

# SENATE BILL 662

Q1

(8lr1823)

## ENROLLED BILL

—Budget and Taxation / Ways and Means and Environmental Matters—

Introduced by ~~Senator Middleton~~ **Senators Middleton, Currie, Kasemeyer, McFadden, DeGrange, Jones, Madaleno, Kramer, Brinkley, Munson, Peters, Robey, King, Edwards, and Zirkin**

Read and Examined by Proofreaders:

\_\_\_\_\_  
Proofreader.

\_\_\_\_\_  
Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this \_\_\_\_\_ day of \_\_\_\_\_ at \_\_\_\_\_ o'clock, \_\_\_\_\_ M.

\_\_\_\_\_  
President.

### CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Agricultural Land Transfer Tax - ~~Rates~~ Surcharge and Distribution of**  
3 **Revenue**

4 FOR the purpose of ~~altering certain agricultural land transfer tax rates;~~ imposing a  
5 certain surcharge under certain circumstances in addition to the agricultural  
6 land transfer tax imposed on certain instruments of writing; altering the  
7 distribution of certain revenues attributable to the agricultural land transfer  
8 tax; altering the distribution of the State transfer tax revenues under certain  
9 circumstances; providing that the Maryland Agricultural and Resource-Based  
10 Industry Development Corporation may use a certain percentage of certain  
11 funds for certain administrative costs; declaring the intent of the General  
12 Assembly that certain counties be encouraged to establish Priority Preservation  
13 Areas for agricultural land preservation as authorized under a certain act and

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#### 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.

*Italics indicate opposite chamber / conference committee amendments.*



1 that new funds that may be provided to the Maryland Agricultural Land  
 2 Preservation Foundation for preservation easement acquisition ~~under a Critical~~  
 3 ~~Farm Program~~ shall be used only in Priority Preservation Areas on or after a  
 4 certain date; *authorizing the use of certain funds for certain easement purchase*  
 5 *payments approved by the Maryland Agricultural Land Preservation*  
 6 *Foundation under certain circumstances; providing for the effective date of*  
 7 *certain provisions of this Act; providing for the termination of certain provisions*  
 8 *of this Act; and generally relating to the agricultural land transfer tax.*

9 BY repealing and reenacting, with amendments,  
 10 Article – Tax – Property  
 11 Section ~~13–303(a)~~ 13–301(c) and 13–306(a) and (b)  
 12 Annotated Code of Maryland  
 13 (2007 Replacement Volume)

14 BY adding to  
 15 Article – Tax – Property  
 16 Section 13–303(d)  
 17 Annotated Code of Maryland  
 18 (2007 Replacement Volume)

19 ~~BY repealing and reenacting, without amendments,~~  
 20 ~~Article – Tax – Property~~  
 21 ~~Section 13–306(b)~~  
 22 ~~Annotated Code of Maryland~~  
 23 ~~(2007 Replacement Volume)~~

24 BY repealing and reenacting, with amendments,  
 25 Article 41 – Governor – Executive and Administrative Departments  
 26 Section 13–513(c)  
 27 Annotated Code of Maryland  
 28 (2003 Replacement Volume and 2007 Supplement)

29 BY repealing and reenacting, with amendments,  
 30 Article – Economic Development  
 31 Section 10–523  
 32 Annotated Code of Maryland  
 33 (As enacted by Chapter \_\_\_\_\_ (H.B. 1050) of the Acts of the General Assembly of  
 34 2008)

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

37 **Article – Tax – Property**

38 13–301.

1 (c) (1) “Agricultural land transfer tax” means the tax imposed under this  
 2 subtitle.

3 (2) “AGRICULTURAL LAND TRANSFER TAX” INCLUDES THE  
 4 SURCHARGE IMPOSED UNDER ~~§ 13-301(D)~~ § 13-303(D) OF THIS SUBTITLE.

5 13-303.

