the Tax – Property Article.

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

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

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

6 (iii) for a Critical Farms Program approved by the Foundation;

7 (iv) for an installment purchase agreement program approved by
8 the Foundation; or

9 (v) for the Next Generation Farmland Acquisition Program
10 approved by the Foundation.

11 (i) (1) A certification under this section is effective for 3 years and the
12 decision by the Department and the Foundation as to certification is final with no
13 right to appeal.

14 (2) At the request of the county, the Department and the Foundation
15 shall recertify under this section a county agricultural land preservation program if:

16 (i) the county has maintained a successful program of purchase
17 of development rights or financial enhancements related to purchase of development
18 rights during the period of certification;

19 (ii) conditions in the county priority preservation area remain in
20 accordance with the requirements of § 2–518 of the Agriculture Article;

21 (iii) the county provides an update on the method, evaluation,
22 shortcomings, and future actions that the county is using or will use to achieve
23 preservation goals, as required under subsection (f)(6) through (8) of this section; and

24 (iv) the update demonstrates significant progress toward
25 achievement of preservation goals in the priority preservation area.

26 (j) The Department and the Foundation shall jointly adopt regulations for
27 administration of the certification program.

28 (k) In accordance with the requirements of § 2–1246 of the State Government
29 Article, the Department and the Foundation shall report on the certification program
30 on or before January 15 of each year to:

- 1 (1) the Governor;
- 2 (2) the Secretary of Agriculture and the Secretary of Planning;
- 3 (3) the Senate Budget and Taxation Committee and the Senate
4 Education, Health, and Environmental Affairs Committee; and
- 5 (4) the House Appropriations Committee, the House Environmental
6 Matters Committee, and the House Committee on Ways and Means.

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

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.