

Department of Legislative Services
Maryland General Assembly
2011 Session

FISCAL AND POLICY NOTE
Revised

House Bill 536

(Montgomery County Delegation)

Environmental Matters

Education, Health, and Environmental Affairs

**Montgomery County - On-Site Sewage Disposal System and Well Easements -
Rural Zones
MC 17-11**

This bill authorizes an on-site sewage disposal (septic) system or well located in a Montgomery County Rural Zone to serve contiguous subdivided property under an easement, under specified conditions and exceptions.

The bill takes effect July 1, 2011.

Fiscal Summary

State Effect: The bill is not anticipated to materially affect State operations or finances.

Local Effect: The bill does not materially affect Montgomery County finances.

Small Business Effect: Minimal.

Analysis

Bill Summary: A “rural zone” is an area designated by Montgomery County as a Rural Cluster Zone, Rural Density Transfer Zone, Rural Neighborhood Cluster Zone, Rural Zone, or Rural Service Zone as described in the Montgomery County Code Zoning Ordinance. In a Montgomery County “rural zone,” a septic system or well located on a single property may only serve one additional lot or parcel that has been subdivided from the property under a septic system or well easement and under the following conditions:

- the property on which the septic system or well is located does not have an existing septic system or well easement;
- the subdivision of the property was made in accordance with a State or county agricultural land conservation program if the property is subject to an agricultural land conservation easement; and
- a septic system easement may apply to only one subdivided lot or parcel.

An easement for a septic system or well may be a lot-to-lot or parcel-to-parcel easement so long as both lots or parcels originate from the same property.

A septic system or well may not (1) serve land that is designated by the State or the governing body of Montgomery County as a special protection area or green infrastructure; or (2) decrease the land available for agricultural production by more than 4,000 square feet.

Current Law: State water supply and sewerage regulations express intent that all subdivisions developed in the State are served by an adequate community water supply and community sewerage system or, when developed in the absence of such systems, provide for an adequate and safe supply of drinking water and for the safe disposal of sewerage on each building site until such community systems are available. In the absence of community systems, individual water supply and sewage disposal facilities, which may only serve a single subdivided lot, may be permitted under certain circumstances. The Montgomery County Code authorizes on-site water and sewage treatment and disposal systems to serve multiple contiguous subdivided lots with the approval of relevant authorities and under specified conditions.

Background: The Montgomery County Code Zoning Ordinance states that the intent of the rural zone is to preserve rural areas of the county for agriculture and other natural resource development, residential uses of a rural character, extensive recreational facilities, and protection of scenic and environmentally sensitive areas.

Montgomery County advises that the bill is designed to rectify a conflict between septic system and agricultural land preservation laws. In order to preserve the maximum amount of agricultural land in Montgomery County, current law limits the area of newly subdivided lots to one acre, or a maximum of two acres if necessary to accommodate a septic system. However, county septic system requirements typically restrict a newly subdivided lot served by a septic system to three acres in area. The current practice that the county uses to satisfy both the agricultural land preservation and septic system requirements is to authorize a septic system easement that allows a newly subdivided lot to use an existing septic system on the original property from which the lot was subdivided. This has been the practice for several decades, but it is generally in conflict with Maryland Department of the Environment (MDE) policy and regulations that are

currently in development. As amended, the bill represents a compromise with MDE that will allow the practice to continue with only minor changes.

Additional Information

Prior Introductions: A similar bill, HB 1506 of 2010, received a hearing in the House Environmental Matters Committee, but no further action was taken on it.

Cross File: None.

Information Source(s): Maryland Department of the Environment, Maryland-National Capital Park and Planning Commission, Montgomery County, Department of Legislative Services

Fiscal Note History: First Reader - March 10, 2011
mc/lgc Revised - House Third Reader - April 9, 2011

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