

SB 692_CBF_Support_ErikFisher.pdf

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CHESAPEAKE BAY FOUNDATION

*Environmental Protection and Restoration
Environmental Education*

Senate Bill 692

State Planning – Preservation of Agricultural Land – Goal

Date: February 24, 2021

Position: Support

To: Senate Education, Health
and Environmental Affairs Committee

From: Erik Fisher, AICP, Assistant Director

Chesapeake Bay Foundation (CBF) **SUPPORTS** SB 692, which would extend and codify Maryland's long-standing goal to preserve agricultural land.

Well-managed farmland sustains clean water

Chesapeake Bay science is clear that when best management practices are fully implemented on farmland, the Chesapeake and its rivers and streams can achieve and maintain water quality standards. Many agricultural practices, such as improving soil quality, raising pastured meat, and growing crops such as hay can drive down pollution loads while adding value to farm operations. In addition, maintaining land in agriculture sustains wildlife habitat and avoids a number of water quality impacts associated with land development, such as fragmentation of habitat, urban stormwater, and certain toxic pollutants.

Much of Maryland's most productive farmland is facing significant development pressure

According to the U.S. Census of Agriculture, Maryland has lost about 90,000 acres of farmland over the past 15 years. If this trend continues to 2030, the state will have lost nearly 10% of its agricultural land since the state's agricultural preservation goal was first enacted by the General Assembly. Much of this land – especially land with the most fertile agricultural soils – has been lost to development. Soils that are good for farming are also attractive for septic systems, and sprawl development beyond the reach of public or community sewer continues to press upon and fragment agricultural land.

Maryland's agricultural preservation goal supports state and local efforts to keep farmland in farming

Faced with mounting losses of agricultural land, the General Assembly first established a goal to preserve about one million acres over 20 years, beginning in 2002. This goal focused the efforts of myriad preservation programs, including the Maryland Agricultural Land Preservation Foundation, the Rural Legacy Program, the work of dozens of regional land trusts, and investments by local governments. Working with farmers and landowners across the state, these programs have collectively preserved 690,000 acres of agricultural land. While this represents exceptional progress, the work is not yet complete. HB 860 would extend the state's commitment to 2030 and, for the first time, enter the goal into statute. This approach is consistent with other codified goals for land use and preservation, and will help ensure that the economic and environmental benefits of well-managed farmland are available for decades to come.

CBF urges the Committee's FAVORABLE report on SB 692. For more information, contact Robin Jessica Clark, Maryland Staff Attorney, at rclark@cbf.org or 443.995.8753.

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SB692 – Preservation of Agricultural Land- RMC- Su

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John Hartline, Chairman

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Charlotte Davis, Executive Director

Testimony in Support of
Senate Bill 692 – State Planning – Preservation of Agricultural Land – Goal
Education, Health, and Environmental Affairs Committee
February 24, 2021

The Rural Maryland Council **Supports** SB692 - State Planning – Preservation of Agricultural Land – Goal. The bill sets a goal of preserving 1,030,000 acres of productive agriculture land by 2030 through the Maryland Agriculture Land Preservation Program, the Maryland Greenprint Program, the Rural Legacy Program, the Maryland Environmental Trust, and local preservation programs.

Agriculture plays an important role in Maryland’s economy while also providing food and resources across the state, country and world. By preserving 1,030,000 acres of land for agriculture, it guarantees that the land will be available in the future to help grow Maryland’s economy, provide Maryland resources, and assure land for future agriculture workers. In Grow & Fortify’s Value added Agriculture Report, the Business Economic and Community Outreach Network (BEACON) reported that Maryland’s agriculture industry supports almost 74,000 jobs, has an economic impact of more than \$20.6 billion annually to the state’s economy, which results in almost \$875 million to the state’s financial resources.

The American Farmland Trust reports that over 100,000 acres of Maryland’s farmland was threatened or developed between 2001 and 2016. Agricultural land must be preserved for the future generations of agriculture workers, and for the benefit of Maryland’s economy. The Council respectfully asks for your favorable support of SB692.

The Rural Maryland Council (RMC) is an independent state agency governed by a nonpartisan, 40-member board that consists of inclusive representation from the federal, state, regional, county and municipal governments, as well as the for-profit and nonprofit sectors. We bring together federal, state, county and municipal government officials as well as representatives of the for-profit and nonprofit sectors to identify challenges unique to rural communities and to craft public policy, programmatic or regulatory solutions.