6 (a) ~~The agricultural land transfer tax applies at the following rates:~~

7 (1) ~~for a transfer of 20 acres or more of agricultural land, [5%] 10%;~~

8 (2) ~~except as provided in item (3) of this subsection, for a transfer of~~  
 9 ~~less than 20 acres of agricultural land assessed for agricultural use or as unimproved~~  
 10 ~~agricultural land, [4%] 8%; or~~

11 (3) ~~for a transfer of less than 20 acres of agricultural land assessed as~~  
 12 ~~improved agricultural land or agricultural land with site improvements, [3%] 6%.~~

13 (D) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS  
 14 SUBSECTION, IN ADDITION TO THE TAX IMPOSED UNDER THIS SECTION, A  
 15 SURCHARGE IN AN AMOUNT EQUAL TO 25% OF THE TAX DETERMINED UNDER  
 16 SUBSECTIONS (A) THROUGH (C) OF THIS SECTION IS IMPOSED ON AN  
 17 INSTRUMENT OF WRITING THAT TRANSFERS TITLE TO AGRICULTURAL LAND.

18 (2) THE SURCHARGE IMPOSED UNDER PARAGRAPH (1) OF THIS  
 19 SUBSECTION DOES NOT APPLY TO AN INSTRUMENT OF WRITING THAT  
 20 TRANSFERS PROPERTY OF 2 ACRES OR LESS TO BE IMPROVED TO A CHILD OR  
 21 GRANDCHILD OF THE OWNER.

22 13-306.

23 (a) (1) Except in Montgomery County and except as provided in  
 24 subsection (b)(1) of this section for a certified county, each county collector shall remit  
 25 from a special account to the Comptroller, as the Comptroller specifies:

26 (i) the revenue from:

27 1. the agricultural transfer tax that is attributable to the  
 28 taxation of instruments of writing that transfer title to parcels of land that are  
 29 entirely woodland; AND

30 2. THE SURCHARGE IMPOSED UNDER § 13-303(D) OF  
 31 THIS SUBTITLE; and

1 (ii) two-thirds of the balance of revenue from the agricultural  
2 land transfer tax that remains after the remittance under item (i) of this paragraph.

3 (2) In Montgomery County, if § 52-21(d) (1979) of the Montgomery  
4 County Code is in effect or a transfer tax substantially similar to that provision is in  
5 effect, the collector for Montgomery County shall remit to the Comptroller:

6 (i) the revenue from:

7 **1.** the agricultural transfer tax that is attributable to the  
8 taxation of instruments of writing that transfer title to parcels of land that are  
9 entirely woodland; **AND**

10 **2. THE SURCHARGE IMPOSED UNDER § 13-303(D) OF**  
11 **THIS SUBTITLE;** and

12 (ii) one-third of the balance of revenue from the agricultural  
13 transfer tax that remains after the remittance under item (i) of this paragraph.

14 (3) The Comptroller shall deposit:

15 (i) up to \$200,000 annually of the revenue remitted under  
16 paragraphs (1)(i) and (2)(i) of this subsection or subsection (b) of this section into the  
17 Woodland Incentives Fund established in § 5-307 of the Natural Resources Article;  
18 and

19 (ii) **OF** the revenue in excess of \$200,000 annually remitted  
20 under paragraphs (1)(i) and (2)(i) of this subsection or subsection (b)(1) of this section  
21 and the revenue remitted under paragraphs (1)(ii) and (2)(ii) of this subsection or  
22 subsection (b)(2) of this section:

23 **1. SUBJECT TO PARAGRAPH (5) OF THIS**  
24 **SUBSECTION, FOR FISCAL YEAR ~~2010~~ 2009 AND EACH FISCAL YEAR**  
25 **THEREAFTER, \$2,500,000** into the Maryland Agricultural Land Preservation Fund  
26 to be used for the purposes stated in § 2-505 of the Agriculture Article;

