

# HOUSE BILL 1030

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By: **Delegate Rosenberg**

Introduced and read first time: February 8, 2013

Assigned to: Ways and Means

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## A BILL ENTITLED

1 AN ACT concerning

2 **Baltimore City – Property Tax – Assessment of Land for Agricultural Use**

3 FOR the purpose of providing exemptions from certain prohibitions on qualifying for  
4 an agricultural use property assessment for certain parcels of land in Baltimore  
5 City that are of a certain size and under certain ownership; providing for the  
6 application of this Act; and generally relating to the circumstances under which  
7 land may qualify for an agricultural use property assessment in Baltimore City.

8 BY repealing and reenacting, with amendments,  
9 Article – Tax – Property  
10 Section 8–209  
11 Annotated Code of Maryland  
12 (2012 Replacement Volume)

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

15 **Article – Tax – Property**

16 8–209.

17 (a) The General Assembly declares that it is in the general public interest of  
18 the State to foster and encourage farming activities to:

19 (1) maintain a readily available source of food and dairy products close  
20 to the metropolitan areas of the State;

21 (2) encourage the preservation of open space as an amenity necessary  
22 for human welfare and happiness; and

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1           (3)    prevent the forced conversion of open space land to more intensive  
2 uses because of the economic pressures caused by the assessment of the land at rates  
3 or levels incompatible with its practical use for farming.

4           (b)    It is the intention of the General Assembly that the assessment of  
5 farmland:

6                   (1)    be maintained at levels compatible with the continued use of the  
7 land for farming; and

8                   (2)    not be affected adversely by neighboring land uses of a more  
9 intensive nature.

10           (c)    Land that is actively used for farm or agricultural use shall be valued on  
11 the basis of that use and may not be valued as if subdivided.

12           (d)    Land that is valued under subsection (c) of this section shall be assessed  
13 on the basis of its use value.

14           (e)    (1)    The Department shall establish in regulations criteria to  
15 determine if land that appears to be actively used for farm or agricultural purposes:

16                           (i)    is actually used for farm or agricultural purposes; and

17                           (ii)   qualifies for assessment under this section.

18                   (2)    The criteria shall include:

19                           (i)    the zoning of the land;

20                           (ii)   the present and past use of the land including land under  
21 the Soil Bank Program of the United States;

22                           (iii)  the productivity of the land, including timberlands and  
23 reforested lands; and

24                           (iv)  the gross income that is derived from the agricultural  
25 activity.

26           (f)    In administering this section, periodically, the Director shall consult  
27 with:

28                           (1)    the Secretary of Agriculture;

29                           (2)    officials of the State who are knowledgeable in agriculture;

30                           (3)    representatives of the agricultural community;

1 (4) officials of counties and municipal corporations; and

2 (5) other persons as determined by the Director.

3 (g) (1) In this subsection the following words have the meanings  
4 indicated:

5 (i) “actively used” means land that is actually and primarily  
6 used for a continuing farm or agricultural use;

7 (ii) “agricultural land unit” means the combination of not more  
8 than 3 parcels of land when the parcels are:

9 1. located in the same county; and

10 2. under the same ownership;

11 (iii) “average gross income” means the average of the 2 highest  
12 years of gross income during a 3-year period;

13 (iv) “family farm unit” means not more than 1 parcel of land of  
14 less than 20 acres for each immediate family member for land that is:

15 1. contiguous to land receiving the farm or agricultural  
16 use assessment; and

17 2. owned by a member or members of the immediate  
18 family of the owner of the farm or agricultural use land; and

19 (v) “gross income” means the actual income that is received in a  
20 calendar year that results directly from the farm or agricultural use of the land.

21 (2) In determining if a parcel of land of less than 20 acres, or not zoned  
22 for agricultural use, is actively used, the Department may require the owner of the  
23 land to affirm, under oath, on a standard form provided by the Department that the  
24 farm or agricultural use of the land results in an average gross income of at least  
25 \$2,500 from the parcel or the agricultural land unit.

26 (3) The Department may require an owner who submits an  
27 affirmation under paragraph (2) of this subsection to verify the gross income from the  
28 land by providing:

29 (i) copies of sales receipts or invoices;

30 (ii) lease agreements; or

1 (iii) other documents required by the Department.

2 (4) An affirmation under paragraph (2) of this subsection shall be filed  
3 before July 1 of the taxable year.

4 (5) If land that appears to be actively used does not yield an average  
5 gross income of \$2,500, the Director shall waive the gross income requirement on  
6 finding that:

7 (i) the land is leased and the nature of the farm or agricultural  
8 use of the land when related to the amount of the land in farm or agricultural use  
9 reasonably would be expected to yield an average gross income of at least \$2,500;

10 (ii) the nature of the farm or agricultural use of the land and the  
11 amount of the land in farm or agricultural use reasonably would be expected to yield  
12 an average gross income of at least \$2,500 from the agricultural products, if sold, that  
13 are derived from the use of the land;

14 (iii) a drought or other natural cause has adversely affected the  
15 income-producing capability of the land during a 3-year period; or

16 (iv) for a newly established farm or agricultural use, the nature  
17 of the use and the amount of the land in farm or agricultural use reasonably would be  
18 expected to yield an average gross income of at least \$2,500 if the use had existed for a  
19 3-year period.