“A Collective Voice for Rural Maryland”

Support of SB 692 - State Planning – Preservation

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Position: FWA



Maryland Farm Bureau, Inc.

3358 Davidsonville Road • Davidsonville, MD 21035 • (410) 922-3426

February 24, 2021

To: Senate Education, Health & Environmental Affairs Committee

From: Maryland Farm Bureau, Inc.

Re: **Support with Amendment of SB 692 - State Planning – Preservation of Agricultural Land – Goal**

On behalf of our member families, I submit this written testimony in support with amendment of SB 692, legislation that simply extends and codifies an unwritten State goal of preserving a total of 1,030,000 acres of productive agricultural land to 2030 through the Maryland Agricultural Land Preservation Foundation, the Maryland GreenPrint Program, the Rural Legacy Program, the Maryland Environmental Trust, and local land preservation programs. The previous goal was to expire in 2022.

This bill does not include MARBIDCO's Small Farm Next Generation Ag Land Acquisition Program. **We ask for a simple amendment to include the Small Farm Next Gen program.**

MDFB Policy: We urge full funding by the state and counties for agland preservation programs, including but not limited to MALPF, Rural Legacy and Critical Farms Program. Payments for these programs should reflect current market values for farmland.

Furthermore, we urge the state and county governments to continue to support the voluntary preservation of agricultural land with substantial increases in funding. We encourage them to work with all interested stakeholders to develop innovative voluntary programs that maximize farmland preservation while protecting landowner equity and private property rights and not negatively impacting any other rights running with the land.

MARYLAND FARM BUREAU SUPPORTS SB 692 WITH AMENDMENT

A handwritten signature in black ink, appearing to read "Colby Ferguson". The signature is stylized and includes a long horizontal flourish at the end.

Colby Ferguson
Director of Government Relations

For more information contact Colby Ferguson at (240) 578-0396

SB 692 LOI MARBIDCO 2.24.21.pdf

Uploaded by: McHenry, Steve

Position: INFO



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Mary Shank Creek, *Chair*

Stephen R. McHenry, *Executive Director*

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

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.)

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.

SB 692 Bill Report - 2021

Uploaded by: McKittrick, James

Position: INFO



Larry Hogan, Governor
Boyd Rutherford, Lt. Governor
Jeannie Haddaway-Riccio, Secretary

February 24, 2021

The Honorable Paul G. Pinsky
Chair, Education, Health, and Environmental Affairs Committee
2 West Senate Office Building
Annapolis, MD 21401

The Honorable Cheryl C. Kagan
Vice Chair, Education, Health, and Environmental Affairs Committee
2 West Senate Office Building
Annapolis, MD 21401

Re: Letter of Information – Senate Bill 692 – State Planning – Preservation of Agricultural Land – Goal

Dear Chair, Vice Chair, and Committee Members,

The Maryland Department of Natural Resources is providing information on Senate Bill 692. This bill establishes a State goal of preserving a total of 1,030,000 acres of productive agricultural land by 2030 through the Maryland Agricultural Land Preservation Foundation, the Maryland GreenPrint Program, the Rural Legacy Program, the Maryland Environmental Trust (MET), and local land preservation programs. A similar goal was established by Senate Joint Resolution 10 of 2002. This bill extends the date to reach that goal and includes acres protected by MET.

According to the Maryland Department of Planning (MDP), as of November, 2020, with the addition of the MET, the five programs have preserved 829,491 acres, or 80.5% of the goal.

The Rural Legacy Program was established in 1997 by the General Assembly to protect the State's natural resources, farms, forests, and other sensitive environmental areas while maintaining the viability of resource-based economies and the proper management of tillable and wooded areas. MET was established by the General Assembly in 1967 to be charitable in nature for the purpose of conserving and maintaining Maryland's natural, agricultural, scenic, and cultural land resources for future generations. The vast majority of land protected by MET easements is either in active agricultural use, including forestry uses, or is land available for such use.

Demand for funding through the Rural Legacy Program has averaged \$95 million per year while funding authorized has averaged \$17 million per year. Because of the high demand for funding and the continued partnership between DNR and counties and land trusts, acres preserved through the Rural Legacy Program are directly tied to the amount of funding provided for the program. The Governor's FY22-26 Capital Improvement Program includes full funding of land preservation programs according to statute and repayment funds required by HB 462 of 2016. Annual funding planned for the next 5 years averages \$21 million per year, which would preserve approximately 6,000 acres per year. If funding increases or decreases in the out-years, the acres preserved will change.

