

HOUSE BILL 314

L6, M4

8lr1627
CF 8lr1631

By: **Delegate Beitzel**

Introduced and read first time: January 24, 2008

Assigned to: Environmental Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Garrett County – County Commissioners – Agricultural Districts**

3 FOR the purpose of requiring the Garrett County Board of County Commissioners to
4 adopt certain rules, regulations, and procedures in accordance with certain
5 requirements for the establishment of agricultural districts in Garrett County;
6 prohibiting certain rules, regulations, and procedures adopted by the
7 Commissioners from requiring a natural gas rights owner or lessee to
8 subordinate its interest to the Commissioners' interest under certain
9 circumstances; prohibiting the Maryland Agricultural Land Preservation
10 Foundation from purchasing certain easements in Garrett County under certain
11 circumstances; providing for the construction of this Act; defining certain terms;
12 and generally relating to agricultural districts in Garrett County.

13 BY adding to

14 Article 25 – County Commissioners
15 Section 237
16 Annotated Code of Maryland
17 (2005 Replacement Volume and 2007 Supplement)

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

20 **Article 25 – County Commissioners**

21 **237.**

22 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE
23 MEANINGS INDICATED.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (2) "ADVISORY BOARD" MEANS THE GARRETT COUNTY
2 AGRICULTURAL PRESERVATION ADVISORY BOARD.

3 (3) "COMMISSIONERS" MEANS THE GARRETT COUNTY BOARD OF
4 COUNTY COMMISSIONERS.

5 (B) THIS SECTION APPLIES ONLY TO GARRETT COUNTY.

6 (C) THE COMMISSIONERS SHALL ADOPT RULES, REGULATIONS, AND
7 PROCEDURES FOR:

8 (1) THE ESTABLISHMENT AND MONITORING OF AGRICULTURAL
9 DISTRICTS; AND

10 (2) THE EVALUATION OF LAND TO BE INCLUDED IN
11 AGRICULTURAL DISTRICTS.

12 (D) THE RULES, REGULATIONS, AND PROCEDURES ADOPTED BY THE
13 COMMISSIONERS IN ACCORDANCE WITH THIS SECTION SHALL PROVIDE THAT:

14 (1) ONE OR MORE LANDOWNERS ACTIVELY DEVOTED TO
15 AGRICULTURAL USE MAY FILE A PETITION WITH THE COMMISSIONERS
16 REQUESTING THE ESTABLISHMENT OF AN AGRICULTURAL DISTRICT ON THE
17 LAND OWNED BY THE PETITIONERS;

18 (2) THE PETITION FILED IN ACCORDANCE WITH ITEM (1) OF THIS
19 SUBSECTION INCLUDES MAPS AND DESCRIPTIONS OF THE CURRENT USE OF
20 LAND IN THE PROPOSED DISTRICT;

21 (3) ON RECEIPT OF A PETITION TO ESTABLISH AN AGRICULTURAL
22 DISTRICT, THE COMMISSIONERS SHALL REFER THE PETITION AND
23 ACCOMPANYING MATERIALS TO THE ADVISORY BOARD AND THE COUNTY
24 PLANNING COMMISSION;

25 (4) WITHIN 60 DAYS AFTER THE REFERRAL OF A PETITION, THE
26 ADVISORY BOARD SHALL ADVISE THE COMMISSIONERS:

27 (I) WHETHER THE LAND IN THE PROPOSED DISTRICT
28 MEETS THE REQUIREMENTS ESTABLISHED BY THE COUNTY UNDER SUBSECTION
29 (F) OF THIS SECTION; AND

30 (II) WHETHER THE ADVISORY BOARD RECOMMENDS
31 ESTABLISHMENT OF THE DISTRICT;

1 **(5) WITHIN 60 DAYS AFTER THE REFERRAL OF A PETITION, THE**
2 **COUNTY PLANNING COMMISSION SHALL ADVISE THE COMMISSIONERS:**

3 **(I) WHETHER ESTABLISHMENT OF THE DISTRICT IS**
4 **COMPATIBLE WITH EXISTING OR APPROVED COUNTY PLANS AND POLICY; AND**

5 **(II) WHETHER THE COUNTY PLANNING COMMISSION**
6 **RECOMMENDS ESTABLISHMENT OF THE DISTRICT.**

7 **(6) IF EITHER THE ADVISORY BOARD OR THE COUNTY PLANNING**
8 **COMMISSION RECOMMENDS APPROVAL, THE COMMISSIONERS SHALL HOLD A**
9 **PUBLIC HEARING ON THE PETITION;**

10 **(7) ADEQUATE NOTICE OF A HEARING UNDER ITEM (6) OF THIS**
11 **SUBSECTION SHALL BE MADE TO:**

12 **(I) ALL LANDOWNERS IN THE PROPOSED DISTRICT; AND**

13 **(II) THE MARYLAND AGRICULTURAL LAND PRESERVATION**
14 **FOUNDATION;**

15 **(8) WITHIN 120 DAYS AFTER THE RECEIPT OF THE PETITION OR**
16 **APPLICATION, THE COMMISSIONERS SHALL DECIDE WHETHER THE PROPOSED**
17 **AGRICULTURAL DISTRICT WILL BE ESTABLISHED;**

18 **(9) THE ESTABLISHMENT OF AN AGRICULTURAL DISTRICT DOES**
19 **NOT TAKE EFFECT UNTIL ALL LANDOWNERS IN THE PROPOSED DISTRICT HAVE**
20 **EXECUTED AN AGREEMENT WITH THE COMMISSIONERS THAT:**