20 (6) The Director may grant only the following additional waivers:

21 (i) under paragraph (5)(iii) of this subsection, for 1 additional  
22 consecutive 3-year period; and

23 (ii) under paragraph (5)(iv) of this subsection, for 1 additional  
24 consecutive 3-year period.

25 (7) The gross income requirement of paragraph (2) of this subsection  
26 does not apply if the land is actively used as a family farm unit.

27 (8) For purposes of qualifying for the agricultural use assessment  
28 under this section, the following real property is deemed to be a single contiguous  
29 parcel:

30 (i) parcels that are created or separated by roads, easements, or  
31 other rights-of-way; and

32 (ii) land relating to a right-of-way that reverts back to its  
33 owner's use for purposes of farming.

1 (h) (1) Subject to paragraph (2) of this subsection **AND EXCEPT AS**  
2 **PROVIDED IN PARAGRAPH (3) OF THIS SUBSECTION**, the following land does not  
3 qualify to be assessed under this section:

4 (i) land rezoned to a more intensive use than the use that  
5 immediately preceded the rezoning, if a person with an ownership interest in the land  
6 has applied for or requested the rezoning;

7 (ii) land used as a homesite, which means the area of land that  
8 is reasonably related to a dwelling;

9 (iii) parcels of land of less than 3 acres that are under the same  
10 ownership excluding the homesite unless:

11 1. **THE LAND IS LOCATED IN BALTIMORE CITY AND**  
12 **WOULD HAVE AN ASSESSED VALUE OF LESS THAN \$90,000 PER ACRE IF THE**  
13 **LAND WAS NOT ASSESSED UNDER THIS SECTION;**

14 2. the land is owned by an owner of adjoining land that  
15 is receiving the farm or agricultural use assessment and is actively used;

16 [2.]3. the owner receives at least 51% of the owner's gross  
17 income from the active use; or

18 [3.]4. the parcels are part of a family farm unit;

19 (iv) if part of a subdivision plat, parcels of land of less than 10  
20 acres that are owned by an owner of 5 other parcels of land of less than 10 acres each  
21 that are located in the same county and that are receiving the farm or agricultural use  
22 assessment;

23 (v) parcels of woodland of less than 5 acres excluding the  
24 homesite; or

25 (vi) land that fails to meet the gross income requirement of  
26 subsection (g) of this section.

27 (2) No more than 2 parcels of less than 3 acres under the same  
28 ownership may qualify for the agricultural use assessment.

29 **(3) PARAGRAPH (1)(IV) OF THIS SUBSECTION DOES NOT APPLY IN**  
30 **BALTIMORE CITY.**

31 (i) (1) (i) In this subsection the following words have the meanings  
32 indicated.

1 (ii) “Surviving spouse” means the surviving spouse of the  
2 property owner who applied for the waiver under this subsection if the surviving  
3 spouse has not remarried and had a legal interest in the property at the time of the  
4 application for the waiver.

5 (iii) “3-year cycle” has the meaning stated in § 8-103 of this  
6 title.

7 (2) The Director may grant a waiver from the requirements of  
8 subsection (e) or (g) of this section if:

9 (i) the property owner is at least 70 years of age;

10 (ii) the property owner applies to the Department for a waiver of  
11 the requirements of either subsection (e) or (g) of this section;

12 (iii) the land has not changed ownership during the two previous  
13 3-year cycles; and

14 (iv) the land has been assessed for at least the two previous  
15 3-year cycles on the basis of farm or agricultural use under the law or regulations of  
16 the Department that were in effect as of the date of the application.

17 (3) The Director may grant a waiver from the requirements of  
18 subsection (e) or (g) of this section if:

19 (i) the property owner becomes disabled and is unable to  
20 continue the farm or agricultural use of the land;

21 (ii) the property owner applies to the Department for a waiver of  
22 the requirements of either subsection (e) or (g) of this section;

23 (iii) the property owner engaged in farm or agricultural use  
24 activities on the land prior to the disability; and

25 (iv) the land has been assessed for at least the two previous  
26 3-year cycles on the basis of farm or agricultural use under the law or regulations of  
27 the Department that were in effect as of the date of the application.

28 (4) Any waiver granted under this subsection shall be in effect until:

29 (i) the transfer of the property; or

30 (ii) the later of the death of the property owner who received the  
31 waiver or the death of the surviving spouse.

1                   (5)    The Department may adopt regulations to carry out the provisions  
2 of this subsection.

3                   SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
4 June 1, 2013, and shall be applicable to all taxable years beginning after June 30,  
5 2013.