

Department of Legislative Services
Maryland General Assembly
2009 Session

FISCAL AND POLICY NOTE

Senate Bill 73

(Chair, Education, Health, and Environmental Affairs
Committee)(By Request - Departmental - Agriculture)

Education, Health, and Environmental Affairs

Environmental Matters

**Maryland Agricultural Land Preservation Foundation - Sale of Land
Preservation Easements - Confidentiality of Records**

This departmental bill requires that specified records related to the purchase of agricultural land preservation easements remain confidential until the end of the easement acquisition cycle, as determined by the Maryland Agricultural Land Preservation Foundation (MALPF).

The bill takes effect July 1, 2009.

Fiscal Summary

State Effect: Although the bill may result in a marginal decrease in workload for MALPF, it is not anticipated to have a significant impact on State operations or finances.

Local Effect: The bill does not materially affect local operations or finances.

Small Business Effect: The Maryland Department of Agriculture (MDA) has determined that this bill has minimal or no economic impact on small businesses (attached). Legislative Services concurs with this assessment.

Analysis

Current Law: The Maryland Public Information Act grants the public a broad right of access to records that are in the possession of State and local government agencies. The Act's basic mandate is to enable people to have access to government records without

unnecessary cost or delay. Custodians have a responsibility to provide such access unless the requested records fall within one of the exceptions in the statute.

There are numerous exceptions to the Maryland Public Information Act, and one concerns real estate appraisals. The contents of a real estate appraisal need not be disclosed until title has passed to that entity. However, the contents of the appraisal are available to the owner of the property at any time, unless some other statute would prohibit access.

In accordance with federal law, MALPF is required to keep records related to the participation of a farmer in a federal conservation program confidential.

Background: MALPF, which was established by the General Assembly in 1977 and is part of MDA, purchases agricultural preservation easements that restrict development on prime farmland and woodland in perpetuity. As of January 2009, MALPF had cumulatively purchased or had a pending contract to purchase conservation easements on 2,005 farms covering 274,950 acres.

MALPF's easement acquisition cycle begins when funding becomes available at the start of a fiscal year and lasts approximately a year and a half. Applications are due the first day of the fiscal year (July 1); reviews and approvals occur during the following summer and early fall; appraisals are contracted, completed, and reviewed during the fall and early winter; and offers are extended from late winter to early fall. The easement acquisition cycle is typically recognized as complete when the Board of Public Works approves the final offer made with that fiscal year's funding and the offer has gone to settlement.

In practice, MALPF generally does not share information about individual applications or rankings during the easement acquisition cycle and only discusses financial terms and rankings during closed sessions of the board of trustees.

MDA advises that allowing public scrutiny of MALPF records creates a number of potential problems. First, revealing landowners' asking prices provides information that allows competitors of the landowner and of MALPF to act to the detriment of the landowner and the State. Second, revealing relative rankings during the easement acquisition cycle creates expectations, misperceptions, and possible controversy. Third, program applicants have a reasonable expectation that the financial information and rankings information on their properties be kept confidential during the time their application to sell an easement is pending before MALPF. Finally, since MALPF identifies federally funded offers late in the easement acquisition cycle and information

on the easement may be requested early in the cycle, the confidentiality of these records may be compromised.

Additional Information

Prior Introductions: None.

Cross File: None.

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

Fiscal Note History: First Reader - January 14, 2009
ncs/ljm

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ANALYSIS OF ECONOMIC IMPACT ON SMALL BUSINESSES

TITLE OF BILL: Maryland Agricultural Land Preservation Foundation – Sale of Land
Preservation Easements – Confidentiality of Records

BILL NUMBER: SB 73

PREPARED BY: Maryland Department of Agricultural

PART A. ECONOMIC IMPACT RATING

This agency estimates that the proposed bill:

WILL HAVE MINIMAL OR NO ECONOMIC IMPACT ON MARYLAND
SMALL BUSINESS

OR

WILL HAVE MEANINGFUL ECONOMIC IMPACT ON MARYLAND
SMALL BUSINESSES

PART B. ECONOMIC IMPACT ANALYSIS

The proposed legislation will have no impact on small business in Maryland.