21 **(I) IS RECORDED IN THE COUNTY LAND RECORDS;**

22 **(II) REQUIRES A LANDOWNER TO KEEP THE LANDOWNER'S**
23 **LAND IN AGRICULTURAL USE FOR A MINIMUM OF 3 YEARS FROM THE**
24 **ESTABLISHMENT OF THE AGRICULTURAL DISTRICT; AND**

25 **(III) MAINTAINS THE RIGHT OF A LANDOWNER TO SELL AN**
26 **EASEMENT FOR DEVELOPMENT RIGHTS ON THE LAND TO THE MARYLAND**
27 **AGRICULTURAL LAND PRESERVATION FOUNDATION;**

28 **(10) IN THE EVENT OF SEVERE ECONOMIC HARDSHIP, THE**
29 **COMMISSIONERS MAY RELEASE THE LANDOWNER'S PROPERTY FROM THE**
30 **AGRICULTURAL DISTRICT;**

1 (11) AFTER MEETING THE MINIMUM 3-YEAR REQUIREMENT IN
2 THE AGRICULTURAL DISTRICT AGREEMENT UNDER ITEM (9) OF THIS
3 SUBSECTION, A LANDOWNER MAY TERMINATE THE PROPERTY'S DESIGNATION
4 AS AN AGRICULTURAL DISTRICT BY NOTIFYING THE COMMISSIONERS IN
5 WRITING 1 YEAR BEFORE THE DESIRED DATE OF TERMINATION;

6 (12) AFTER THE ESTABLISHMENT OF AN AGRICULTURAL
7 DISTRICT, THE COMMISSIONERS MAY REVIEW THE USE OF THE LAND WITHIN
8 THE AGRICULTURAL DISTRICT; AND

9 (13) THE COMMISSIONERS MAY APPROVE THE ALTERATION OR
10 TERMINATION OF AN AGRICULTURAL DISTRICT ONLY IF THE USE OF THE LAND
11 WITHIN THE AGRICULTURAL DISTRICT HAS CHANGED SO THAT THE LAND
12 WITHIN THE DISTRICT FAILS TO MEET THE COUNTY REQUIREMENTS UNDER
13 SUBSECTION (F) OF THIS SECTION.

14 (E) RULES, REGULATIONS, OR PROCEDURES ADOPTED BY THE
15 COMMISSIONERS UNDER THIS SECTION MAY NOT REQUIRE A NATURAL GAS
16 RIGHTS OWNER OR LESSEE TO SUBORDINATE ITS INTEREST TO THE
17 COMMISSIONERS' INTEREST IF THE COMMISSIONERS DETERMINE THAT THE
18 EXERCISE OF THE NATURAL GAS RIGHTS WILL NOT INTERFERE WITH AN
19 AGRICULTURAL OPERATION CONDUCTED ON LAND IN THE AGRICULTURAL
20 DISTRICT OR ON LAND SUBJECT TO AN EASEMENT.

21 (F) RULES, REGULATIONS, OR PROCEDURES ADOPTED BY THE
22 COMMISSIONERS RELATING TO LAND THAT MAY BE INCLUDED IN AN
23 AGRICULTURAL DISTRICT SHALL PROVIDE THAT:

24 (1) THE LAND SHALL MEET PRODUCTIVITY, ACREAGE, AND
25 LOCATIONAL CRITERIA DETERMINED BY THE COMMISSIONERS TO BE
26 NECESSARY FOR THE CONTINUATION OF FARMING;

27 (2) THE COMMISSIONERS SHALL ATTEMPT TO PRESERVE THE
28 MINIMUM NUMBER OF ACRES IN A GIVEN AGRICULTURAL DISTRICT THAT MAY
29 REASONABLY BE EXPECTED TO PROMOTE THE CONTINUED AVAILABILITY OF
30 AGRICULTURAL SUPPLIERS AND MARKETS FOR AGRICULTURAL GOODS; AND

31 (3) LAND WITHIN THE BOUNDARIES OF A 10-YEAR WATER AND
32 SEWER SERVICE DISTRICT MAY BE INCLUDED IN AN AGRICULTURAL DISTRICT
33 ONLY IF, IN THE DISCRETION OF THE COMMISSIONERS, THAT LAND IS
34 OUTSTANDING IN PRODUCTIVITY AND IS OF SIGNIFICANT SIZE.

35 (G) (1) LAND MAY BE INCLUDED IN AN AGRICULTURAL DISTRICT
36 ONLY IF THE COUNTY'S RULES, REGULATIONS, AND PROCEDURES GOVERNING

1 THE LAND ALLOW THE ACTIVITIES LISTED UNDER § 2-513 OF THE
2 AGRICULTURE ARTICLE.

3 (2) AGRICULTURAL DISTRICTS MAY BE ESTABLISHED ON ANY
4 LAND IN AGRICULTURAL USE, BUT ONLY IF THE LANDOWNER AGREES TO THE
5 CONDITIONS, RESTRICTIONS, AND LIMITATIONS UNDER § 2-513 OF THE
6 AGRICULTURE ARTICLE.

7 (H) THE MARYLAND AGRICULTURAL LAND PRESERVATION
8 FOUNDATION MAY NOT PURCHASE AN EASEMENT ON LAND THAT IS LOCATED IN
9 THE COUNTY BUT THAT IS OUTSIDE OF AN AGRICULTURAL DISTRICT
10 ESTABLISHED UNDER THIS SECTION.

11 (I) THIS SECTION MAY NOT BE CONSTRUED TO PRECLUDE A
12 LANDOWNER FROM SELLING THE LANDOWNER'S PROPERTY.

13 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
14 October 1, 2008.