

# HOUSE BILL 837

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By: **Delegates McDermott, Fisher, Otto, Kipke, Afzali, Cluster, Conaway,  
Hershey, Hough, Jacobs, McComas, and Ready**

Introduced and read first time: February 6, 2013

Assigned to: Judiciary

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## A BILL ENTITLED

1 AN ACT concerning

2 **Family Farm – Prevailing Party – Attorney’s Fees and Expenses**

3 FOR the purpose of authorizing a court to award reasonable attorney’s fees and  
4 expenses in certain suits against a family farm under certain circumstances;  
5 defining certain terms; providing for the application of this Act; and generally  
6 relating to awarding reasonable attorney’s fees and expenses to a family farm  
7 under certain circumstances.

8 BY adding to

9 Article – Courts and Judicial Proceedings

10 Section 6–411

11 Annotated Code of Maryland

12 (2006 Replacement Volume and 2012 Supplement)

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

15 **Article – Courts and Judicial Proceedings**

16 **6–411.**

17 **(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE**  
18 **MEANINGS INDICATED.**

19 **(2) “AGRICULTURAL OPERATION” MEANS AN OPERATION FOR**  
20 **THE PROCESSING OF AGRICULTURAL CROPS, LIVESTOCK, OR POULTRY, OR**  
21 **ON–FARM PRODUCTION, HARVESTING, OR MARKETING OF AN AGRICULTURAL,**  
22 **HORTICULTURAL, SILVICULTURAL, AQUACULTURAL, OR APICULTURAL**

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 PRODUCT, OR LIVESTOCK OR POULTRY THAT HAS BEEN GROWN, RAISED, OR  
2 CULTIVATED BY THE FARMER.

3 (3) "FAMILY FARM" MEANS AN ENTITY THAT:

4 (I) IS A DOMESTIC ENTITY;

5 (II) 1. A. OWNS, OR WITHIN 1 YEAR AFTER FILING  
6 ARTICLES OF INCORPORATION, ARTICLES OF ORGANIZATION, OR A  
7 CERTIFICATE OF PARTNERSHIP, WILL OWN OR TAKE CONTROL OF PROPERTY  
8 THAT QUALIFIES FOR AGRICULTURAL USE ASSESSMENT UNDER § 8-209 OF THE  
9 TAX – PROPERTY ARTICLE; AND

10 B. OWNS ONLY AGRICULTURALLY OR  
11 RESIDENTIALLY ASSESSED REAL PROPERTY AND PERSONAL PROPERTY THAT IS  
12 USED FOR AGRICULTURAL PURPOSES; OR

13 2. OWNS ONLY PERSONAL PROPERTY THAT IS USED  
14 FOR AN AGRICULTURAL OPERATION OR FOR AGRICULTURAL MARKETING  
15 PURPOSES;

16 (III) IS CONTROLLED, MANAGED, AND OPERATED BY:

17 1. ONE INDIVIDUAL WHO HAS AN EQUITY INTEREST  
18 IN THE ENTITY; OR

19 2. TWO OR MORE INDIVIDUALS WHO HAVE AN  
20 EQUITY INTEREST IN THE ENTITY AND WHO SHARE ITS ASSETS AND EARNINGS;

21 (IV) IS DECLARED IN A CHARTER PROVISION TO BE A FAMILY  
22 FARM; AND

23 (V) HAS NO ASSETS OTHER THAN THOSE DESCRIBED IN  
24 ITEM (II) OF THIS PARAGRAPH.

25 (4) "WATER POLLUTION" MEANS ANY CONTAMINATION OR OTHER  
26 ALTERATION OF THE PHYSICAL, CHEMICAL, OR BIOLOGICAL PROPERTIES OF  
27 ANY WATERS OF THE STATE.

28 (5) "WATERS OF THE STATE" INCLUDES:

29 (I) BOTH SURFACE AND UNDERGROUND WATERS WITHIN  
30 THE BOUNDARIES OF THE STATE SUBJECT TO ITS JURISDICTION;

1                   **(II) THAT PORTION OF THE ATLANTIC OCEAN WITHIN THE**  
2 **BOUNDARIES OF THE STATE;**

3                   **(III) THE CHESAPEAKE BAY AND ITS TRIBUTARIES;**

4                   **(IV) ALL PONDS, LAKES, RIVERS, STREAMS, PUBLIC**  
5 **DITCHES, TAX DITCHES, AND PUBLIC DRAINAGE SYSTEMS WITHIN THE STATE,**  
6 **OTHER THAN THOSE DESIGNED AND USED TO COLLECT, CONVEY, OR DISPOSE**  
7 **OF SANITARY SEWAGE; AND**

8                   **(V) THE FLOODPLAIN OF THE FREE-FLOWING WATERS**  
9 **DETERMINED BY THE DEPARTMENT OF THE ENVIRONMENT ON THE BASIS OF**  
10 **THE 100-YEAR FLOOD FREQUENCY.**

11           **(B) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, THIS**  
12 **SECTION APPLIES TO A CIVIL SUIT AGAINST A FAMILY FARM ALLEGING THAT**  
13 **THE FAMILY FARM CAUSED WATER POLLUTION IN ANY WATERS OF THE STATE**  
14 **AS A RESULT OF AN AGRICULTURAL OPERATION OF THE FAMILY FARM.**

15                   **(2) THIS SECTION DOES NOT APPLY TO A SUIT AGAINST A FAMILY**  
16 **FARM:**

17                   **(I) BY A FEDERAL, STATE, OR LOCAL GOVERNMENT TO**  
18 **ENFORCE ANY HEALTH, ENVIRONMENTAL, ZONING, OR ANY OTHER APPLICABLE**  
19 **LAW; OR**

20                   **(II) FOR DAMAGES FOR PERSONAL INJURY OR WRONGFUL**  
21 **DEATH.**

22           **(C) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, A COURT MAY**  
23 **AWARD REASONABLE ATTORNEY'S FEES AND EXPENSES TO A FAMILY FARM**  
24 **THAT PREVAILS IN A SUIT DESCRIBED IN SUBSECTION (B)(1) OF THIS SECTION.**

25           SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be  
26 construed to apply only prospectively and may not be applied or interpreted to have  
27 any effect on or application to any suit filed before the effective date of this Act.

28           SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect  
29 October 1, 2013.