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Mary Shank Creek, *Chair*

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## LETTER OF INFORMATION

**BILL:** Senate Bill 692 (State Planning – Preservation of Agricultural Land – Goal)

**COMMITTEE:** Senate Education, Health and Environmental Affairs

**DATE:** February 24, 2021

**TOPICS:** MARBIDCO’s (Original) Next Generation Farmland Acquisition Program and (New) Small Acreage Next Generation Farmland Acquisition Program

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The original Next Generation Farmland Acquisition Program (“Next Gen Program”) was established by MARBIDCO with the support of the State of Maryland to help qualified young or beginning farmers who have trouble entering or staying in the agricultural profession because of relatively high farmland costs and a lack of access to adequate financial capital to purchase farmland. The Next Gen Program is a relatively speedy farmland conservation easement option purchase program that is designed to help facilitate the transfer of farmland to a new generation of farmers, while at the same time, effectively helping to preserve the subject agricultural land from future development.

The Next Gen Program is an important tool in the farm financial programs toolbox that allows MARBIDCO to help young or beginning farmers who need access to good quality farmland. The Next Gen Program permits MARBIDCO to provide a beginning farmer with the money needed to make a large down-payment on a farm, in order to meet the equity contribution and projected cash flow requirements of a commercial lender, which then permits the lender to make a loan to help finance the balance of a farm purchase. An additional important benefit of this program is that the farms that are being purchased are likely being put on a path to being permanently preserved.

**The minimum size of a farm that can be purchased in the original Next Gen Program is 50 acres,** unless the property is contiguous to farmland that is already preserved (then smaller properties allowed). The reason for this restriction is that it is hoped that MALPF will purchase many Next Gen Program-related permanent easements in the future. The requirement mirrors the MALPF eligibility.

While initially authorized by the General Assembly in 2006, the Next Gen Program was not funded until FY 2018, with an allocation of previously undesignated Program Open Space repayment funds (as general, not special funds, totaling a little under \$10 million thus far). Since 2018, MARBIDCO has approved 27 Next Gen farm purchases totaling 2,580 acres, with some 2,402 acres likely to be permanently preserved (with an average of about 90 acres per Next Gen farm going into preservation).

## **How does the original ‘Next Gen Program’ work today?**

The financing tool that MARBIDCO uses when making the Next Gen Program farm purchase awards is the “Easement Option Purchase”. The option is a contractual agreement that requires the “Next Gen Farmer” to use the farm that is purchased for agricultural purposes and to stop any development on the farm property during the contractual “option period”. The option period is either four or seven years, depending on who a third-party “Default Easement Holder” will be.

Under the Program, MARBIDCO will pay up to 51% of the Fair Market Value (FMV) of the land (only), and the Next Gen Farmer will enter into an Easement Option Purchase Contract (or Option Contract) with MARBIDCO. From the date that the Option Contract is executed, the Next Gen Farmer will have entered into an “Option Period” that will run for a defined period of time. If MARBIDCO is the designator of the “Default Easement Holder”, the Option Period will be seven years. If the county program is the “Default Easement Holder”, the option period will be four years. During the Option Period the Next Gen Farmer may use the farmland only for agricultural purposes and may not permit any development to occur on the property. Also, during this Option Period, the Next Gen Farmer must attempt to sell a permanent farmland conservation easement to a rural land conservation program (a “Third-Party Easement”), extinguishing all development rights on the subject property forever. The Next Gen Farmers are to report annually to MARBIDCO on their efforts to try to sell the Third-Party Easement on their properties.

If the Next Gen Farmer is successful in selling a Third-Party Easement, they must use the proceeds from the sale of the Third-Party Easement to repay MARBIDCO the amount of money it paid for the Easement Option Purchase (at settlement), plus a 3% administrative fee. Any additional proceeds from the sale of the Third-Party Easement belong to the Next Gen Farmer. The Next Gen Farmer can sell the Third-Party Easement at any time during the Option Period, so long as they follow the Third-Party Easement sale offer acceptance schedule that is stated in the Option Contract.

If for any reason the Next Gen Farmer is unable to sell the Third-Party Easement within the Option Period, the option in the Option Contract will be exercised on the property at the end of the Option Period, meaning the Option Contract will automatically default to a permanent easement. In that case, MARBIDCO will designate a private land conservation program/land trust to hold the permanent easement on the property. The Next Gen Farmer will receive no additional compensation if the option in the Easement Option Purchase Contract is exercised and this easement will extinguish all of the development rights on the property forever.

Finally, if the Next Gen Farmer is unable to sell a Third-Party Easement during the Option Period, the Next Gen Farmer may choose to terminate the Option Contract by notifying MARBIDCO with a decision no later than two months before the end of the Option Period. The Next Gen Farmer will then have until the end of the Option Period to repay MARBIDCO the original Easement Option Purchase amount plus interest calculated from the date that the Option Contract was executed at the per annum rate, which is equal to the Prime Rate plus 1.00% at the time the Option Contract was prepared.

So, in a nutshell, the Next Gen Program allows MARBIDCO to provide a young or beginning farmer with the money needed to make a large down-payment on a farm in order to meet the equity contribution and projected cash flow requirements of a commercial lender. This permits the lender to make a loan to help finance the balance of a farm purchase – with the added benefit that the subject farmland is on track to be permanently preserved as part of this process.

