**SB 682**

# Department of Legislative Services
Maryland General Assembly
2007 Session

## FISCAL AND POLICY NOTE
**Revised**

Senate Bill 682 (Cecil County Senators)
Budget and Taxation Environmental Matters

**Cecil County - Purchase of Development Rights Program - General Obligation Installment Purchase Agreements**

This bill authorizes Cecil County to enter into "installment purchase agreements" (IPA) for an aggregate purchase price of up to $4.0 million plus interest to acquire the development rights for agricultural land. Under such an agreement, Cecil County would acquire development rights from landowners of agricultural land as part of the county's purchase of development rights program. In doing so, the county will be required to pay the purchase price for that land either in installments or at the maturity of the agreement, and interest on the unpaid balance.

The bill takes effect June 1, 2007.

## Fiscal Summary

**State Effect:** None.

**Local Effect:** To the extent that Cecil County exercises its authority to acquire development rights through IPAs, county expenditures could increase, based on the purchase of U.S. Treasury Separate Trading of Registered Interest and Principal of Securities (STRIPS) (or other investments), interest payments, and legal fees. Revenues would not be affected.

**Small Business Effect:** Potential meaningful impact for farmers in Cecil County by enabling them to sell development rights to the county.

## Analysis

**Bill Summary:** The bill authorizes Cecil County to select the tract or parcels of agricultural land for which development rights are to be acquired, and negotiate with the owners of the land for the purchase price of development rights and other conditions or terms as may be necessary to acquire these rights. Cecil County is further authorized to purchase and set aside in a segregated fund or account U.S. Treasury STRIPS or other obligations specified under current law and county guidelines, and to apply those funds to the payment of the balance of the purchase price.

Until the IPAs are paid in full (including interest), the county must levy ad valorem taxes, which in combination with recordation tax revenues designated for the purpose, are sufficient to assure payment. In addition, the county may apply to the payment of the purchase price and interest any funds received from the State, the federal government, or any other source under specified conditions. Any income derived from the IPAs would be exempt from State, county, municipal, or other taxation.

**Current Law:** Cecil County does not have the authority to enter into IPAs to acquire development rights on agricultural land. In addition, as a county with the commission form of government, the General Assembly has not imposed a statutory debt limitation on the county.

**Background:**

*Land Preservation Tools*

Local governments have a variety of tools at their disposal to preserve agricultural and forestry land; among these are zoning, subdivision, and development procedures. In addition, local jurisdictions might use land preservation techniques such as transferable development rights (TDRs) the purchase of development rights (PDRs), and innovative financing methods called IPAs.

Under TDR programs, residents who occupy certain areas in a county (sending areas) are precluded from selling their land to developers. In exchange, these landowners are awarded TDRs which may be sold on the open market to developers. These rights are applied by developers to designated receiving areas (areas where the county is attempting to foster development). Generally, developers who purchase TDRs are allowed an increased density in these areas.

Sometimes paired with TDR programs, PDR and easement acquisition programs allow local jurisdictions to purchase development rights from landowners and then retire or extinguish those rights.

An IPA is an innovative payment plan that allows jurisdictions to stretch available funds while offering benefits to landowners. It essentially is a contract between a purchaser and a seller to pay unpaid principal at settlement as a balloon payment at the end of the term of the agreement. During the period of the agreement, the purchaser pays the seller tax-exempt interest on the unpaid principal.

As of January 2006, 10 counties in Maryland (Anne Arundel, Baltimore, Calvert, Carroll, Frederick, Harford, Howard, Montgomery, Washington, and Wicomico) had farmland PDR programs. Eleven counties (Calvert, Caroline, Charles, Harford, Howard, Montgomery, Queen Anne's, St. Mary's, Talbot, Washington, and Wicomico) had farmland TDR programs.

Legislation enacted in 2005 (Chapter 526) authorized St. Mary's County to enter into IPA's for an aggregate purchase price of up to $20 million plus interest to acquire the development rights for agricultural or forestry land.

*Agricultural Land Preservation in Cecil County*

According to the 1997 Agricultural Census, Cecil County had 464 farms with a total of 85,702 acres devoted to agriculture. By the 2002 Agricultural Census the number of farms had increased to 468, but the total number of acres devoted to agriculture decreased to 77,089 – a loss of 8,613 acres of agricultural lands. In 2002, the average farm in Cecil County was comprised of 165 acres with an average market value (land and buildings) of $976,857.

Cecil County's 2005 "Land Preservation, Parks, and Recreation Plan" indicated that the primary easement acquisition mechanisms operating in the county are the Maryland Agricultural Land Preservation Foundation (MALPF), land trusts (the Maryland Environmental Trust and the Cecil Land Trust), and the Rural Legacy Program. As of 2004, approximately 20,100 acres were under easement in the county; of these, 18,000 were agricultural easements. The average price per acre of MALPF development rights sold in the county between 1998 and 2002 was $1,683.

Chapter 190 of 2004 created a program allowing MALPF to give grants to eligible counties to purchase easements using IPAs. The Maryland Department of Agriculture advises that while no grants have been disbursed to the counties, they are working on the procedures whereby the funds would be disbursed.

*U.S. Treasury STRIPS*

U.S. Treasury STRIPS, also called "zero-coupon securities," are investments that allow investors to hold and trade the individual interest and principal components of eligible Treasury notes and bonds as separate securities. According to the U.S. Treasury, these are popular with investors who want to receive a known payment on a specific future date. For example, a U.S. Treasury note with 10 years maturity consists of a principal payment due at maturity and 20 interest payments (paid every six months). Converting the note into STRIPS, breaks apart the principal and 20 interest payments into separate securities that can be held or traded separately.

**Local Fiscal Effect:** To the extent that Cecil County exercises its power to acquire development rights through IPAs, county expenditures could increase. This increase depends on the purchase of U.S. Treasury STRIPS (or other authorized investments), interest payments, and legal fees, none of which can be reliably quantified at this time.

In fiscal 2006, Cecil County increased its recordation tax rate from $3.30 to $4.10 per $500. According to the county's fiscal 2007 budget, this rate increase has generated $1.0 million in revenues which will be allocated to a planned TDR/PDR program.

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## Additional Information

**Prior Introductions:** None.

**Cross File:** HB 657 (Cecil County Delegation) – Environmental Matters.

**Information Source(s):** Cecil County, U.S. Department of Agriculture, U.S. Treasury, Maryland Department of Planning, Maryland Department of Agriculture, Department of Legislative Services

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