

Chapter 662

(Senate Bill 975)

AN ACT concerning

Real Property – Agricultural Land Preservation Easements – Separate Parcels

FOR the purpose of establishing that, unless a certain deed expressly provides otherwise, the grant of a certain agricultural land preservation easement governing two or more separate parcels of land owned by the same grantor under separate deeds or two or more parcels separately identified and described in the same deed does not consolidate the parcels for any other purpose, under certain circumstances; establishing that a certain parcel of land subject to an agricultural land preservation easement may be conveyed separately ~~to a certain family member~~ child of a certain grantor ~~without the~~ with certain approval of the Maryland Agricultural Land Preservation Foundation, ~~regardless of the size of the parcel,~~ but shall remain subject to the easement in perpetuity; ~~requiring the owner of a certain parcel to notify the Foundation at least a certain number of days before conveying the parcel to a certain family member;~~ establishing that, notwithstanding any other provision of law, a conveyance of a separate parcel to a certain family member under this Act is not a subdivision or off-conveyance; defining a certain term requiring the Foundation to apply certain acreage requirements for agricultural subdivision as a part of its review of a certain request for a certain agricultural subdivision and a certain corrective easement; providing for the application of this Act; providing for the termination of this Act; and generally relating to agricultural land preservation easements.

BY adding toArticle – AgricultureSection 2-513.2Annotated Code of Maryland(2016 Replacement Volume)

BY repealing and reenacting, with amendments,

Article – Real Property

Section 2-118

Annotated Code of Maryland

(2015 Replacement Volume and 2016 Supplement)

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

Article – Agriculture**2-513.2.**

AS A PART OF ITS REVIEW OF A REQUEST BY AN ORIGINAL GRANTOR OF AN EASEMENT FOR AN AGRICULTURAL SUBDIVISION OF LAND SUBJECT TO THE EASEMENT AND A CORRECTIVE EASEMENT OF LAND SUBJECT TO THE EASEMENT, THE FOUNDATION SHALL APPLY THE ACREAGE REQUIREMENTS FOR AGRICULTURAL SUBDIVISIONS THAT EXISTED AT THE TIME THE EASEMENT WAS PURCHASED.

Article – Real Property

2–118.

(a) Any restriction prohibiting or limiting the use of water or land areas, or any improvement or appurtenance thereto, for any of the purposes listed in subsection (b) of this section whether drafted in the form of an easement, covenant, restriction, or condition, creates an incorporeal property interest in the water or land areas, or the improvement or appurtenance thereto, so restricted, which is enforceable in both law and equity in the same manner as an easement or servitude with respect to the water or land areas, or the improvement or appurtenance thereto, if the restriction is executed in compliance with the requirements of this article for the execution of deeds or the Estates and Trusts Article for the execution of wills.

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

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

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

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

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

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

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

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

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

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

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

(e) If any grant, reservation, dedication, devise, or gift of any nature which clearly indicates the maker's intention to subject any interest or estate in property to public use for the preservation of agricultural, historic, or environmental qualities fails to specify a grantee, donee, legatee, or beneficiary to receive the same or specifies a grantee, donee, legatee, or beneficiary who is not legally capable of taking the interest or estate, it passes to the Maryland Agricultural Land Preservation Foundation, the Maryland Historical Trust, or the Maryland Environmental Trust in any proceedings under §§ 14-301 and 14-302 of the Estates and Trusts Article.

(F) (1) ~~IN THIS SECTION, "FAMILY MEMBER" MEANS A RELATIVE OF A GRANTOR BY BLOOD, ADOPTION, OR MARRIAGE.~~

~~(2)~~ THIS SUBSECTION APPLIES ONLY TO LAND THAT IS SUBJECT TO AN AGRICULTURAL LAND PRESERVATION EASEMENT GRANTED TO THE MARYLAND AGRICULTURAL LAND PRESERVATION FOUNDATION ON OR BEFORE DECEMBER 31, 1999.

~~(2) (3) (2)~~ UNLESS THE DEED GRANTING THE EASEMENT EXPRESSLY PROVIDES OTHERWISE, THE GRANT OF AN AGRICULTURAL LAND PRESERVATION EASEMENT GOVERNING TWO OR MORE SEPARATE PARCELS OF LAND OWNED BY THE SAME GRANTOR UNDER SEPARATE DEEDS OR TWO OR MORE PARCELS SEPARATELY IDENTIFIED AND DESCRIBED IN THE SAME DEED DOES NOT CONSOLIDATE THE PARCELS FOR ANY OTHER PURPOSE, IF THE PARCELS ARE DESCRIBED SEPARATELY IN THE DEED GRANTING THE EASEMENT.

~~(3) (4) (3)~~ NOTWITHSTANDING ANY OTHER PROVISION OF LAW, A ONE OF THE ~~PARCEL~~ PARCELS OF LAND DESCRIBED UNDER PARAGRAPH ~~(2) (3) (2)~~ OF THIS SUBSECTION:

(I) MAY BE CONVEYED SEPARATELY TO A ~~FAMILY MEMBER~~ CHILD OF THE ORIGINAL GRANTOR ~~WITHOUT~~ WITH THE APPROVAL OF THE MARYLAND AGRICULTURAL LAND PRESERVATION FOUNDATION, ~~REGARDLESS OF THE SIZE OF THE PARCEL~~ IN ACCORDANCE WITH § 2-513.2 OF THE AGRICULTURE ARTICLE AND THE CRITERIA, ELIGIBILITY REQUIREMENTS, AND PROCEDURE FOR AN AGRICULTURAL SUBDIVISION AND CORRECTIVE EASEMENT ESTABLISHED BY

REGULATION BY THE MARYLAND AGRICULTURAL LAND PRESERVATION FOUNDATION; BUT

(II) SHALL REMAIN SUBJECT TO THE AGRICULTURAL LAND PRESERVATION EASEMENT IN PERPETUITY.

~~(4) (5) THE OWNER OF A SEPARATE PARCEL OF LAND SUBJECT TO AN AGRICULTURAL LAND PRESERVATION EASEMENT SHALL NOTIFY THE MARYLAND AGRICULTURAL LAND PRESERVATION FOUNDATION AT LEAST 60 DAYS BEFORE CONVEYING THE PARCEL TO A FAMILY MEMBER.~~

~~(5) (6) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, A CONVEYANCE OF A SEPARATE PARCEL TO A FAMILY MEMBER UNDER THIS SUBSECTION IS NOT A SUBDIVISION OR OFF CONVEYANCE.~~

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

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

Approved by the Governor, May 25, 2017.