

CHAPTER 377

(Senate Bill 260)

AN ACT concerning

Garrett County – County Commissioners – Agricultural Districts

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

BY adding to

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

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

Article 25 – County Commissioners

237.

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

(2) “ADVISORY BOARD” MEANS THE GARRETT COUNTY AGRICULTURAL PRESERVATION ADVISORY BOARD.

(3) “COMMISSIONERS” MEANS THE GARRETT COUNTY BOARD OF COUNTY COMMISSIONERS.

(B) THIS SECTION APPLIES ONLY TO GARRETT COUNTY.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(I) ALL LANDOWNERS IN THE PROPOSED DISTRICT; AND

(II) THE MARYLAND AGRICULTURAL LAND PRESERVATION FOUNDATION;

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

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

(I) IS RECORDED IN THE COUNTY LAND RECORDS;

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

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

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

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

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

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

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

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

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

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

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

(G) (1) LAND MAY BE INCLUDED IN AN AGRICULTURAL DISTRICT ONLY IF THE COUNTY'S RULES, REGULATIONS, AND PROCEDURES GOVERNING THE LAND ALLOW THE ACTIVITIES LISTED UNDER § 2-513 OF THE AGRICULTURE ARTICLE.

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

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

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

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

Approved by the Governor, May 13, 2008.