

Department of Legislative Services  
Maryland General Assembly  
2009 Session

FISCAL AND POLICY NOTE  
Revised

Senate Bill 362

(Senator Haines)

Education, Health, and Environmental Affairs

Environmental Matters

---

**Agricultural Land Preservation Easements - Residential Uses**

---

This bill relates to the construction of houses on land subject to an agricultural land preservation easement held by the Maryland Agricultural Land Preservation Foundation (MALPF). The bill requires land owners interested in constructing tenant housing to show a compelling need. Landowners are authorized to convert an existing dwelling house into a tenant house and construct one dwelling house for the landowner's use. However, MALPF must approve the construction of the dwelling house as well as specified characteristics of the dwelling house. Also, the landowner must execute an agreement prohibiting the replacement dwelling house from being separately conveyed from the original parcel, and record this agreement among specified land records. MALPF must adopt implementing regulations.

The bill takes effect July 1, 2009.

---

**Fiscal Summary**

**State Effect:** The bill may result in an increase in workload for MALPF to process additional requests for dwellings and to respond to related questions. Revenues are not affected.

**Local Effect:** The bill may result in an increase in workload for local agricultural land preservation staff to process additional requests for dwellings and to respond to related questions.

**Small Business Effect:** Meaningful.

---

## Analysis

**Current Law:** Subject to MALPF approval, a landowner may construct housing for tenants fully engaged in the operation of the farm. Construction may not exceed one tenant house per 100 acres, unless MALPF grants an exception based on a showing of compelling need. The land on which a tenant house is constructed may not be subdivided or conveyed to any person. In addition, the tenant house may not be conveyed separately from the original parcel. MALPF is required under current law to adopt regulations for the size and location of tenant houses. Current regulations establish the criteria and eligibility for the approval of a tenant house on a farm subject to an easement held by MALPF.

Current policy generally limits the size of tenant houses to 2,000 square feet, and MALPF advises that, whether or not that size limitation applies in a specific case, the tenant house is considered an accessory structure (smaller than the main farmhouse) and its use is highly restricted. For example, the tenant house cannot be occupied by the landowner and cannot be used as a rental unit.

**Background:** MALPF, which was established in 1977 and is part of the Maryland Department of Agriculture, purchases agricultural preservation easements that forever restrict development on prime farmland and woodland. In addition to funding from the State transfer tax, MALPF also receives funding from the agricultural land transfer tax, local matching funds, and the Federal Farmland Protection Program. As of January 2009, MALPF had cumulatively purchased or had a pending contract to purchase permanent conservation easements on 2,005 farms covering 274,950 acres.

Chapter 374 of 2004 modified provisions relating to tenant houses based on the recommendations of the Task Force to Study MALPF.

**State Fiscal Effect:** The bill may result in an increase in workload for MALPF staff to process requests for the construction of additional dwelling houses on farms subject to MALPF easements and to respond to related inquiries. The extent of any workload increase cannot be reliably estimated; however, it is not anticipated to be significant. Any increase in administrative costs simply reduces the amount of special funds available for easement purchases.

**Small Business Effect:** Landowners with MALPF easement land may benefit from the ability to construct an additional house for their own use.

## Additional Information

**Prior Introductions:** None.

**Cross File:** None.

**Information Source(s):** Maryland Department of Agriculture, Department of Legislative Services

**Fiscal Note History:** First Reader - March 6, 2009  
mam/ljm Revised - Senate Third Reader - April 6, 2009

---

Analysis by: Amanda Mock

Direct Inquiries to:  
(410) 946-5510  
(301) 970-5510