MET has protected on average roughly 1,200 acres per year over the past 8 years. Assuming MET maintains full staffing of its easement acquisition program over the ensuing 8 years, it would be reasonable to estimate that MET could maintain or slightly increase this annual rate. Therefore, for the 8-year period FY22-FY30, MET could protect close to 10,000 additional acres through conservation easements.

The department agrees that continuing to protect agricultural land is important and necessary. Both Rural Legacy and MET continue to pursue all land conservation projects based on available funding/staff and consistency with program criteria. The continued full funding for land preservation, together with the repayment of prior transfer tax revenue transferred to the General Fund scheduled in future fiscal years, could accelerate the pace of land preservation going forward.

The Maryland Department of Natural Resources respectfully submits to the Committee this information on SB 692.

Respectfully submitted,

James W. McKitrick
Director, Legislative and Constituent Services

MDA - SB 692 - Letter of Info.docx.pdf

Uploaded by: Shirk, Cassie

Position: INFO



Maryland Department of Agriculture

Office of the Secretary

Larry Hogan, Governor
Boyd K. Rutherford, Lt. Governor
Joseph Bartenfelder, Secretary
Julianne A. Oberg, Deputy Secretary

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Maryland Department of Agriculture

Legislative Comment

Date: February 24, 2021

BILL NUMBER: Senate Bill 692

SHORT TITLE: State Planning – Preservation of Agricultural Land – Goal

MDA POSITION: Information

Senate Bill 692 extends an agricultural land preservation goal date for the State that was originally established in 2002 in Senate Joint Resolution 10. By extending the goal date to 2030 for 1,030,000 acres of agricultural land to be protected, with the inclusion of the Maryland Environmental Trust easements, the impacted programs and agencies are able to continue to work toward achieving this important goal.

The Maryland Agricultural Land Preservation Foundation (MALPF) is one of the State's easement programs that has been working toward accomplishing the goal established in the 2002 Senate Joint Resolution 10 – preserving 1,030,000 acres of agricultural land by 2022. When the goal was established in 2002, it was estimated that the goal could be accomplished if funding levels remained consistent over the subsequent 20 year period. Unfortunately, the State was not able to maintain the funding levels under previous administrations; however, the commitment to protecting agricultural land has never wavered, especially under the Hogan administration.

The protected acres goal was established to protect half of the remaining privately owned farm land available 2002. As the original Joint Resolution stated, which continues to be true today, agricultural land and woodland continue to be converted for residential, commercial, and other non-agricultural uses. Once converted, that land is lost forever for agricultural use. That may also be true for land developed for solar energy projects.

SB 692 will codify the goals of the 2002 Joint Resolution, at the same time extend the goal date to 2030, and include the land protected through the Maryland Environmental Trust. With these changes, State and local easement programs will continue to strive to meet the goals established almost 20 years ago to protect Maryland's vital agricultural lands.

The MALPF program purchases agricultural easements on properties to preserve productive farmland and woodland for the continued production of food and fiber for all of Maryland's citizens. To accomplish this and other statutory and ancillary goals, MALPF easements restrict agricultural land from commercial, industrial and residential development. At the end of 2020, the Program has easements on over to 2,460 properties, covering over 333,000 acres at a public investment of more than \$811 million. This is approximately 40% of total counted toward the land preservation goal, with an additional 200,000 plus acres needed before the goal has been achieved.

Since the initial 2002 goal was established, the Next Generation Farmland Acquisition Program has been established and administered under the Maryland Agricultural and Resource-Based Industry Development Corporation (MARBIDCO). First funded under Governor Hogan, the Next Generation Farmland Acquisition Program is available to help qualified young or beginning farmers who have trouble entering the agricultural profession, because of relatively high farmland costs and lack of access to adequate financial capital to purchase farmland. Through this new program, land that may have otherwise been sold into development is able to stay in agricultural use, ultimately entering into either a MALPF or a county easement program.

Land is a finite resource. This bill will extend the goal to achieve a critical mass of agricultural land preservation to enable the agricultural industry to continue to operate in Maryland into the future.

If you have additional questions, please contact Cassie Shirk, Director of Legislation and Governmental Affairs, at cassie.shirk@maryland.gov or 410-841-5886.