

Department of Legislative Services
Maryland General Assembly
2009 Session

FISCAL AND POLICY NOTE
Revised

House Bill 676

(Delegate Cane, *et al.*)

Environmental Matters

Education, Health, and Environmental Affairs

Maryland Agricultural Land Preservation Foundation - Easements

This bill authorizes the Maryland Agricultural Land Preservation Foundation (MALPF) to enter into corrective easements with landowners to adjust boundary lines, resolve easement violations, or accommodate a plan that will benefit agricultural operations, as determined by MALPF. MALPF is authorized to exchange and release land subject to an easement with other farmland that meets specified requirements. Corrective easements are not subject to specified provisions of law requiring independent property appraisals. Furthermore, MALPF is required to adopt implementing regulations.

The bill takes effect July 1, 2009.

Fiscal Summary

State Effect: To the extent MALPF is relieved from appraisal requirements, special fund expenditures decrease. MALPF revenues are not affected.

Local Effect: None.

Small Business Effect: Potential meaningful.

Analysis

Current Law/Background: MALPF, which was established in 1977 and is part of the Maryland Department of Agriculture, purchases agricultural preservation easements that restrict development on prime farmland and woodland in perpetuity. 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.

Corrective easements involve an exchange of easement land for noneasement land. MALPF has undertaken a number of corrective easements in the past to address a range of problems on easement properties. For example, corrective easements were implemented to address disputed lot lines resulting from contradictory property descriptions; accidental construction of a structure on MALPF-preserved property; and relocation of developable land to minimize interference with farming operations and right-of-way access. When implementing corrective easements, MALPF requires that the State lose no value, defined in terms of easement value and the program's statutory objectives. MALPF advises that in most corrective easements the State assumes a more valuable easement. Corrective easements are reviewed informally by the Department of General Service's Office of Real Estate and must be favorably recommended by the county's agricultural land preservation advisory board and approved by the Board of Public Works.

Recent laws may be interpreted to require the completion of four independent fair market appraisals for every corrective easement; two appraisals for the land being released from the easement and two appraisals the land being added to the easement. The laws do not specify what party is responsible for completing the appraisals. This new appraisal requirement places a significant financial burden on landowners seeking to settle property boundary disputes, resolve violations, and make other changes to benefit farming operations.

State Fiscal Effect: MALPF advises that appraisals associated with corrective easements should be paid by the landowners, not MALPF. However, to the extent the bill may relieve MALPF from completing appraisals for corrective easements, special fund expenditures decrease.

Small Business Effect: To the extent small businesses have MALPF easement land and seek a specified corrective easement, the bill has a meaningful impact by eliminating appraisal requirements.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Charles and Frederick counties, Maryland Department of Agriculture, Department of General Services, Department of Legislative Services

Fiscal Note History: First Reader - February 24, 2009
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