

HOUSE BILL 378

M4

3lr1666

By: **Delegate Stocksdale**

Introduced and read first time: January 25, 2013

Assigned to: Environmental Matters

Committee Report: Favorable with amendments

House action: Adopted

Read second time: February 26, 2013

CHAPTER _____

1 AN ACT concerning

2 **Maryland Agricultural Land Preservation Fund – Easement Restriction –**
3 **Reimbursement**

4 FOR the purpose of authorizing the Comptroller to disburse money from the Maryland
5 Agricultural Land Preservation Fund ~~to reimburse a landowner for the release~~
6 ~~of an easement restriction under a certain circumstance, subject to the prior~~
7 ~~approval of the board of trustees of the Maryland Agricultural Land~~
8 ~~Preservation Foundation~~ for the reimbursement of certain money paid by a
9 landowner to the Fund for a certain release of a certain lot in accordance with
10 certain requirements; authorizing the Maryland Agricultural Land Preservation
11 Foundation, subject to certain approval and in accordance with certain
12 regulations, to reimburse certain money paid into the Fund under certain
13 circumstances; and generally relating to the Maryland Agricultural Land
14 Preservation Fund.

15 BY repealing and reenacting, with amendments,
16 Article – Agriculture
17 Section 2–505(c)(1)
18 Annotated Code of Maryland
19 (2007 Replacement Volume and 2012 Supplement)

20 BY adding to
21 Article – Agriculture
22 Section 2–505(c)(5)
23 Annotated Code of Maryland

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 (2007 Replacement Volume and 2012 Supplement)

2 BY repealing and reenacting, without amendments,
 3 Article – Agriculture
 4 Section 2–513(b)(2)
 5 Annotated Code of Maryland
 6 (2007 Replacement Volume and 2012 Supplement)

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

9 **Article – Agriculture**

10 2–505.

11 (c) (1) The Comptroller of the Treasury may not disburse any money from
 12 the Maryland Agricultural Land Preservation Fund other than:

13 (i) For costs associated with the staffing and administration of
 14 the Maryland Agricultural Land Preservation Foundation;

15 (ii) For reasonable expenses incurred by the members of the
 16 board of trustees of the Maryland Agricultural Land Preservation Foundation in the
 17 performance of official duties;

18 (iii) For consideration in the purchase of agricultural land
 19 preservation easements beginning with fiscal year 1979 and each fiscal year
 20 thereafter; [and]

21 (iv) For costs associated with acquisition of agricultural land
 22 preservation easements approved by the Foundation through the Critical Farms
 23 Program, as provided in § 2–517 of this subtitle; AND

24 (v) ~~FOR, SUBJECT TO THE PRIOR APPROVAL OF THE BOARD~~
 25 ~~OF TRUSTEES OF THE MARYLAND AGRICULTURAL LAND PRESERVATION~~
 26 ~~FOUNDATION, THE PURPOSE OF REIMBURSING A LANDOWNER FOR THE~~
 27 ~~RELEASE OF AN EASEMENT RESTRICTION AS PROVIDED IN § 2-513(B)(2) OF~~
 28 ~~THIS SUBTITLE WHEN THE LOT IS NOT USED FOR THE PURPOSE OF~~
 29 ~~CONSTRUCTING A DWELLING HOUSE~~ THE REIMBURSEMENT OF MONEY PAID BY
 30 A LANDOWNER FOR A PRELIMINARY RELEASE OF A LOT UNDER § 2–513(B)(2) OF
 31 THIS SUBTITLE IN ACCORDANCE WITH PARAGRAPH (5) OF THIS SUBSECTION.

32 (5) (i) SUBJECT TO THE PRIOR APPROVAL OF THE BOARD OF
 33 TRUSTEES OF THE MARYLAND AGRICULTURAL LAND PRESERVATION
 34 FOUNDATION AND IN ACCORDANCE WITH REGULATIONS ADOPTED BY THE
 35 DEPARTMENT, THE MARYLAND AGRICULTURAL LAND PRESERVATION

1 FOUNDATION MAY REIMBURSE MONEY PAID INTO THE MARYLAND
2 AGRICULTURAL LAND PRESERVATION FUND BY A LANDOWNER FOR A LOT
3 THAT HAD BEEN PRELIMINARILY RELEASED UNDER § 2-513(B)(2) OF THIS
4 SUBTITLE FOR THE PURPOSE OF CONSTRUCTING A DWELLING HOUSE FOR A
5 LANDOWNER OR THE CHILD OF THE LANDOWNER.

