

By: **Delegates Stocksdale, Aumann, Boschert, Elliott, Elmore, Gilleland, Kach, Kohl, Krebs, Parker, Shewell, and Stull**

Introduced and read first time: January 30, 2006

Assigned to: Environmental Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Maryland Agricultural Land Preservation Foundation - Restrictions of**
3 **Released Lots**

4 FOR the purpose of altering the maximum lot size for exclusions from an agricultural
5 land preservation easement under certain circumstances; authorizing the
6 county agricultural preservation advisory board and the local planning and
7 zoning authority to waive restrictions concerning maximum lot sizes for
8 released lots in preservation easements under certain circumstances; and
9 generally relating to the use of land for easements within the Maryland
10 Agricultural Land Preservation Foundation.

11 BY repealing and reenacting, without amendments,
12 Article - Agriculture
13 Section 2-513(a)
14 Annotated Code of Maryland
15 (1999 Replacement Volume and 2005 Supplement)

16 BY repealing and reenacting, with amendments,
17 Article - Agriculture
18 Section 2-513(b)
19 Annotated Code of Maryland
20 (1999 Replacement Volume and 2005 Supplement)

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

23 **Article - Agriculture**

24 2-513.

25 (a) Agricultural land preservation easements may be purchased under this
26 subtitle for any land in agricultural use which meets the minimum criteria

1 established under § 2-509 of this subtitle if the easement and county regulations
2 governing the use of the land include the following provisions:

3 (1) Any farm use of land is permitted.

4 (2) Operation at any time of any machinery used in farm production or
5 the primary processing of agricultural products is permitted.

6 (3) All normal agricultural operations performed in accordance with
7 good husbandry practices which do not cause bodily injury or directly endanger
8 human health are permitted including, but not limited to, sale of farm products
9 produced on the farm where such sales are made.

10 (b) (1) A landowner whose land is subject to an easement may not use the
11 land for any commercial, industrial, or residential purpose except:

12 (i) As determined by the Foundation, for farm and forest related
13 uses and home occupations; or

14 (ii) As otherwise provided under this section.

15 (2) Except as provided in paragraphs (3) and (6) of this subsection, on
16 written application, the Foundation shall release free of easement restrictions only
17 for the landowner who originally sold an easement, 1 acre or less for the purpose of
18 constructing a dwelling house for the use only of that landowner or child of the
19 landowner, up to a maximum of three lots, subject to the following conditions:

20 (i) The number of lots allowed to be released under this section,
21 except as provided in paragraph (6) of this subsection, may not exceed:

22 1. 1 lot if the size of the easement property is 20 acres or
23 more but fewer than 70 acres;

24 2. 2 lots if the size of the easement property is 70 acres or
25 more but fewer than 120 acres; or

26 3. 3 lots if the size of the easement property is 120 acres or
27 more.

28 (ii) The resulting density on the property may not exceed the
29 density allowed under zoning of the property before the Foundation purchased the
30 easement.

31 (iii) The landowner shall pay the State for any acre or portion
32 released at the price per acre that the State paid the owner for the easement.

33 (iv) Before any conveyance or release, the landowner and the child,
34 if there is a conveyance to a child, shall agree not to subdivide further for residential
35 purposes any acreage allowed to be released. The agreement shall be recorded among
36 the land records where the land is located and shall bind all future owners.

1 (v) After certifying that the landowner or child of the landowner
2 has met the conditions provided in subparagraphs (i) through (iv) of this paragraph,
3 the Foundation shall issue a preliminary release which shall:

4 1. Become final when the Foundation receives and certifies a
5 nontransferable building permit in the name of the landowner or child of the
6 landowner for construction of a dwelling house; or

7 2. Become void upon the death of the person for whose
8 benefit the release was intended if the Foundation has not yet received a building
9 permit as provided in this subparagraph.

10 (vi) Any release or preliminary release issued under this paragraph
11 shall include:

12 1. A statement of the conditions under which it was issued, a
13 certification by the Foundation that all necessary conditions for release or
14 preliminary release have been met, and copies of any pertinent documents; and

15 2. A statement that the owner's or child's lot may not be
16 transferred for 5 years from the date of the final release, except on:

17 A. Approval by the Foundation; or

18 B. Notwithstanding any conditions on transfers imposed
19 under item 1 of this subparagraph, a lender providing notice to the Foundation of a
20 transfer pursuant to a bona fide foreclosure of a mortgage or deed of trust or to a deed
21 in lieu of foreclosure.

22 (vii) Any release, preliminary release, building permit, or other
23 document issued or submitted in accordance with this paragraph shall be recorded
24 among the land records where the land is located and shall bind all future owners.

25 (viii) The Foundation may not restrict the ability of a landowner who
26 originally sold an easement to acquire a release under this paragraph beyond the
27 requirements provided in this section.

28 (3) A landowner may reserve the right to exclude 1 unrestricted lot from
29 an easement in lieu of all owner's and children's lots to which the landowner would
30 otherwise be entitled under paragraph (2) of this subsection, subject to the following
31 conditions:

32 (i) The resulting density on the property shall be less than the
33 density allowed under zoning of the property before the Foundation purchased the
34 easement;

35 (ii) An unrestricted lot may be subdivided by the landowner from
36 the easement and sold to anyone to construct one residential dwelling;

1 (iii) The size of an unrestricted lot shall be 1 acre or less, except as
2 provided in paragraph (6) of this subsection;

3 (iv) The landowner shall agree not to subdivide further for
4 residential purposes any acreage allowed to be released, and the agreement shall be
5 recorded among the land records where the land is located and shall bind all future
6 owners;

7 (v) The right to the lot is taken into consideration in the appraisal
8 of fair market value and determination of easement value;

9 (vi) The lot can be subdivided at any time and the location of the lot
10 to be subdivided is subject to the approval of the local agricultural advisory board and
11 the Foundation; and

12 (vii) If the property is transferred before the right to exclude the lot
13 has been exercised, the right may be transferred with the property.

14 (4) (i) Subject to the approval of the Foundation, a landowner may
15 construct housing for tenants fully engaged in operation of the farm.

16 (ii) Construction may not exceed 1 tenant house per 100 acres,
17 unless the Foundation grants an exception based on a showing of compelling need.

18 (iii) The land on which a tenant house is constructed may not be
19 subdivided or conveyed to any person. In addition, the tenant house may not be
20 conveyed separately from the original parcel.

21 (iv) The Foundation shall adopt regulations for the size and location
22 of tenant houses.

23 (5) Except as provided in paragraph (6) of this subsection, on request to
24 the Foundation, an owner may exclude from the easement restrictions 1 acre per each
25 single dwelling, which existed at the time of the sale of the easement, as an owner's,
26 children's, or unrestricted lot to which the owner is entitled under paragraph (2) of
27 this subsection, by a land survey and recordation provided at the expense of the
28 owner. However, before any exclusion is granted, an owner shall agree with the
29 Foundation not to subdivide further for residential purposes any acreage allowed to
30 be released. This agreement shall be recorded among the land records where the land
31 is located and shall bind all future owners.

32 (6) (i) The restrictions of paragraphs (2) and (5) of this subsection
33 concerning maximum lot sizes are altered so that the maximum lot size is 2 acres if:

34 1. Regulations adopted by the Department of the
35 Environment require THAT a minimum lot size for a dwelling house BE LARGER THAN
36 1 ACRE [of not less than 2 acres in areas where there is less than 4 feet of unsaturated
37 and unconsolidated soil material below the bottom of an on-site sewage disposal
38 system or in areas located within 2,500 feet of the normal water level of an existing or
39 proposed water supply reservoir]; or

