

SENATE BILL 975

N1, M4

7lr2833
CF 7lr2834

By: **Senator Ready**

Introduced and read first time: February 3, 2017

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Real Property – Agricultural Land Preservation Easements – Separate Parcels**

3 FOR the purpose of establishing that, unless a certain deed expressly provides otherwise,
4 the grant of a certain agricultural land preservation easement governing two or more
5 separate parcels of land owned by the same grantor under separate deeds does not
6 consolidate the parcels for any other purpose, under certain circumstances;
7 establishing that a certain parcel of land subject to an agricultural land preservation
8 easement may be conveyed separately without the approval of the Maryland
9 Agricultural Land Preservation Foundation, regardless of the size of the parcel, but
10 shall remain subject to the easement; requiring the owner of a certain parcel to notify
11 the Foundation at least a certain number of days before conveying the parcel;
12 establishing that, notwithstanding any other provision of law, a conveyance of a
13 separate parcel under this Act is not a subdivision or off-conveyance; providing for
14 the application of this Act; providing for the termination of this Act; and generally
15 relating to agricultural land preservation easements.

16 BY repealing and reenacting, with amendments,
17 Article – Real Property
18 Section 2–118
19 Annotated Code of Maryland
20 (2015 Replacement Volume and 2016 Supplement)

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

Article – Real Property

24 2–118.

25 (a) Any restriction prohibiting or limiting the use of water or land areas, or any
26 improvement or appurtenance thereto, for any of the purposes listed in subsection (b) of

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 this section whether drafted in the form of an easement, covenant, restriction, or condition,
2 creates an incorporeal property interest in the water or land areas, or the improvement or
3 appurtenance thereto, so restricted, which is enforceable in both law and equity in the same
4 manner as an easement or servitude with respect to the water or land areas, or the
5 improvement or appurtenance thereto, if the restriction is executed in compliance with the
6 requirements of this article for the execution of deeds or the Estates and Trusts Article for
7 the execution of wills.

8 (b) A restriction as provided in subsection (a) of this section may be for any of the
9 following purposes:

10 (1) Construction, placement, preservation, maintenance in a particular
11 condition, alteration, removal, or decoration of buildings, roads, signs, billboards or other
12 advertising, utilities, or other structures on or above the ground;

13 (2) Dumping or placing of soil or other substance or material as landfill, or
14 dumping or placing of trash, waste, or other materials;

15 (3) Excavation, dredging, or removal of loam, peat, gravel, soil, rock, or
16 other material substance in a manner as to affect the surface or otherwise alter the
17 topography of the area;

18 (4) Removal or destruction of trees, shrubs, or other vegetation;

19 (5) Surface use except for purposes of preserving the water or land areas,
20 or the improvement or appurtenance thereto;

21 (6) Activities affecting drainage, flood control, water conservation, erosion
22 control, soil conservation, or fish or wildlife habitat preservation;

23 (7) Preservation of exposure of solar energy devices; or

24 (8) Other acts or uses having any relation to the preservation of water or
25 land areas or the improvement or appurtenance thereto.

26 (c) If the restriction is not granted for the benefit of any dominant tract of land,
27 it is enforceable with respect to the servient land, both at law and in equity, as an easement
28 in gross, and as such it is inheritable and assignable.

29 (d) A restriction provided for by this section may be extinguished or released, in
30 whole or in part, in the same manner as other easements.

31 (e) If any grant, reservation, dedication, devise, or gift of any nature which clearly
32 indicates the maker's intention to subject any interest or estate in property to public use
33 for the preservation of agricultural, historic, or environmental qualities fails to specify a
34 grantee, donee, legatee, or beneficiary to receive the same or specifies a grantee, donee,
35 legatee, or beneficiary who is not legally capable of taking the interest or estate, it passes

1 to the Maryland Agricultural Land Preservation Foundation, the Maryland Historical
2 Trust, or the Maryland Environmental Trust in any proceedings under §§ 14–301 and
3 14–302 of the Estates and Trusts Article.

4 **(F) (1) THIS SUBSECTION APPLIES ONLY TO LAND THAT IS SUBJECT TO**
5 **AN AGRICULTURAL LAND PRESERVATION EASEMENT GRANTED TO THE MARYLAND**
6 **AGRICULTURAL LAND PRESERVATION FOUNDATION.**

7 **(2) UNLESS THE DEED GRANTING THE EASEMENT EXPRESSLY**
8 **PROVIDES OTHERWISE, THE GRANT OF AN AGRICULTURAL LAND PRESERVATION**
9 **EASEMENT GOVERNING TWO OR MORE SEPARATE PARCELS OF LAND OWNED BY THE**
10 **SAME GRANTOR UNDER SEPARATE DEEDS DOES NOT CONSOLIDATE THE PARCELS**
11 **FOR ANY OTHER PURPOSE, IF THE PARCELS ARE DESCRIBED SEPARATELY IN THE**
12 **DEED GRANTING THE EASEMENT.**

13 **(3) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, A PARCEL OF**
14 **LAND DESCRIBED UNDER PARAGRAPH (2) OF THIS SUBSECTION:**

15 **(I) MAY BE CONVEYED SEPARATELY WITHOUT THE APPROVAL**
16 **OF THE MARYLAND AGRICULTURAL LAND PRESERVATION FOUNDATION,**
17 **REGARDLESS OF THE SIZE OF THE PARCEL; BUT**

18 **(II) SHALL REMAIN SUBJECT TO THE AGRICULTURAL LAND**
19 **PRESERVATION EASEMENT.**

20 **(4) THE OWNER OF A SEPARATE PARCEL OF LAND SUBJECT TO AN**
21 **AGRICULTURAL LAND PRESERVATION EASEMENT SHALL NOTIFY THE MARYLAND**
22 **AGRICULTURAL LAND PRESERVATION FOUNDATION AT LEAST 60 DAYS BEFORE**
23 **CONVEYING THE PARCEL.**

24 **(5) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, A**
25 **CONVEYANCE OF A SEPARATE PARCEL UNDER THIS SUBSECTION IS NOT A**
26 **SUBDIVISION OR OFF-CONVEYANCE.**

27 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be construed to
28 apply retroactively and shall be applied to and interpreted to affect any agricultural land
29 preservation easement granted to the Maryland Agricultural Land Preservation
30 Foundation before the effective date of this Act.

31 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect June
32 1, 2017. It shall remain effective for a period of 2 years and 1 month and, at the end of June
33 30, 2019, with no further action required by the General Assembly, this Act shall be
34 abrogated and of no further force and effect.