27 **2. AFTER THE DISTRIBUTION MADE UNDER ITEM 1**  
28 **OF THIS ITEM, \$4,000,000 37.5% OF THE AGRICULTURAL LAND TRANSFER TAX**  
29 **REVENUE REMITTED TO THE COMPTROLLER, UP TO A MAXIMUM OF \$4,000,000**  
30 **ANNUALLY, INTO A SPECIAL FUND TO BE USED BY THE MARYLAND**  
31 **AGRICULTURAL AND RESOURCE-BASED INDUSTRY DEVELOPMENT**  
32 **CORPORATION FOR AN INSTALLMENT PURCHASE AGREEMENT PROGRAM FOR**  
33 **PRESERVATION EASEMENT ACQUISITION;**

1 ~~3. AFTER THE DISTRIBUTIONS MADE UNDER ITEMS 1~~  
 2 ~~AND 2 OF THIS ITEM, \$4,000,000 INTO A SPECIAL FUND TO BE USED BY THE~~  
 3 ~~MARYLAND AGRICULTURAL AND RESOURCE-BASED INDUSTRY DEVELOPMENT~~  
 4 ~~CORPORATION FOR THE NEXT GENERATION FARMLAND ACQUISITION~~  
 5 ~~PROGRAM;~~

6 3. AFTER THE DISTRIBUTIONS MADE UNDER ITEMS 1  
 7 AND 2 OF THIS ITEM, \$4,000,000 INTO A SPECIAL FUND TO BE USED BY THE  
 8 MARYLAND AGRICULTURAL AND RESOURCE-BASED INDUSTRY DEVELOPMENT  
 9 CORPORATION FOR A PROGRAM OF FACILITATING PRESERVATION EASEMENT  
 10 ACQUISITION THROUGH THE USE OF INSTALLMENT PURCHASE AGREEMENTS  
 11 FOR EASEMENT PURCHASES THAT HAVE BEEN APPROVED BY THE MARYLAND  
 12 AGRICULTURAL LAND PRESERVATION FOUNDATION; AND

13 ~~4. AFTER THE DISTRIBUTIONS MADE UNDER ITEMS 1~~  
 14 ~~THROUGH 3 OF THIS ITEM, \$4,000,000 INTO THE MARYLAND AGRICULTURAL~~  
 15 ~~LAND PRESERVATION FUND TO BE USED FOR THE CRITICAL FARMS PROGRAM~~  
 16 ~~UNTIL A TOTAL OF \$16,000,000 HAS ACCUMULATED IN THE CRITICAL FARMS~~  
 17 ~~FUND; AND~~

18 ~~5. 4.~~ AFTER THE DISTRIBUTIONS MADE UNDER ITEMS 1  
 19 THROUGH 4 ~~3~~ OF THIS ITEM, THE REMAINDER INTO THE MARYLAND  
 20 AGRICULTURAL LAND PRESERVATION FUND TO BE USED FOR THE PURPOSES  
 21 STATED IN § 2-505 OF THE AGRICULTURE ARTICLE.

22 (4) (I) NOTWITHSTANDING § 13-209 OF THIS TITLE, IF  
 23 SUFFICIENT REVENUES ARE NOT COLLECTED IN ANY FISCAL YEAR TO PROVIDE  
 24 A TOTAL OF \$4,000,000 INTO THE SPECIAL FUND ESTABLISHED UNDER  
 25 PARAGRAPH ~~(3)(I)2~~ (3)(II)3 OF THIS SUBSECTION, ANY DEFICIENCY SHALL BE  
 26 MADE UP BY REVENUES ~~COLLECTED~~ OTHERWISE REQUIRED TO BE  
 27 DISTRIBUTED TO THE MARYLAND AGRICULTURAL LAND PRESERVATION FUND  
 28 FROM THE TRANSFER TAX IMPOSED UNDER SUBTITLE 2 OF THIS TITLE.

29 (II) THE DISTRIBUTION REQUIRED UNDER SUBPARAGRAPH  
 30 (I) OF THIS PARAGRAPH SHALL BE MADE PRIOR TO ANY DISTRIBUTION  
 31 PROVIDED IN ~~§ 13-209~~ ~~§ 13-209(D)(2)~~ § 13-209(C) AND (D)(2) OF THIS TITLE.

