

## Chapter 21

(Senate Bill 112)

AN ACT concerning

### Maryland Agricultural Land Preservation Foundation – Appraisal Requirement

FOR the purpose of altering the number of appraisals required for the termination of an easement approved by the Maryland Agricultural Land Preservation Foundation; requiring that land subject to the termination of an easement shall be appraised as of a certain date; requiring the Department of General Services to review the appraisals, make a certain determination, issue a certain statement to the Foundation, and issue a certain notification to the landowner; and generally relating to the requirements for the termination of an easement under the Maryland Agricultural Land Preservation Foundation.

BY repealing and reenacting, with amendments,

Article – Agriculture

Section 2–514

Annotated Code of Maryland

(2007 Replacement Volume and 2011 Supplement)

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

#### Article – Agriculture

2–514.

(a) It is the intent of the General Assembly that any easement whose purchase is approved by the Board of Public Works on or before September 30, 2004, be held by the Foundation for as long as profitable farming is feasible on the land under easement, and an easement may be terminated only in the manner and at the time specified in this section.

(b) Except as provided in subsection (h) of this section, any time after 25 years from the date of purchase of an easement, the landowner may request that the easement be reviewed for possible termination of the easement.

(c) (1) Upon a request for review of an easement for termination, an inquiry shall be conducted by the Foundation to determine the feasibility of profitable farming on the subject land.

(2) The inquiry shall include:

(i) On-site inspection of the subject land; and

(ii) A public hearing conducted by the Foundation board within the county containing the subject land after adequate public notice.

(3) The inquiry shall be concluded and a decision reached by the Foundation within 180 days after the request for termination, unless the landowner requests a hearing under subsection (h) of this section.

(d) An easement may be terminated only with the approval of the governing body of the county containing the subject land. In deciding whether to approve the request for termination, the county governing body shall receive the recommendation of the county agricultural preservation advisory board established under § 2-504.1 of this subtitle. The decision of the county governing body shall be made after the public hearing required in subsection (c) of this section. The county governing body shall notify the Foundation of its decision within 90 days after the conclusion of the public hearing required in subsection (c) of this section.

(e) Upon the affirmative vote of a majority of the Foundation members at-large, and upon the approval of the Secretary and the State Treasurer, the request for termination shall be approved, and the landowner shall be notified.

(f) (1) If the request for termination is approved, [an appraisal] **TWO FAIR MARKET VALUE APPRAISALS** of the subject land shall be ordered by the **DEPARTMENT OF GENERAL SERVICES AT THE DIRECTION OF THE** Foundation at the expense of the landowner requesting termination of the easement.

**(2) THE SUBJECT LAND SHALL BE APPRAISED AS OF THE DATE OF THE APPROVAL OF THE REQUEST FOR TERMINATION.**

**(3) THE DEPARTMENT OF GENERAL SERVICES SHALL REVIEW THE TWO APPRAISALS AND SHALL DETERMINE THE FAIR MARKET VALUE OF THE SUBJECT LAND AND SHALL ISSUE A WRITTEN STATEMENT AS TO THE APPROVED FAIR MARKET VALUE TO THE FOUNDATION.**

**(4) UPON RECEIPT OF THE WRITTEN STATEMENT FROM THE DEPARTMENT OF GENERAL SERVICES, THE FOUNDATION SHALL ISSUE A NOTIFICATION TO THE LANDOWNER OF THE APPROVED FAIR MARKET VALUE.**

**[(2)] (5) (i) 1.** No more than 180 days following the [appraisal] **NOTIFICATION** required under paragraph **[(1)] (4)** of this subsection, the landowner may repurchase the easement by paying to the Foundation the difference

between the **APPROVED** fair market value and the agricultural value of the subject land[, as determined by the appraisal].

**2. FOR PURPOSES OF THIS PARAGRAPH, THE FAIR MARKET VALUE IS THE SAME AS SET FORTH UNDER § 2-511(B) OF THIS SUBTITLE.**

(ii) For purposes of this paragraph, the agricultural value of the land is determined by the appraisal method that was in effect at the time the easement was acquired by the Foundation, either by the agricultural appraisal formula under § 2-511(d) of this subtitle or by an appraisal that determines the price as of the valuation date which a vendor, willing but not obligated to sell, would accept, and which a purchaser, willing but not obligated to buy, would pay for a farm unit with land comparable in quality and composition to the property being appraised.

(iii) 1. In the case of the termination of an easement that was originally purchased under a matching allotted purchase, the Foundation shall distribute to the contributing county a portion of the repurchase payment received under subparagraph (i) of this paragraph that is equal to the percentage of the original easement purchase price contributed by the county.

2. A. From the funds distributed to a county under this subparagraph, the county shall deposit in the county's special account for its agricultural land preservation program an amount that is at least equal to the percentage of the original easement purchase price that was paid out of the special account.

B. If any of the funds deposited in the county's special account have not been expended or committed within 3 years from the date of deposit into the special account, the county collector shall remit those funds to the Comptroller for deposit in the Maryland Agricultural Land Preservation Fund as provided in § 13-306(d) of the Tax – Property Article.

3. The county shall deposit the balance of the funds distributed to it under this subparagraph in the county's general fund.

4. If an easement is terminated, the Foundation shall deposit its portion of the repurchase payment in the Maryland Agricultural Land Preservation Fund as provided under § 2-505 of this subtitle.

(g) If the request for termination is denied, or if the landowner fails to repurchase the easement within 180 days of the [appraisal] **NOTIFICATION REQUIRED UNDER SUBSECTION (F)(4) OF THIS SECTION**, the landowner may not again request termination of the easement until five years after his last request for termination.

(h) A landowner may not terminate an easement purchased using an installment purchase agreement, as provided in § 2-510(k) of this subtitle.

(i) (1) This subsection applies only to easements that the Foundation acquires on or before September 30, 2004.

(2) Before deciding on a request for termination of an easement, the Foundation shall provide a landowner with the opportunity for a hearing.

(3) Notwithstanding §§ 2-401 through 2-405 of this title, the landowner may appeal any Foundation denial directly to the circuit court of the county where the land is located.

(4) The circuit court shall hear and determine the appeal on the record made in accordance with § 10-222 of the State Government Article.

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

**Approved by the Governor, April 10, 2012.**