

CHAPTER 105

(House Bill 976)

AN ACT concerning

Maryland Agricultural Land Preservation Program – Lot Releases

FOR the purpose of requiring a certain statement in certain lot releases; altering the size of lots that may be released from easement restrictions by the Maryland Agricultural Land Preservation Foundation under certain circumstances; providing for the application of this Act; and generally relating to releases from lot easement restrictions by the Maryland Agricultural Land Preservation Foundation.

BY repealing and reenacting, with amendments,
Article – Agriculture
Section 2–513(b)(2)(vi) and (6)(i)
Annotated Code of Maryland
(2007 Replacement Volume)

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

Article – Agriculture

2–513.

(b) (2) Except as provided in paragraphs (3) and (6) of this subsection, on written application, the Foundation shall release free of easement restrictions only for the landowner who originally sold an easement, 1 acre or less for the purpose of constructing a dwelling house for the use only of that landowner or child of the landowner, up to a maximum of three lots, subject to the following conditions:

(vi) Any release or preliminary release issued under this paragraph shall include:

1. A statement of the conditions under which it was issued, a certification by the Foundation that all necessary conditions for release or preliminary release have been met, and copies of any pertinent documents; [and]

2. A STATEMENT BY THE LANDOWNER OR CHILD OF THE LANDOWNER THAT ACKNOWLEDGES THAT ADJACENT:

A. ADJACENT FARMLAND THAT IS SUBJECT TO AN AGRICULTURAL LAND PRESERVATION EASEMENT MAY BE USED FOR ANY AGRICULTURAL PURPOSE THAT DOES NOT ENDANGER HUMAN HEALTH OR SAFETY, OR VIOLATE FEDERAL, STATE, OR LOCAL LAW AND MAY INTERFERE WITH THE USE AND ENJOYMENT OF THE PROPERTY THROUGH NOISE, ODOR, VIBRATION, FUMES, DUST, GLARE, OR OTHER INTERFERENCE;

B. THERE IS NO RECOURSE AGAINST THE EFFECTS OF ANY NORMAL AGRICULTURAL OPERATION PERFORMED IN ACCORDANCE WITH GOOD HUSBANDRY PRACTICES; AND

C. ACKNOWLEDGMENTS MADE UNDER ITEMS A AND B OF THIS ITEM ARE BINDING TO ANY SUCCESSOR OR ASSIGN OF THE LANDOWNER OR CHILD; AND

[2.] **3.** A statement that the owner's or child's lot may not be transferred for 5 years from the date of the final release, except on:

A. Approval by the Foundation; or

B. Notwithstanding any conditions on transfers imposed under item 1 of this subparagraph, a lender providing notice to the Foundation of a transfer pursuant to a bona fide foreclosure of a mortgage or deed of trust or to a deed in lieu of foreclosure.

(6) (i) The restrictions of paragraphs (2) and (5) of this subsection concerning maximum lot sizes are altered so that the maximum lot size is [2 acres if]:

1. [Regulations] **AS DETERMINED BY THE DEPARTMENT OF THE ENVIRONMENT IN ACCORDANCE WITH REGULATIONS** adopted by the Department of the Environment [require a minimum lot size for a dwelling house of not less than 2 acres] in areas where there is less than 4 feet of unsaturated and unconsolidated soil material below the bottom of an on-site sewage disposal system or in areas located within 2,500 feet of the normal water level of an existing or proposed water supply reservoir; or

2. [Regulations] **UP TO A MAXIMUM OF 2 ACRES WHEN REGULATIONS** adopted by the jurisdiction in which the land is situated require that a lot for a dwelling house be larger than 1 acre.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act applies to any lot released by the Maryland Agricultural Land Preservation Foundation on or after the effective date of this Act, under the terms of any agricultural land preservation easement, even if the easement was granted to the Foundation before October 1, 2008.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2008.

Approved by the Governor, April 8, 2008.