32 (5) FOR EACH FISCAL YEAR AFTER 2010 2009, THE AMOUNT  
 33 DISTRIBUTED INTO THE MARYLAND AGRICULTURAL LAND PRESERVATION  
 34 FUND UNDER PARAGRAPH (3)(II)1 OF THIS SUBSECTION SHALL BE INCREASED  
 35 BY 5% OVER THE AMOUNT DISTRIBUTED FOR THE PRECEDING FISCAL YEAR.

36 (6) THE REVENUES REQUIRED TO BE DISTRIBUTED TO THE  
 37 MARYLAND AGRICULTURAL AND RESOURCE-BASED INDUSTRY DEVELOPMENT

1 **CORPORATION UNDER PARAGRAPHS (3) AND (4) OF THIS SUBSECTION SHALL**  
2 **BE DISTRIBUTED ON A QUARTERLY BASIS ON OR ABOUT THE FIRST DAY OF THE**  
3 **MONTH IN JULY, OCTOBER, JANUARY, AND APRIL.**

4 (b) If a county is certified by the Department of Planning and the Maryland  
5 Agricultural Land Preservation Foundation under § 5-408 of the State Finance and  
6 Procurement Article as having established an effective county agricultural land  
7 preservation program, the collector for the county shall remit to the Comptroller:

8 (1) the revenue from:

9 (I) the agricultural land transfer tax that is attributable to the  
10 taxation of instruments of writing that transfer title to parcels of land that are  
11 entirely woodland; **AND**

12 (II) **THE SURCHARGE IMPOSED UNDER § 13-303(D) OF THIS**  
13 **SUBTITLE;** and

14 (2) 25% of the balance of revenue from the agricultural land transfer  
15 tax that remains after the remittance under item (1) of this subsection.

16 **SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland**  
17 **read as follows:**

18 **Article 41 – Governor – Executive and Administrative Departments**

19 13-513.

20 (c) (1) The Corporation may receive annual funding through an  
21 appropriation in the State budget.

22 (2) The Corporation may also receive funds for projects included in the  
23 budgets of State units.

24 (3) All unexpended and unencumbered funds appropriated to the  
25 Corporation shall remain with the Corporation for future uses.

26 (4) The Corporation shall conduct its financial affairs in such a  
27 manner that, by the year 2020, it shall be self-sufficient and in no further need of  
28 general operating support by the State.

29 (5) (i) In order to assist the Corporation in meeting the  
30 requirement specified in paragraph (4) of this subsection, the Governor shall include  
31 each year in the budget bill an appropriation to the Corporation for rural business  
32 development and assistance as follows:

- 1                                    1.     For fiscal year 2008, \$3,000,000;
- 2                                    2.     For fiscal year 2009, \$3,500,000; and
- 3                                    3.     For each of fiscal years 2010 through 2020,
- 4     \$4,000,000.

5                                    (ii)    In addition to any funds provided under subparagraph (i) of  
6 this paragraph, the Governor may include each year in the budget bill an  
7 appropriation to the Corporation in an amount up to \$5,000,000 for rural land  
8 acquisition and easement programs, including programs to assist young and beginning  
9 farmers.

10                                    (6)    (I)     **THE CORPORATION MAY USE UP TO 3% OF THE FUNDS**  
11 **RECEIVED UNDER ~~§ 13-306(A)(3)(II)2~~ § 13-306(A)(3)(II)3 OF THE TAX -**  
12 **~~GENERAL PROPERTY~~ ARTICLE FOR ADMINISTRATIVE COSTS ASSOCIATED WITH**  
13 **AN INSTALLMENT PURCHASE AGREEMENT PROGRAM.**

14                                    (II)    **THE CORPORATION MAY USE UP TO 3% OF THE FUNDS**  
15 **RECEIVED UNDER ~~§ 13-306(A)(3)(II)3~~ § 13-306(A)(3)(II)2 OF THE TAX -**  
16 **~~GENERAL PROPERTY~~ ARTICLE FOR ADMINISTRATIVE COSTS ASSOCIATED WITH**  
17 **THE NEXT GENERATION FARMLAND ACQUISITION PROGRAM.**

18                                    SECTION 3. AND BE IT FURTHER ENACTED, That the Laws of Maryland  
19 read as follows:

20                                    **Article - Economic Development**

21     10-523.

