

Department of Legislative Services
Maryland General Assembly
2013 Session

FISCAL AND POLICY NOTE
Revised

House Bill 378

(Delegate Stocksdale)

Environmental Matters

Education, Health, and Environmental Affairs

**Maryland Agricultural Land Preservation Fund - Easement Restriction -
Reimbursement**

This bill authorizes the Comptroller to use agricultural land preservation funds to reimburse money paid by a landowner for a preliminary release of a lot. With board approval and in accordance with specified regulations, the Maryland Agricultural Land Preservation Foundation (MALPF) may reimburse money it received from a landowner for a lot that had been preliminarily released for the purpose of constructing a dwelling house for a landowner or his/her child. MALPF may reimburse the person for whom the lot was preliminarily released, the person who originally paid for the preliminary release, or another appropriate person for the amount paid to MALPF, if specified conditions are met.

The bill takes effect July 1, 2013.

Fiscal Summary

State Effect: Maryland Department of Agriculture (MDA) special fund expenditures increase in FY 2014 and future years to the extent lot release reimbursements are approved. However, MALPF anticipates that this will occur in a very limited number of cases. Revenues are not affected.

Local Effect: None.

Small Business Effect: Minimal.

Analysis

Bill Summary: A specified individual may be reimbursed for a lot that has been preliminarily released if:

- a dwelling has not been constructed on the lot;
- a request for reimbursement is made before the preliminary release becomes void;
- before reimbursement and at the expense of the owner of the land under easement (1) the lot is conveyed to the owner free and clear of liens; (2) any recorded plat creating the lot is voided; (3) the lot is added to the tax account assigned to the land encumbered by the easement; and (4) the preliminary release is voided by an agreement recorded in the land records; and
- at least one of the following circumstances exists: (1) MALPF has received notice that title to the lot has been transferred under a *bona fide* foreclosure of a mortgage or deed in lieu of foreclosure; (2) MALPF has received notice that the landowner or his/her child has died; or (3) any other circumstance in which MALPF determines that it is impossible for the landowner or his/her child to fulfill the requirements of the preliminary release.

Current Law: Chapter 35 of 2012 (SB 148) altered provisions governing the release of family lots from MALPF program easement restrictions. 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. The 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.

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 2012, MALPF had cumulatively purchased 2,078 farms covering 282,957 acres.

When a landowner receives approval from MALPF for a lot to be released from an easement, they must provide a written description of the property boundaries and pay

back the amount per acre that they were paid for the easement. Occasionally, a landowner or his/her child determines that the lot is no longer required and seeks reimbursement of the per acre amount that he/she gave MALPF for the original lot release. However, under current law, MALPF does not have the authority to return a landowner's payment when this occurs.

Generally, MALPF advises that the concept of refunding landowners when lots are not used benefits the program because (1) fewer acres are removed from easements; (2) fewer dwellings are built on easement land; and (3) MALPF gains more control over unused owner's and/or child's lots.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Maryland Department of Agriculture, Comptroller's Office, Department of Legislative Services

Fiscal Note History: First Reader - February 7, 2013
mc/lgc Revised - House Third Reader - March 13, 2013

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