6 (II) IN THE SOLE DISCRETION OF THE MARYLAND
7 AGRICULTURAL LAND PRESERVATION FOUNDATION, THE PERSON FOR WHOM
8 THE LOT WAS PRELIMINARILY RELEASED, THE PERSON WHO ORIGINALLY PAID
9 FOR THE PRELIMINARY RELEASE, OR ANOTHER APPROPRIATE PERSON MAY BE
10 REIMBURSED THE AMOUNT PAID TO THE FUND UNDER § 2-513(B)(2)(III) OF
11 THIS SUBTITLE IF:

12 1. A DWELLING HAS NOT BEEN CONSTRUCTED ON
13 THE LOT;

14 2. A REQUEST FOR REIMBURSEMENT IS MADE
15 BEFORE THE PRELIMINARY RELEASE BECOMES VOID UNDER § 2-513(B)(2) OF
16 THIS SUBTITLE;

17 3. BEFORE REIMBURSEMENT AND AT THE EXPENSE
18 OF THE OWNER OF THE LAND UNDER THE EASEMENT:

19 A. THE LOT IS CONVEYED TO THE OWNER FREE AND
20 CLEAR OF LIENS;

21 B. ANY RECORDED PLAT CREATING THE LOT IS
22 VOIDED;

23 C. THE LOT IS ADDED TO THE TAX ACCOUNT
24 ASSIGNED TO THE LAND ENCUMBERED BY THE EASEMENT; AND

25 D. THE PRELIMINARY RELEASE IS VOIDED BY AN
26 AGREEMENT RECORDED IN THE LAND RECORDS; AND

27 4. AT LEAST ONE OF THE FOLLOWING
28 CIRCUMSTANCES EXISTS:

29 A. THE FOUNDATION HAS RECEIVED NOTICE THAT
30 TITLE TO THE LOT HAS BEEN TRANSFERRED UNDER A BONA FIDE
31 FORECLOSURE OF A MORTGAGE OR DEED OF TRUST OR A DEED IN LIEU OF
32 FORECLOSURE;

1 **B. THE FOUNDATION HAS RECEIVED NOTICE THAT**
2 **THE LANDOWNER OR CHILD OF THE LANDOWNER FOR WHOM THE LOT WAS**
3 **PRELIMINARILY RELEASED HAS DIED; OR**

4 **C. ANY OTHER CIRCUMSTANCE IN WHICH THE**
5 **MARYLAND AGRICULTURAL LAND PRESERVATION FOUNDATION DETERMINES**
6 **THAT IT WOULD BE IMPOSSIBLE FOR THE LANDOWNER OR CHILD OF THE**
7 **LANDOWNER FOR WHOM THE LOT WAS PRELIMINARILY RELEASED TO FULFILL**
8 **THE REQUIREMENTS OF THE PRELIMINARY RELEASE.**

9 2-513.

10 (b) (2) Except as provided in paragraphs (3) and (7) of this subsection, on
11 written application, the Foundation shall release free of easement restrictions only for
12 the landowner who originally sold an easement, 1 acre or less for the purpose of
13 constructing a dwelling house for the use only of that landowner or child of the
14 landowner, up to a maximum of three lots, subject to the following conditions:

15 (i) The number of lots allowed to be released under this section,
16 except as provided in paragraph (7) of this subsection, may not exceed:

17 1. 1 lot if the size of the easement property is 20 acres or
18 more but fewer than 70 acres;

19 2. 2 lots if the size of the easement property is 70 acres
20 or more but fewer than 120 acres; or

21 3. 3 lots if the size of the easement property is 120 acres
22 or more.

23 (ii) The resulting density on the property may not exceed the
24 density allowed under zoning of the property before the Foundation purchased the
25 easement.

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

28 (iv) If the release is to be issued for a child of the landowner, the
29 child must be at least 18 years of age at the date that the preliminary release is
30 issued.

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

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

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

10 3. Unless extended by a majority vote of the Foundation
11 Board of Trustees, become void if a nontransferable building permit in the name of the
12 landowner or child of the landowner is not received by the Foundation within 3 years
13 of the date of recordation of the preliminary release.

14 (vii) Any release or preliminary release issued under this
15 paragraph shall include:

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

19 2. A statement by the landowner or child of the
20 landowner that acknowledges that:

21 A. Adjacent farmland that is subject to an agricultural
22 land preservation easement may be used for any agricultural purpose and may
23 interfere with the use and enjoyment of the property through noise, odor, vibration,
24 fumes, dust, glare, or other interference;

25 B. There is no recourse against the effects of any normal
26 agricultural operation performed in accordance with good husbandry practices;

27 C. The landowner's or child's lot may not be transferred
28 for 5 years from the date of the final release, except on:

29 I. Approval by the Foundation; or

30 II. Notwithstanding any conditions on transfers imposed
31 under item 1 of this subparagraph, a lender providing notice to the Foundation of a
32 transfer pursuant to a bona fide foreclosure of a mortgage or deed of trust or to a deed
33 in lieu of foreclosure;

1 D. If the lot is not used for the person or purpose for
2 which it was released for the 5-year period, the Foundation may require the lot owner
3 to reconvey the lot to the owner of the land encumbered by the easement from which it
4 was released and subject the lot to the restrictions of the easement; and

5 E. Acknowledgments made under items A, B, C, and D of
6 this item are binding to any successor or assign of the landowner or child.

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

10 (ix) The Foundation may not restrict the ability of a landowner
11 who originally sold an easement to acquire a release under this paragraph beyond the
12 requirements provided in this section.

13 (x) The Foundation may require evidence it deems sufficient to
14 ensure that the persons for whom the lots are released occupy the dwellings located on
15 the lots for the 5-year period.

16 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
17 ~~October 1, 2013~~ July 1, 2013.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.