22                                    (a)    (1)     The Corporation may receive annual funding through an  
23 appropriation in the State budget.

24                                    (2)    The Corporation may also receive money for projects included in  
25 the budgets of State units.

26                                    (3)    (i)     To assist the Corporation in complying with subsection (c) of  
27 this section, the Governor shall include each year in the State budget bill an  
28 appropriation to the Corporation for rural business development and assistance for  
29 each of fiscal years 2010 through 2020 in the amount of \$4,000,000.

30                                    (ii)    In addition to any money provided under subparagraph (i) of  
31 this paragraph, the Governor may include each year in the State budget bill an  
32 appropriation to the Corporation in an amount not exceeding \$5,000,000 for rural land  
33 acquisition and easement programs, including programs to assist young and beginning  
34 farmers.

1 (b) All unexpended and unencumbered money appropriated to the  
 2 Corporation shall remain with the Corporation for future use.

3 (c) The Corporation shall conduct its financial affairs so that, by the year  
 4 2020, it is self-sufficient and in no further need of general operating support by the  
 5 State.

6 **(D) (1) THE CORPORATION MAY USE UP TO 3% OF THE MONEY**  
 7 **RECEIVED UNDER § 13-306(A)(3)(II)2 OF THE TAX – PROPERTY ARTICLE FOR**  
 8 **ADMINISTRATIVE COSTS ASSOCIATED WITH THE NEXT GENERATION FARMLAND**  
 9 **ACQUISITION PROGRAM.**

10 **(2) THE CORPORATION MAY USE UP TO 3% OF THE MONEY**  
 11 **RECEIVED UNDER § 13-306(A)(3)(II)3 OF THE TAX – PROPERTY ARTICLE FOR**  
 12 **ADMINISTRATIVE COSTS ASSOCIATED WITH AN INSTALLMENT PURCHASE**  
 13 **AGREEMENT PROGRAM.**

14 SECTION ~~2~~ 4. AND BE IT FURTHER ENACTED, That it is the intent of the  
 15 General Assembly that:

16 (1) counties be encouraged to establish Priority Preservation Areas for  
 17 agricultural land preservation as authorized under Chapter 289 of the Acts of the  
 18 General Assembly of 2006 (the Agricultural Stewardship Act); and

19 (2) subject to § 13-306 of the Tax – Property Article and § 5-408 of the  
 20 State Finance and Procurement Article, new funds that may be provided to the  
 21 Maryland Agricultural Land Preservation Foundation for preservation easement  
 22 acquisition ~~under a Critical Farm Program~~ shall be used only in Priority Preservation  
 23 Areas on or after July 1, 2010.

24 SECTION 5. AND BE IT FURTHER ENACTED, That, if used within a period  
 25 of 2 years beginning on or after July 1, 2008, funds dedicated to the Installment  
 26 Purchase Agreements program under § 13-306(a)(3)(ii)3 of the Tax – Property Article as  
 27 enacted by this Act may be used for lump-sum easement purchase payments approved  
 28 by the Maryland Agricultural Land Preservation Foundation.

29 SECTION ~~5~~ 6. AND BE IT FURTHER ENACTED, That Section 3 of this Act  
 30 shall take effect on the taking effect of Chapter (H.B. 1050) of the Acts of the  
 31 General Assembly of 2008. If Section 3 of this Act takes effect, Section 2 of this Act  
 32 shall be abrogated and of no further force and effect.

33 SECTION ~~2~~ ~~3~~ ~~6~~ 7. AND BE IT FURTHER ENACTED, That, subject to the  
 34 provisions of Section ~~5~~ 6 of this Act, this Act shall take effect July 1, 2008.