

Department of Legislative Services
Maryland General Assembly
2007 Session

FISCAL AND POLICY NOTE
Revised

House Bill 1331

(Delegate Cane, *et al.*)

Environmental Matters

Education, Health, and Environmental Affairs

Maryland Agricultural Land Preservation Foundation - Removal of Districts

This bill makes changes to the easement application process for the Maryland Agricultural Land Preservation Foundation (MALPF) program to phase out agricultural districts.

The bill takes effect July 1, 2007.

Fiscal Summary

State Effect: The bill would not materially affect State finances. Any increase in workload associated with any increase in demand for the program would likely be offset by a decrease in workload associated with the elimination of districts from the program.

Local Effect: The bill provides discretion to local governments to require county districts as a prerequisite for the sale of a MALPF easement. The bill's changes could be handled with existing local resources.

Small Business Effect: Potential meaningful. The elimination of the requirement to establish a district could provide an incentive to program participation to farmers who are unwilling to place restrictions on their properties without a guarantee that they will be able to sell an easement to MALPF.

Analysis

Bill Summary: The bill requires MALPF to adopt regulations that alter the procedures to allow properties without established districts to participate in the program. The

procedures are the same as currently required for petitions requesting the establishment of an agricultural district. An owner of land that is at least 50 acres in size and actively devoted to agriculture use who is interested in selling an easement to MALPF is required to file an application with the county governing body. The county governing body will refer the application and accompanying materials both to the agricultural preservation advisory board and to the county planning and zoning body. Within 60 days after the referral of the application, the agricultural preservation advisory board is required to advise the county governing body as to whether or not the land in the proposed easement meets MALPF qualifications and to make a recommendation on whether the easement should be purchased. Similarly, within 60 days after the referral of the application, the county planning and zoning body is required to advise the county governing body as to whether or not the purchase of the easement is compatible with existing and approved county plans and overall county policy and to make a recommendation on whether or not the easement should be purchased.

If either the agricultural preservation advisory board or the planning and zoning body recommends approval, the county governing body is required to hold a public hearing on the proposed easement. Within 120 days after the receipt of the application, the county governing body is required to render a decision as to whether the application will be recommended to MALPF for approval.

The bill repeals the current prohibition on the purchase of an easement on land that is located outside of an agricultural district. As of July 1, 2007, agricultural districts will no longer be a requirement to participate in the easement application process for MALPF. As of June 30, 2012, with two exceptions, all districts will be terminated and a landowner will not be bound to the terms of any MALPF district agreement. Districts in which an easement has been transferred to MALPF and districts established by a county and a landowner for the purpose of providing a property tax credit to the landowner will remain in force and may not be terminated. Finally, the bill prohibits MALPF from accepting a district petition for any purpose after June 30, 2008.

Current Law/Background: MALPF was created by the Maryland General Assembly in 1977 to preserve productive agricultural land and woodland. Agricultural preservation districts are formed when qualifying landowners sign voluntary agreements to keep their land in agricultural or woodland use for a specified number of years (3 to 10 years, depending on the county where the land is located). Landowners who agree to place their farms within an agricultural preservation district may sell a development rights easement on that property to MALPF. Subject to some limitations, once an easement has been sold, the property is protected from further development. As of June 30, 2006, MALPF had protected approximately 250,370 acres through the purchase of 1,816 easements.

According to MALPF, many potential program participants have not been willing to commit to the multiple year district agreement to restrict the property to agricultural uses, particularly in recent years when there has been a high level of uncertainty about the funding levels of the program.

In late 2005 and early 2006, MALPF board members, staff, and county program administrators formed a committee to study the district issue. The committee discussed the original intentions of the district, which were to help anticipate needed funding levels and to provide a supplementary mechanism for farmland protection. MALPF concluded that, on balance, the benefits of additional protection and self-identification of potential program participants are outweighed by the costs of the requirement acting as a disincentive to participation and the additional administrative burden.

According to MALPF, using districts as a supplemental mechanism for protection has only been effective when district establishment is tied to local property tax credits, which requires individual county initiative. The general conclusion from the committee's discussion was that any benefits could be gained more efficiently and effectively by counties creating their own district programs to meet local goals while taking into account local conditions.

Based at least in part on the conclusions of the committee, Chapter 192 of 2006 repealed the five-year time requirement that a landowner must agree to in order to be eligible for inclusion into an agricultural preservation district under MALPF. Instead, the Act provided that, in the ordinance that establishes a district, the county governing body must establish the length of time required for a district agreement, but that it must be from 3 to 10 years. Chapter 192 also directed MALPF to submit a report to the General Assembly by January 31, 2007 that outlines procedures, laws, and regulations MALPF determines to be necessary in order to implement the elimination of agricultural districts from the program. This bill includes the legislative changes recommended by MALPF in that report. If this bill is enacted, MALPF would suggest additional statutory changes for consideration in the 2008 session to remove references to districts. At that time, MALPF would no longer accept districts and would operate an easement program only.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Maryland Department of Agriculture, Caroline County, Howard County, Prince George's County, Department of Legislative Services

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