

**Department of Legislative Services**  
Maryland General Assembly  
2012 Session

**FISCAL AND POLICY NOTE**  
**Revised**

Senate Bill 148

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

Education, Health, and Environmental Affairs

Environmental Matters

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**Maryland Agricultural Land Preservation Foundation - Lot Release**

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This departmental bill alters provisions governing the release of family lots from Maryland Agricultural Land Preservation Foundation (MALPF) program easement restrictions. The bill applies to a person who is subject to MALPF easement requirements and who either is granted a preliminary or final lot release before the bill takes effect or has requested a release after the bill takes effect.

The bill takes effect July 1, 2012.

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**Fiscal Summary**

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

**Local Effect:** None.

**Small Business Effect:** The Maryland Department of Agriculture (MDA) has determined that this bill has minimal or no impact on small business (attached). Legislative Services concurs with this assessment. (The attached assessment does not reflect amendments to the bill.)

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**Analysis**

**Bill Summary:** A child of a landowner must be at least age 18 prior to being issued a preliminary lot release. Preliminary lot releases become void if a nontransferable building permit in the name of the landowner or child of the landowner is not received by MALPF within three years of recording a preliminary lot release, except under specified

conditions. The bill makes an existing provision prohibiting a landowner's or child of a landowner's lot from being transferred for five years from the date of the final release, except under specified conditions, binding to all future landowners or their children. If a lot is released and not used for the person or purpose for which it was released, MALPF may require the lot to be reconveyed back to the original easement owner and subject the lot to easement restrictions.

MALPF is authorized to require evidence it deems sufficient to ensure that the persons for whom lots are released occupy the dwellings located on the lots for the five-year period.

**Current Law:** Generally, landowners who sell an easement may reserve the right to ask MALPF to release one acre or less for the purpose of constructing a dwelling house for the use only of that landowner or child of the landowner. This family lot right is limited to a maximum of three lots and is subject to the following conditions:

- the number of family lots landowners may reserve may not exceed (1) one lot for easements of between 20 and 69 acres; (2) two lots for easements between 70 and 119 acres; and (3) three lots for easements of at least 120 acres;
- the resulting density on the property may not exceed the density allowed prior to the easement;
- landowners must pay the State for any acre or portion released at the price per acre that the State paid the owner for the easement;
- before any conveyance or lot release, specified parties must agree not to subdivide further for residential purposes any land to be released;
- MALPF must issue a preliminary release that includes specified information, including a statement that the lot may not be transferred for five years from the date of the final release, except in specified circumstances;
- specified documents must be recorded among the land records and must bind all future owners; and
- landowners may not be made subject to lot release restrictions beyond those in statute.

In lieu of the family lots, a landowner may reserve the right to exclude one unrestricted lot from an easement, subject to specified conditions.

**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. In addition to funding from the State transfer tax, MALPF is funded with agricultural land transfer taxes, local matching funds, and the U.S. Department of Agriculture's Federal Farmland Protection Program.

MALPF settled on its first purchased easement in October 1980. As of the end of fiscal 2011, MALPF had cumulatively purchased 2,043 farms covering 279,223 acres.

MDA advises that the bill clarifies and strengthens the administration of family lots and will effectively prevent the misuse of such lots. The bill seeks to address weaknesses in current statute by (1) establishing a minimum age that a child of a landowner must be to build a personal residential dwelling on the farm; (2) setting a time limit on preliminary lot releases; and (3) ensuring proper stewardship of family lots in the future.

Some examples of past misuse of family lots are briefly summarized below.

- In 1988, a Montgomery County landowner requested two child lots for his children. MALPF later learned that the children were minors at the time the request was made. The landowner built the houses and rented them out. The landowner's children never lived in the homes.
- A Carroll County landowner received approval for a child's lot in January 2005 and immediately built a house on the lot and sold it in August 2005. The landowner also received approval for an owner's lot in November 2003, immediately built a house on the lot, and sold it in October 2004.
- A Howard County landowner received approval for two child lots. The first lot final release was recorded in November 2007; the child never lived in the house and started renting it in 2009. The second lot received a preliminary release in 2006, but a house was built on the lot in April 2009 prior to MALPF receiving a building permit and prior to approval of a final release. This house was also rented without the child living in the house.

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** None.

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

**Fiscal Note History:** First Reader - February 1, 2012  
mm/lgc Revised - Senate Third Reader - March 26, 2012

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Analysis by: Amanda Mock

Direct Inquiries to:  
(410) 946-5510  
(301) 970-5510



## ANALYSIS OF ECONOMIC IMPACT ON SMALL BUSINESSES

TITLE OF BILL: Maryland Agricultural Land Preservation Foundation – Lot Release

BILL NUMBER: SB 148

PREPARED BY: Maryland Department of Agriculture

### 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.