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April 26, 2017

The Honorable Lawrence J. Hogan, Jr.  
Governor of Maryland  
State House  
100 State Circle  
Annapolis, Maryland 21401

***RE: House Bill 586 and Senate Bill 278, "Maryland Farms and Families Act"***

Dear Governor Hogan:

We have reviewed House Bill 586 and SB 278, "Maryland Farms and Families Act" and approve them for constitutionality and legal sufficiency. We write to advise about the proper construction of a provision in the bill.

The bills establish a Maryland Farms and Families Program in the Department of Agriculture and a Maryland Farms and Families Fund. The purpose of the Fund is to provide grants to nonprofit organizations that use the funds to increase the purchasing power of certain food-insecure residents at participating farmers markets. As introduced, the bills required that the Governor include in the budget bill each year an appropriation of \$500,000 to the Fund. Each bill was amended in its house of origin to make the Governor's obligation to include the annual \$500,000 appropriation in the budget bill "[s]ubject to the limitations of the State budget." House Bill 586, page 3, lines 20-22; Senate Bill 278, page 3, lines 20-22.

The purpose of the amendment, based on the bill language alone, is unclear, as we question what it means to make the Governor's obligation to include funds in the budget subject to the limitations of the budget. The legislative history, however, indicates that the purpose of the amendment was to effectively strike the funding mandate and make the funding of the program subject to the Governor's discretion. The House Committee Floor Report on the bill described the effect of the amendment as follows: "... this removes the mandate and makes funding discretionary." Describing the amendments on the House floor, the floor leader also characterized them as making the funding discretionary. Finally, when the Fiscal Notes on the bills were revised

The Honorable Lawrence J. Hogan, Jr.  
April 26, 2017  
Page 2

to reflect these amendments, the description of the bills as “establish[ing] a mandated appropriation” was deleted.

In light of this legislative history, we believe the funding provision in the bills should be construed as a non-binding expression of legislative intent, not a funding mandate.

Sincerely,

A handwritten signature in cursive script, reading "Brian E. Frosh".

Brian E. Frosh  
Attorney General

BEF/DWS/kd

cc: The Honorable John C. Wobensmith  
Chris Shank  
Warren Deschenaux