

Department of Legislative Services
Maryland General Assembly
2018 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

House Bill 1141

(Delegate Jacobs, *et al.*)

Environment and Transportation

Education, Health, and Environmental Affairs

Building Performance Standards - Agricultural Buildings Used for Agritourism - Exemption

This bill authorizes a county legislative body to exempt agricultural buildings that are used for agritourism from adhering to the Maryland Building Performance Standards (MBPS) and, except for agricultural buildings in Cecil and Garrett counties, from obtaining a change of occupancy permit if the subordinate use of agritourism (1) is in accordance with limitations set forth in regulations adopted by the Department of Housing and Community Development (DHCD); (2) occupies only levels of the building on which a ground level exit is located; and (3) does not require more than 50 people to occupy an individual building at any one time. Under current law, this exemption is limited to specified counties.

Fiscal Summary

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

Local Effect: Local revenues may decrease minimally in jurisdictions that authorize the exemptions due to the issuance of fewer change of occupancy permits. Expenditures are likely not affected.

Small Business Effect: Minimal overall, but potential meaningful impact on farms in counties that use the bill's authority to exempt farms from complying with MBPS and/or obtaining a change of occupancy permit from local jurisdictions.

Analysis

Current Law/Background: According to the *2012 Census of Agriculture*, there were 12,256 farms in Maryland, averaging 166 acres in size.

Agritourism

“Agritourism” is not explicitly defined in statute. However, the Governor’s Intergovernmental Commission on Agriculture (GICA) developed a suggested definition of “agritourism” to help guide counties and local zoning and permitting agencies when dealing with agricultural operations. As recommended by GICA, “agritourism” is a series of activities conducted on a farm and offered to the public or to invited groups for the purpose of education, recreation, or active involvement in the farm operation. These activities may include, but are not limited to:

- farm tours;
- hayrides;
- corn mazes;
- seasonal petting farms;
- farm museums;
- guest farm;
- pumpkin patches;
- “pick your own” or “cut your own” produce;
- classes related to agricultural products or skills; and
- picnic and party facilities offered in conjunction with any of the above.

The definition is advisory only. However, GICA recommends that county officials adopt the language as part of their local ordinances or incorporate it into a guidance document when dealing with farm operations in the zoning and permitting process.

Exemption from Maryland Building Performance Standards for Agricultural Buildings Used for Agritourism

An “agricultural building” is a structure designed and constructed to house farm implements, hay, grain, poultry, livestock, or other horticultural products. An agricultural building does not, however, include a place of human residence. MBPS do not apply to the construction, alteration, or modification of an agricultural building for which agritourism is an intended subordinate use in the following counties:

- Calvert;
- Cecil;
- Charles;
- Dorchester;
- Frederick;
- Garrett;
- Harford;
- Prince George's;
- St. Mary's;
- Somerset; and
- Talbot.

In those counties, an existing agricultural building used for agritourism is not considered a change of occupancy that requires a building permit if the subordinate use of agritourism (1) is in accordance with limitations set forth in regulations adopted by the Department of Housing and Community Development (DHCD); (2) occupies only levels of the building on which a ground level exit is located; and (3) except in Cecil and Garrett counties, does not require more than 50 people to occupy an individual building at any one time. In Cecil and Garrett counties, the occupancy cap is 200 people if the building's total width of egress meets or exceeds the International Building Code (IBC) standard that applies to egress components other than stairways in a building without a sprinkler system.

An agricultural building used for agritourism must be structurally sound and in good repair but need not comply with (1) requirements for bathrooms, sprinkler systems, and elevators as required under MBPS or (2) any other requirements of MBPS or other building codes as set forth in regulations adopted by DHCD.

Maryland Building Performance Standards

DHCD currently incorporates by reference the 2015 IBC, including the 2015 International Energy Conservation Code, with modifications, as MBPS. In general, the standards apply to all buildings and structures within the State for which a building permit application is received by a local government.

The International Code Council (ICC) develops and publishes IBC. ICC was established in 1994 as a nonprofit organization dedicated to developing a single set of comprehensive and coordinated national model construction codes, including IBC, which has been adopted by all 50 states as well as thousands of local jurisdictions.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Maryland Department of Agriculture; Department of Housing and Community Development; U.S. Department of Agriculture; Department of Legislative Services

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