

Department of Legislative Services
Maryland General Assembly
2014 Session

FISCAL AND POLICY NOTE

House Bill 1437 (Delegate Kach)
Environmental Matters

**Maryland Agricultural Land Preservation Foundation - Lot Release -
Demonstrated Financial Hardship**

This bill requires the Maryland Agricultural Land Preservation Foundation (MALPF), under provisions of law relating to lot releases for dwelling houses, to grant a five-year extension of the timeframe for receiving a nontransferable building permit if a landowner or child of a landowner demonstrates financial hardship. The bill also exempts a lot owner granted an extension for financial hardship from the requirement to reconvey a lot if it is not used for the person or purpose for which it was released within a specified period of time.

Fiscal Summary

State Effect: The bill does not materially affect State operations or finances.

Local Effect: The bill does not affect local governmental operations or finances.

Small Business Effect: Minimal or none.

Analysis

Current Law: Agricultural land preservation easements may be purchased for any land in agricultural use that meets specified statutory criteria if the easement and county regulations governing the use of land permit the following uses:

- any farm use;

- the operation of any machinery used in farm production or primary processing of agricultural products; and
- all normal agricultural operations performed with good husbandry practices that do not cause bodily injury or directly endanger human health, including but not limited to, sale of farm products produced on the farm where such sales are made.

MALPF easement properties may not be used for commercial, industrial, or residential purposes unless MALPF determines the purposes are farm and forest-related uses and home occupations. Commercial agricultural uses MALPF allows include the growing of field crops, vegetables, and fruit; dairy and livestock operations, including chickens; and managing land for forest resources.

Except under specified circumstances, on written application, MALPF must release free of easement restrictions for the landowner who originally sold the easement, up to three one-acre lots, depending on the size of the easement property, for the purpose of constructing a home for that landowner or the landowner's child. If the lot is for the landowner's child, the child must be at least 18 at the time of the issuance of the preliminary release. The resulting density of the property may not exceed the density allowed under zoning of the property before MALPF purchased the easement. The landowner must pay the State for any acre or portion released at the price per acre that the State paid the owner for the easement.

Before any conveyance or release, the landowner and the child, if there is a conveyance to a child, must agree not to further subdivide the property. The agreement must be recorded in the local land records and binds all future owners.

If all necessary conditions are met, MALPF must then issue a preliminary release that will:

- become final when MALPF receives and certifies a nontransferable building permit in the name of the landowner or child of the landowner for construction of a dwelling house;
- become void upon the death of the person for whose benefit the release was intended if MALPF has not yet received a building permit; or
- unless extended by a majority vote of the MALPF Board of Trustees, become void if a transferable building permit in the name of the landowner or child of the landowner is not received by MALPF within three years of the date of recordation of the preliminary release.

Any release or preliminary release must include, among other things, a statement by the landowner or child of the landowner that acknowledges that (1) the lot may not be transferred for five years from the date of the final release, except under specified conditions and (2) if the lot is not used for the person or purpose for which it was released for the five-year period, MALPF may require the lot owner to reconvey the lot to the original owner of the land encumbered by the easement from which it was released and subject the lot to the restrictions of the easement. All acknowledgements are binding upon any successor assign of the landowner or child.

MALPF is authorized to require evidence it deems sufficient to ensure that the persons for whom the lots are released occupy the dwellings located on the lots for the five-year period.

Background: MALPF, which was established by the General Assembly in 1977 and is part of the Maryland Department of Agriculture, 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 2013, MALPF had cumulatively purchased 2,102 easements covering 285,902 acres.

MALPF advises that it already allows for an extension of the timeframe to receive a nontransferable building permit if the landowner or child of the landowner demonstrates financial hardship.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Caroline and Montgomery counties, Baltimore City, Maryland Department of Agriculture, Department of Legislative Services

Fiscal Note History: First Reader - March 7, 2014
ncs/lgc

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