

Department of Legislative Services
Maryland General Assembly
2012 Session

FISCAL AND POLICY NOTE

Senate Bill 129

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

Education, Health, and Environmental Affairs

Environmental Matters

Maryland Agricultural Land Preservation Foundation - Easements

This departmental bill modifies the easement application and approval process for the Maryland Agricultural Land Preservation Foundation (MALPF) program to clarify responsibilities and repeal provisions concerning agricultural districts. MALPF is authorized to assign agricultural district agreements that have not been purchased by MALPF or have not otherwise terminated as of June 30, 2012, to willing county governing bodies. County governing bodies that accept agreements are authorized to enforce their terms and are required to determine whether to terminate or modify them.

The bill takes effect June 30, 2012.

Fiscal Summary

State Effect: The bill does not materially affect State finances.

Local Effect: The bill does not materially affect local finances.

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.

Analysis

Bill Summary: The bill repeals provisions establishing deadlines for:

- a county agricultural preservation advisory board's submission of advice to a county governing body about a MALPF easement application;
- a county planning and zoning body's submission of advice about a MALPF easement application to a local governing body; and
- a county governing body's final decision about an individual easement application.

The bill requires (1) easement applicants to provide any information MALPF requires to evaluate proposed easement land; and (2) MALPF to *review*, not *rank*, applications prior to submitting offers to buy easements at the beginning of each offer cycle.

The bill modifies (1) deadlines associated with MALPF notification of landowners whose applications are not approved; and (2) the entities a county governing body must inform about public hearings concerning proposed easements.

Consistent with current regulations, the bill clarifies that land contiguous to permanently preserved land may be eligible for a MALPF easement. Also, consistent with existing MALPF policy, the bill clarifies that silvicultural productivity must be considered when evaluating easement applications.

The bill repeals provisions that:

- require a county agricultural preservation advisory board to hold a public hearing on a MALPF easement application if requested by the applicant, a majority of the county agricultural preservation advisory board, or a majority of the county governing body; and
- authorize MALPF to consider easement applications received after the maximum number of applications has been reached during the next available cycle.

While the bill repeals a provision expressly prohibiting MALPF from approving any easement application that has not been approved by a local governing body, the bill requires MALPF easement applications to be submitted and approved by a local jurisdiction prior to being submitted to MALPF for final approval.

Current Law: An owner of land that is at least 50 acres in size and actively devoted to agricultural use who is interested in selling an easement to MALPF is required to file an application with the county governing body. The county governing body refers the

application and accompanying materials both to the agricultural preservation advisory board and to the county planning and zoning body. Within 60 days after the referral of the application, the agricultural preservation advisory board is required to advise the county governing body as to whether or not the land in the proposed easement meets MALPF qualifications and to make a recommendation on whether the easement should be purchased. Similarly, within 60 days after the referral of the application, the county planning and zoning body is required to advise the county governing body as to whether or not the purchase of the easement is compatible with existing and approved county plans and overall county policy and to make a recommendation on whether or not the easement should be purchased.

If either the agricultural preservation advisory board or the planning and zoning body recommend an easement, the county governing body must hold a public hearing on the proposed easement. Within 120 days after the receipt of the application, the county governing body is required to render a decision as to whether the application will be recommended to MALPF for approval. If an application is approved, a county governing body must inform MALPF and submit the application and all accompanying materials to MALPF. If a county governing body denies an application, the applicant and MALPF must be informed. Within 30 days after receipt of an application, MALPF must notify the landowner of the receipt and sufficiency of the application.

MALPF regulations and criteria concerning easement acquisition must require that:

- proposed easement land be at least 50 acres in size and meet productivity, acreage, and location criteria determined by MALPF to be necessary for the continuation of farming;
- MALPF preserve the minimum number of acres reasonably expected to promote the continued availability of agricultural suppliers and markets of agricultural goods;
- consideration be given to land within the boundaries of a 10-year water and sewer service district only if it is outstanding in productivity and is of significant size; and
- consideration be given to land only if county regulations permit specified agricultural uses on the land.

As of July 1, 2007, agricultural districts were no longer a requirement to participate in the easement application process for MALPF. As of June 30, 2012, all districts are terminated and a landowner will not be bound to the terms of any MALPF district agreement except for (1) districts in which an easement has been transferred to MALPF; and (2) districts established by a county and a landowner for the purpose of providing a property tax credit to the landowner.

Current regulations authorize consideration of proposed easements that are less than 50 acres in size if (1) minimal soils criteria are met; and (2) it is for the purpose of straightening a boundary or the parcel is conveyed to an adjoining easement property.

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 implements technical fixes that will eliminate obsolete provisions and improve program efficiency.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Baltimore City; Calvert, Howard, Montgomery, and Prince George's counties; Maryland Department of Agriculture; Department of Legislative Services

Fiscal Note History: First Reader - February 1, 2012
amm/lgc

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ANALYSIS OF ECONOMIC IMPACT ON SMALL BUSINESSES

TITLE OF BILL: Maryland Agricultural Land Preservation Foundation - Easements

BILL NUMBER: SB 129

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.