

CHAPTER 476

(House Bill 1354)

AN ACT concerning

Certification of County Priority Preservation Areas

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

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

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

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

(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.

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

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

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

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

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

Article – State Finance and Procurement

5–408.

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

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

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

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

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

(2) County programs shall include:

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

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

2. require by regulation; and

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

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

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

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

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

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

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

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

(3) beginning in fiscal year 2009:

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

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

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

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

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

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

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

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

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

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

(i) protect land from development through zoning;

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

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

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

(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;

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

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

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

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

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

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

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

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

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

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

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

(1) the Governor;

(2) the Secretary of Agriculture and the Secretary of Planning;

(3) the Senate Budget and Taxation Committee and the Senate Education, Health, and Environmental Affairs Committee; and

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

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

Approved by the Governor, May 8, 2007.