

HOUSE BILL 378

M4

3lr1666

By: **Delegate Stocksdale**

Introduced and read first time: January 25, 2013

Assigned to: Environmental Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Maryland Agricultural Land Preservation Fund – Easement Restriction –**
3 **Reimbursement**

4 FOR the purpose of authorizing the Comptroller to disburse money from the Maryland
5 Agricultural Land Preservation Fund to reimburse a landowner for the release
6 of an easement restriction under a certain circumstance, subject to the prior
7 approval of the board of trustees of the Maryland Agricultural Land
8 Preservation Foundation; and generally relating to the Maryland Agricultural
9 Land Preservation Fund.

10 BY repealing and reenacting, with amendments,
11 Article – Agriculture
12 Section 2–505(c)(1)
13 Annotated Code of Maryland
14 (2007 Replacement Volume and 2012 Supplement)

15 BY repealing and reenacting, without amendments,
16 Article – Agriculture
17 Section 2–513(b)(2)
18 Annotated Code of Maryland
19 (2007 Replacement Volume and 2012 Supplement)

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

22 **Article – Agriculture**

23 2–505.

24 (c) (1) The Comptroller of the Treasury may not disburse any money from
25 the Maryland Agricultural Land Preservation Fund other than:

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (i) For costs associated with the staffing and administration of
2 the Maryland Agricultural Land Preservation Foundation;

3 (ii) For reasonable expenses incurred by the members of the
4 board of trustees of the Maryland Agricultural Land Preservation Foundation in the
5 performance of official duties;

6 (iii) For consideration in the purchase of agricultural land
7 preservation easements beginning with fiscal year 1979 and each fiscal year
8 thereafter; [and]

9 (iv) For costs associated with acquisition of agricultural land
10 preservation easements approved by the Foundation through the Critical Farms
11 Program, as provided in § 2-517 of this subtitle; AND

12 (v) **FOR, SUBJECT TO THE PRIOR APPROVAL OF THE BOARD**
13 **OF TRUSTEES OF THE MARYLAND AGRICULTURAL LAND PRESERVATION**
14 **FOUNDATION, THE PURPOSE OF REIMBURSING A LANDOWNER FOR THE**
15 **RELEASE OF AN EASEMENT RESTRICTION AS PROVIDED IN § 2-513(B)(2) OF**
16 **THIS SUBTITLE WHEN THE LOT IS NOT USED FOR THE PURPOSE OF**
17 **CONSTRUCTING A DWELLING HOUSE.**

18 2-513.

19 (b) (2) Except as provided in paragraphs (3) and (7) of this subsection, on
20 written application, the Foundation shall release free of easement restrictions only for
21 the landowner who originally sold an easement, 1 acre or less for the purpose of
22 constructing a dwelling house for the use only of that landowner or child of the
23 landowner, up to a maximum of three lots, subject to the following conditions:

24 (i) The number of lots allowed to be released under this section,
25 except as provided in paragraph (7) of this subsection, may not exceed:

26 1. 1 lot if the size of the easement property is 20 acres or
27 more but fewer than 70 acres;

28 2. 2 lots if the size of the easement property is 70 acres
29 or more but fewer than 120 acres; or

30 3. 3 lots if the size of the easement property is 120 acres
31 or more.

32 (ii) The resulting density on the property may not exceed the
33 density allowed under zoning of the property before the Foundation purchased the
34 easement.

1 (iii) The landowner shall pay the State for any acre or portion
2 released at the price per acre that the State paid the owner for the easement.

3 (iv) If the release is to be issued for a child of the landowner, the
4 child must be at least 18 years of age at the date that the preliminary release is
5 issued.

6 (v) Before any conveyance or release, the landowner and the
7 child, if there is a conveyance to a child, shall agree not to subdivide further for
8 residential purposes any acreage allowed to be released. The agreement shall be
9 recorded among the land records where the land is located and shall bind all future
10 owners.

11 (vi) After certifying that the landowner or child of the landowner
12 has met the conditions provided in subparagraphs (i) through (v) of this paragraph,
13 the Foundation shall issue a preliminary release which shall:

14 1. Become final when the Foundation receives and
15 certifies a nontransferable building permit in the name of the landowner or child of
16 the landowner for construction of a dwelling house; or

17 2. Become void upon the death of the person for whose
18 benefit the release was intended if the Foundation has not yet received a building
19 permit as provided in this subparagraph; or

20 3. Unless extended by a majority vote of the Foundation
21 Board of Trustees, become void if a nontransferable building permit in the name of the
22 landowner or child of the landowner is not received by the Foundation within 3 years
23 of the date of recordation of the preliminary release.

24 (vii) Any release or preliminary release issued under this
25 paragraph shall include:

26 1. A statement of the conditions under which it was
27 issued, a certification by the Foundation that all necessary conditions for release or
28 preliminary release have been met, and copies of any pertinent documents;

29 2. A statement by the landowner or child of the
30 landowner that acknowledges that:

31 A. Adjacent farmland that is subject to an agricultural
32 land preservation easement may be used for any agricultural purpose and may
33 interfere with the use and enjoyment of the property through noise, odor, vibration,
34 fumes, dust, glare, or other interference;

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1 B. There is no recourse against the effects of any normal
2 agricultural operation performed in accordance with good husbandry practices;

3 C. The landowner's or child's lot may not be transferred
4 for 5 years from the date of the final release, except on:

5 I. Approval by the Foundation; or

6 II. Notwithstanding any conditions on transfers imposed
7 under item 1 of this subparagraph, a lender providing notice to the Foundation of a
8 transfer pursuant to a bona fide foreclosure of a mortgage or deed of trust or to a deed
9 in lieu of foreclosure;

10 D. If the lot is not used for the person or purpose for
11 which it was released for the 5-year period, the Foundation may require the lot owner
12 to reconvey the lot to the owner of the land encumbered by the easement from which it
13 was released and subject the lot to the restrictions of the easement; and

14 E. Acknowledgments made under items A, B, C, and D of
15 this item are binding to any successor or assign of the landowner or child.

16 (viii) Any release, preliminary release, building permit, or other
17 document issued or submitted in accordance with this paragraph shall be recorded
18 among the land records where the land is located and shall bind all future owners.

19 (ix) The Foundation may not restrict the ability of a landowner
20 who originally sold an easement to acquire a release under this paragraph beyond the
21 requirements provided in this section.

22 (x) The Foundation may require evidence it deems sufficient to
23 ensure that the persons for whom the lots are released occupy the dwellings located on
24 the lots for the 5-year period.

25 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
26 October 1, 2013.