

# SENATE BILL 556

N1

2lr1409

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By: **Senator Getty**

Introduced and read first time: February 3, 2012

Assigned to: Judicial Proceedings

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## A BILL ENTITLED

1 AN ACT concerning

2 **Real Property – Restrictions on Use of Property – Separate Parcels**

3 FOR the purpose of establishing that the grant by a deed of a certain restriction  
4 governing two or more separate parcels of land owned by the same grantor does  
5 not consolidate the parcels for any other purpose under certain circumstances,  
6 unless the deed granting the restriction expressly provides otherwise;  
7 establishing that a certain parcel of land subject to a certain restriction may be  
8 conveyed separately without the approval of the grantor but shall remain  
9 subject to the restriction; and generally relating to restrictions on the use of  
10 property for certain purposes.

11 BY repealing and reenacting, with amendments,  
12 Article – Real Property  
13 Section 2–118  
14 Annotated Code of Maryland  
15 (2010 Replacement Volume and 2011 Supplement)

16 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
17 MARYLAND, That the Laws of Maryland read as follows:

18 **Article – Real Property**

19 2–118.

20 (a) Any restriction prohibiting or limiting the use of water or land areas, or  
21 any improvement or appurtenance thereto, for any of the purposes listed in subsection  
22 (b) of this section whether drafted in the form of an easement, covenant, restriction, or  
23 condition, creates an incorporeal property interest in the water or land areas, or the  
24 improvement or appurtenance thereto, so restricted, which is enforceable in both law  
25 and equity in the same manner as an easement or servitude with respect to the water  
26 or land areas, or the improvement or appurtenance thereto, if the restriction is

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 executed in compliance with the requirements of this article for the execution of deeds  
2 or the Estates and Trusts Article for the execution of wills.

3 (b) A restriction as provided in subsection (a) of this section may be for any of  
4 the following purposes:

5 (1) Construction, placement, preservation, maintenance in a  
6 particular condition, alteration, removal, or decoration of buildings, roads, signs,  
7 billboards or other advertising, utilities, or other structures on or above the ground;

8 (2) Dumping or placing of soil or other substance or material as  
9 landfill, or dumping or placing of trash, waste, or other materials;

10 (3) Excavation, dredging, or removal of loam, peat, gravel, soil, rock, or  
11 other material substance in a manner as to affect the surface or otherwise alter the  
12 topography of the area;

13 (4) Removal or destruction of trees, shrubs, or other vegetation;

14 (5) Surface use except for purposes of preserving the water or land  
15 areas, or the improvement or appurtenance thereto;

16 (6) Activities affecting drainage, flood control, water conservation,  
17 erosion control, soil conservation, or fish or wildlife habitat preservation;

18 (7) Preservation of exposure of solar energy devices; or

19 (8) Other acts or uses having any relation to the preservation of water  
20 or land areas or the improvement or appurtenance thereto.

21 (c) If the restriction is not granted for the benefit of any dominant tract of  
22 land, it is enforceable with respect to the servient land, both at law and in equity, as  
23 an easement in gross, and as such it is inheritable and assignable.

24 **(D) (1) UNLESS THE DEED GRANTING THE RESTRICTION EXPRESSLY**  
25 **PROVIDES OTHERWISE, THE GRANT OF A RESTRICTION DESCRIBED IN**  
26 **SUBSECTION (A) OF THIS SECTION GOVERNING TWO OR MORE SEPARATE**  
27 **PARCELS OF LAND OWNED BY THE SAME GRANTOR DOES NOT CONSOLIDATE**  
28 **THE PARCELS FOR ANY OTHER PURPOSE IF THE PARCELS ARE DESCRIBED**  
29 **SEPARATELY IN THE DEED GRANTING THE RESTRICTION.**

30 **(2) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, A**  
31 **PARCEL OF LAND DESCRIBED UNDER PARAGRAPH (1) OF THIS SUBSECTION:**

32 **(I) MAY BE CONVEYED SEPARATELY WITHOUT THE**  
33 **APPROVAL OF THE GRANTEE OF THE RESTRICTION; BUT**

1                   **(II)   SHALL REMAIN SUBJECT TO THE RESTRICTION.**

2           **[(d)] (E)**     A restriction provided for by this section may be extinguished or  
3 released, in whole or in part, in the same manner as other easements.

4           **[(e)] (F)**     If any grant, reservation, dedication, devise, or gift of any nature  
5 which clearly indicates the maker's intention to subject any interest or estate in  
6 property to public use for the preservation of agricultural, historic, or environmental  
7 qualities fails to specify a grantee, donee, legatee, or beneficiary to receive the same or  
8 specifies a grantee, donee, legatee, or beneficiary who is not legally capable of taking  
9 the interest or estate, it passes to the Maryland Agricultural Land Preservation  
10 Foundation, the Maryland Historical Trust, or the Maryland Environmental Trust in  
11 any proceedings under §§ 14–301 and 14–302 of the Estates and Trusts Article.

12           SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
13 October 1, 2012.