

HOUSE BILL 1437

M4

4lr3206

By: **Delegate Kach**

Introduced and read first time: February 14, 2014

Assigned to: Rules and Executive Nominations

A BILL ENTITLED

1 AN ACT concerning

2 **Maryland Agricultural Land Preservation Foundation – Lot Release –**
3 **Demonstrated Financial Hardship**

4 FOR the purpose of requiring the Maryland Agricultural Land Preservation
5 Foundation to grant a certain extension for the time frame for receiving a
6 nontransferable building permit if a landowner or child of a landowner
7 demonstrates financial hardship; exempting a lot owner granted an extension
8 for financial hardship from the requirement to reconvey a lot under certain
9 circumstances; making stylistic changes; and generally relating to the Maryland
10 Agricultural Land Preservation Foundation.

11 BY repealing and reenacting, without amendments,
12 Article – Agriculture
13 Section 2–513(a) and (b)(1)
14 Annotated Code of Maryland
15 (2007 Replacement Volume and 2013 Supplement)

16 BY repealing and reenacting, with amendments,
17 Article – Agriculture
18 Section 2–513(b)(2)(vi) and (vii)
19 Annotated Code of Maryland
20 (2007 Replacement Volume and 2013 Supplement)

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

23 **Article – Agriculture**

24 2–513.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (a) Agricultural land preservation easements may be purchased under this
2 subtitle for any land in agricultural use which meets the minimum criteria established
3 under § 2–509 of this subtitle if the easement and county regulations governing the
4 use of the land include the following provisions:

5 (1) Any farm use of land is permitted.

6 (2) Operation at any time of any machinery used in farm production or
7 the primary processing of agricultural products is permitted.

8 (3) All normal agricultural operations performed in accordance with
9 good husbandry practices which do not cause bodily injury or directly endanger human
10 health are permitted including, but not limited to, sale of farm products produced on
11 the farm where such sales are made.

12 (b) (1) A landowner whose land is subject to an easement may not use the
13 land for any commercial, industrial, or residential purpose except:

14 (i) As determined by the Foundation, for farm– and
15 forest–related uses and home occupations; or

16 (ii) As otherwise provided under this section.

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

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

25 1. Become final when the Foundation receives and
26 certifies a nontransferable building permit in the name of the landowner or child of
27 the landowner for construction of a dwelling house; [or]

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

31 3. [Unless extended by a majority vote of the Foundation
32 Board of Trustees, become] **BECOME** void if a nontransferable building permit in the
33 name of the landowner or child of the landowner is not received by the Foundation
34 within 3 years of the date of recordation of the preliminary release **EXCEPT THAT:**

1 **A. THE TIME FRAME FOR RECEIVING THE**
2 **NONTRANSFERABLE BUILDING PERMIT MAY BE EXTENDED BY A MAJORITY VOTE**
3 **OF THE FOUNDATION BOARD OF TRUSTEES; AND**

4 **B. THE FOUNDATION SHALL GRANT A 5-YEAR**
5 **EXTENSION IF THE LANDOWNER OR CHILD OF THE LANDOWNER**
6 **DEMONSTRATES FINANCIAL HARDSHIP.**

7 (vii) Any release or preliminary release issued under this
8 paragraph shall include:

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

12 2. A statement by the landowner or child of the
13 landowner that acknowledges that:

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

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

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

22 I. Approval by the Foundation; or

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

27 D. **[If] UNLESS GRANTED AN EXTENSION FOR**
28 **DEMONSTRATED FINANCIAL HARDSHIP UNDER ITEM (VI)3B OF THIS**
29 **PARAGRAPH, IF** the lot is not used for the person or purpose for which it was released
30 for the 5-year period, the Foundation may require the lot owner to reconvey the lot to
31 the owner of the land encumbered by the easement from which it was released and
32 subject the lot to the restrictions of the easement; and

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

1 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
2 October 1, 2014.