The Next Gen Program is set-up to generally assist qualified “beginner farmers” and as a practical manner there is no maximum age restriction (although a large majority of Next Gen farmers are under the age of 40).

**Original Next Gen Program Terms and Conditions**

Maximum Down-Payment Amount:	\$500,000
Easement Option Purchase Amount:	Maximum of 51% of the Fair Market Value (FMV) of land only (and excluding improvements).
Maximum Repayment Amount:	Up to 100% of the original Easement Option Purchase amount, plus an administrative fee of 3%.
Length of Time for Repayment of Funds:	Up to 4 years (if a County is the default easement holder), Up to 7 years (if MARBIDCO designates the easement holder).

*All principal funds that are repaid to MARBIDCO from a permanent easement sale revolve back into the Next Gen Program fund. (If a permanent easement is not sold to a rural land preservation program within the required time, then the Designated Easement Holder will be granted the permanent easement by MARBIDCO for no additional monies paid to the Next Gen farmer.)*

**Why the need for the newly launched “Small Acreage” Next Gen Program?**

MARBIDCO has received numerous calls during the last three years from young and beginning farmers interested in participating in the Next Generation Farmland Acquisition Program, and who wished to purchase smaller farm properties of less than 50 acres (that are not “MALPF-eligible” properties), meaning that they do not qualify for the regular Next Gen easement option purchase program. This is of significant concern, considering that **more than one-half of all farms in Maryland are less than 50 acres in size** (according to the 2017 Census of Maryland Agriculture). **MOREOVER, 37% of all farms currently operating in Maryland are between 10 to 49 acres in size**, and therefore are presumably sufficiently large enough in size to have the capacity to have profitable agricultural enterprises operating on them.

**In Southern Maryland, 64% of the farms in the five-county region are the 10- to 49-acre size range.** During the 2020 Session, MARBIDCO, working with SMADC and the Tri-County Council for Southern Maryland, secured access to State capital grant funding to begin offering a pilot Small Acreage Next Generation Farmland Acquisition Program (“the SANG Program”) in the region wherein MARBIDCO would simply purchase the permanent agricultural conservation easement outright on the smaller Next Gen Program properties, rather than using the “option purchase” approach described above. And more recently, the MARBIDCO Board of Directors decided to match the Southern Maryland funding and roll-out a statewide program during the fall 2020.

**Since MARBIDCO does not hold permanent conservation easements,** MARBIDCO will simply hand a SANG Program permanent conservation easement over to a county government, a local land trust, the Maryland Environmental Trust (MET), or the Maryland Agricultural Land Preservation Foundation (in the few instances where MALPF is able to accept the donated easement) to administer. It is expected that MET will hold a majority of the SANG easements (but in situations where a county government is co-funding the easement purchase, it may be preferable for the county to hold and administer the permanent easement itself).

The basic Small Acreage Next Gen (SANG) Program eligibility criteria includes the following:

- 1) **Farm properties of between 10.00 to 49.99 acres in size** (not including the curtilage of any residential structures), AND zoned rural/agricultural, are eligible agricultural properties for permanent agricultural conservation preservation easement; and
- 2) Applicants also have to meet the other Next Gen Program eligibility requirements including the need for county government approval and some commercial lender participation.

Please see the schedule below for the amount that MARBIDCO that will pay for a SANG easement purchase. In addition, there is also an optional ability for a county government to jointly participate in financing the easement purchase (in order to help make the program more attractive to beginning farmers in high-cost areas). The SANG program is new, and therefore no counties have been able to budget for this yet.

**Small Acreage Next Gen Program Valuation Chart**

**Basic Valuation with MARBIDCO-only funding provided** (with a cap of 60% FMV and \$4,000 per acre of MARBIDCO-provided funding):

<u># of Dev. Rights Extinguished.</u>	<u>Valuation (for Down-Payment/Easement Purchase)</u>
1	40% of FMV
2	45% of FMV
3	50% of FMV
4	55% of FMV
5 or more	60% of FMV

**Valuation in “50/50 Projects” with County Matching Funding** (still has a cap of 60% FMV and \$2,000 per acre of MARBIDCO funding):

<u># of Dev. Rights Extinguished</u>	<u>Valuation (for Down-Payment/Easement Purchase)</u>
1	50% of FMV
2	55% of FMV
3 or more	60% of FMV

**(For more information concerning these programs, please contact Steve McHenry at: 410.267.6807.)**

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*MARBIDCO was established by the Maryland General Assembly more than a decade ago to help enhance the sustainability and profitability of the State’s agricultural and resource-based industries in order to bolster rural economies, support locally produced food and fiber products, and preserve working farm and forest land. MARBIDCO is a nimble, quasi-public financial intermediary organization which has a mission to serve exclusively the commercial farming, forestry, and seafood industries of Maryland. Young and beginning farmers are a special focus for MARBIDCO, as is farm operation diversification. In delivering its financing programs, MARBIDCO works cooperatively with commercial banks and Farm Credit Associations, as well as a host of federal, State, regional and local government agencies and universities. Since 2007, MARBIDCO has approved some 729 financings totaling nearly \$66 million for food and fiber business projects located in of all Maryland’s counties – and in the process has leveraged more than \$157 million in commercial lender financing. For more information about MARBIDCO’s programs, please visit: [www.marbidco.org](http://www.marbidco.org).*