

Department of Legislative Services
Maryland General Assembly
2018 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

Senate Bill 1140

(Senator Middleton)

Education, Health, and Environmental Affairs

Environment and Transportation

Maryland Agricultural Land Preservation Foundation – Definition of Child

This bill – under State law provisions governing the Maryland Agricultural Land Preservation Foundation (MALPF) – defines “child” as a biological child, an adopted child, or a stepchild, and specifies that “child” does not include a foster child, a grandchild, or a descendent more remote than a grandchild. (The term “child” is used under existing provisions allowing a landowner whose land is subject to a MALPF easement to apply for the release from the easement of a lot for a dwelling house for the landowner or child of the landowner.) The bill must be construed to apply retroactively and be applied to and interpreted to affect any person who is subject to the restrictions of an agricultural land preservation easement held by MALPF. **The bill takes effect July 1, 2018.**

Fiscal Summary

State Effect: Special fund revenues increase beginning in FY 2019 due to additional lot releases and associated reimbursements. Expenditures are not affected.

Local Effect: None.

Small Business Effect: Minimal.

Analysis

Current Law: A landowner whose land is subject to a MALPF easement, and who is the original seller of the easement, may apply for the release, free of easement restrictions, of a lot to construct a dwelling house for the use of the landowner or child of the landowner. The landowner may apply for the release of up three lots for that purpose, each of one acre or less, except under specified circumstances, related to Maryland Department of the

Environment (MDE) regulations or local regulations, in which a lot may be larger. Lot releases are subject to various conditions, including that:

- the number of lots allowed to be released does not exceed (1) one lot if the size of the easement property is 20 acres or more but fewer than 70 acres; (2) two lots if the size of the easement property is 70 acres or more but fewer than 120 acres; or (3) three lots if the size of the easement property is 120 acres or more;
- the landowner pays the State for any acre or portion released at the price per acre that the State paid the owner for the easement;
- if the release is for a child of the landowner, the child must be at least age 18;
- the landowner's or child's lot generally may not be transferred for five years from the date of the final release; and
- 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 owner of the land encumbered by the easement from which it was released and subject the lot to the restrictions of the easement.

An owner may also exclude from easement restrictions lots containing dwellings that existed at the time of the sale of the easement, as an owner's or children's lot.

A landowner may also reserve the right to exclude one unrestricted lot from an easement in lieu of all owner's and children's lots to which the landowner would otherwise be entitled, subject to specified conditions.

Background: MALPF, in existence since 1977, purchases perpetual agricultural conservation easements on eligible farmland throughout the State. As of the end of fiscal 2017, MALPF had acquired 2,242 easements covering 304,858 acres statewide.

MALPF indicates that it currently interprets the phrase "child of the landowner" as having the same meaning as the definition of "child" under statutory provisions governing estates of decedents, which includes an adopted child, but does not include a stepchild, a foster child, or a grandchild or more remote descendant.

State Revenues: Special fund revenues increase by an indeterminate amount (largely dependent on the number of lot releases resulting from the bill) beginning in fiscal 2019 due to reimbursements provided to MALPF of the purchase price of the portions of easements covering any lots released pursuant to the bill.

For contextual purposes, MALPF currently pays an approximate average amount of \$4,400 per acre for an easement, and MALPF advises that most lot releases are for two acres rather than one (under the exception mentioned above for specified circumstances related to MDE

or local regulations causing a need for a larger lot). In fiscal 2016 and 2017, the number of child lot releases were nine and seven, respectively.

Additional Information

Prior Introductions: None.

Cross File: Although HB 1736 (Delegate Lisanti - Rules and Executive Nominations) is designated as a cross file, it is not identical.

Information Source(s): Maryland Department of Agriculture; Montgomery and Prince George's counties; Department of Legislative Services

Fiscal Note History: First Reader - March 9, 2018
mm/lgc Third Reader - March 29, 2018
Revised - Amendment(s) - March 29, 2018

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