

Department of Legislative Services
Maryland General Assembly
2009 Session

FISCAL AND POLICY NOTE

House Bill 911

(Carroll County Delegation)

Environmental Matters

Education, Health, and Environmental Affairs

Counties - Purchase of Development Rights - Carroll County

This bill authorizes Carroll County to enter into an agreement to purchase development rights. Within specified limitations, the county may determine by resolution the provisions, terms, conditions, and duration of the agreement. A payment obligation in an agreement authorized by the bill is a general obligation of the county and may not be subject to annual appropriation. The agreement, however, is not subject to any limitations that would otherwise be required in the county's charter, public local law, or public general law. An agreement authorized by the bill, the transfer or assignment of the agreement, and any payment required are exempt from State and local taxes.

Fiscal Summary

State Effect: None.

Local Effect: To the extent that Carroll County enters into agreements to purchase development rights under the bill, acquisition, legal, and debt service expenditures increase. Revenues are not affected.

Small Business Effect: Potential meaningful if more small businesses, especially farms, are able to sell development rights to Carroll County.

Analysis

Current Law: Chapter 267 of 2007 granted Anne Arundel, Baltimore, Howard, and Prince George's counties the same authority as provided in the bill.

Background: 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 the purchase of transferable development rights (TDRs), the purchase of development rights (PDRs), and innovative financing methods called installment purchase agreements (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.

Carroll County Agricultural Land Preservation program has budgeted \$8.3 million in fiscal 2009 to purchase agricultural easements. The county uses a combination of property tax, agriculture transfer tax, bonds, and State participation to fund the program. State funding for the program is expected to be \$1.25 million. At the end of fiscal 2007 the county had 50,711 acres preserved through all programs. Property owners in the county have several options for the preservation of farmland for agricultural use and open space, which include:

- *Maryland Agricultural Land Preservation Foundation (MALPF)* – preserves prime farmland through the purchase of conservation easements prohibiting development on that property. In the first stage of preservation, landowners volunteer to have their farms designated as an Agricultural Preservation District, which prohibits development for five years, subject to local requirements. The landowners may submit a competitive asking price for easement sale. A combination of county and State funds is used to purchase each easement. Once the easement is sold, the property is restricted from development in perpetuity.
- *Maryland Environmental Trust (MET)* – is a quasi-public, nonprofit land conservation organization. MET accepts donated easements that restrict future development on properties with significant agricultural, environmental, and

historical resources. Donated easements can result in substantial tax benefits to the property owner.

- *Carroll County Land Trust (CCLT)* – is a local, private, nonprofit land conservation organization. CCLT accepts donated easements restricting future development on properties with significant agricultural, conservation, or environmental resources. The easements are typically perpetual and CCLT often accepts easements jointly with MET.
- *Carroll County Critical Farms Program* – assists contract purchasers and new owners who seek to use preservation funds to help acquire a farm. The program provides 75% of easement value in a relatively short period of time. After receiving the county minimum easement payment, the new owner puts the farm in the regular MALPF program and applies to sell the easement in competition with all other county easement sale applicants. If MALPF acquires the easement, the county funds are reimbursed. If the owner is unable to sell the easement to MALPF, the county exercises its option and acquires the easement with no additional payment; or, the landowner may elect to terminate the option by repaying the county with interest.
- *Rural Legacy Program* – if a strategy in which the county selects a targeted area of the county ideal for conservation and applies to the State for funds to purchase permanent conservation easements from landowners that voluntarily participate in the program. Since 1998, Carroll County has preserved nearly 4,000 easement acres in the Little Pipe Creek Rural Legacy Area with Rural Legacy funding.

Local Fiscal Effect: To the extent that Carroll County purchases development rights using installment agreements or payment obligations, acquisition, legal, and debt service expenditures increase. The fiscal impact on the county depends on how many times it exercises this authority. In any event, any agreement entered into for the purchase of development rights are part of the county's general obligation debt and may not be subject to annual appropriation by the county.

Additional Information

Prior Introductions: None.

Cross File: SB 780 (Carroll County Senators) - Education, Health, and Environmental Affairs.

Information Source(s): Department of Legislative Services

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