

## **Legislation – 2003 Legislative Session Relating to Agricultural Land Preservation Issues**

Task Force recommended legislation is indicated with an asterisk (\*).

Task Force inspired legislation (at least some part of the bill) is indicated with a cross (†).

### **House of Delegates legislation only:**

#### ***HB 091 – Maryland Agricultural Land Preservation Foundation – Allegany and Garrett Counties – Natural Gas Rights***

*Sponsors: Delegates Edwards, Kelly, and Myers.*

*Department position: support.*

*Legislative result: successful: passed by the House of Delegates and the Senate and signed by the Governor.*

This bill would prevent regulations and procedures adopted by the Maryland Agricultural Land Preservation Foundation (MALPF) for the establishment and monitoring of agricultural districts from requiring a natural gas rights owner or lessee to subordinate its interest to MALPF's interest in Allegany or Garrett counties if MALPF determines that the exercise of those rights will not interfere with an agricultural operation conducted on the land. MALPF must submit a report to the Governor and the General Assembly on the impact of the bill by October 1, 2006.

#### ***HB 131 – Carroll County – Agricultural Land Preservation – Easements – Dwelling House***

*Sponsors: Delegates Stocksdale, Amedori, and Elliott.*

*Department position: support.*

*Legislative result: successful: passed with amendments by the House of Delegates and the Senate and signed by the Governor.*

This bill would allow a subsequent purchaser of agricultural land, under a Maryland Agricultural Land Preservation Foundation (MALPF) easement, to obtain a one-acre lot for construction of a dwelling if the original seller of the easement made the request to the Foundation. There are several conditions that apply to these lot requests. The original easement had to be sold prior to January 1, 1990, the lot would not be able to be subdivided from the property, the easement property must be at least 50 acres, and no dwelling house could have existed at the time of the easement sale. The legislation only applies to Carroll County. All requests for qualifying properties must be received within one year of the effective date of the legislation. The legislation would apply to five properties.

#### ***HB 157 – Calvert County – Agricultural Land Preservation Program – General Obligation Installment Purchase Agreements – Maximum Aggregate Purchase Price***

*Sponsor: Calvert County Delegation.*

*Department position: the Department takes no position on bills that are not statewide and do not directly affect MALPF.*

*Legislative result: successful: passed by the House of Delegates and the Senate and signed by the Governor.*

This bill would renew the ability of Calvert County to assume debt to fund its installment purchase agreement program to acquire transfer of development rights on agricultural and forested properties as part of the County's Agricultural Land Preservation Program.

#### ***HB 406 – Maryland Agricultural Land Preservation Foundation – Acreage Requirements***

*Sponsors: Delegates Costa, V. Clagett, Dwyer, Elmore, Leopold, Love, Smigiel, Sophocleus, and*

*Sossi.*

*Department position: oppose.*

*Legislative result: unsuccessful: the bill received an unfavorable report from the House Environmental Matters Committee.*

This bill would decrease the minimum acreage requirement from 50 to 25 acres that must be met to qualify for a parcel to be eligible to be established as an agricultural district under the Maryland Agricultural Land Preservation Foundation (MALPF) qualifying on its own merits.

**†HB 804 – Maryland Agricultural Land Preservation Foundation – Guidelines for Easement Rankings**

*Sponsor: Delegate James.*

*Companion bill: SB 564 (SB 564 was not officially cross-listed because HB 804 originally included provisions on easement valuation that were not included in SB 564).*

*Department position: support.*

*Legislative result: successful with related Senate bill: HB 804 passed with amendments by the House of Delegates and the Senate and vetoed by the Governor who signed the related bill, SB 564.*

This bill would require the Foundation establish statewide ranking guidelines to review easement ranking systems of the counties for use in the First Round of easement offers to better meet program objectives. The bill would also end the use of the agricultural value formula in calculating easement values, and rather calculate easement values based on a percentage of fair market value. Change in easement ranking system was successfully passed; change in easement valuation system was excluded from the proposed legislation in committee at the request of the sponsor.

**HB 826 – Maryland Agricultural Land Preservation Foundation – Termination of Easements**

*Sponsors: Delegates Glassman and Parrott.*

*Department position: oppose as unnecessary.*

*Legislative result: unsuccessful: withdrawn by sponsors because of a written opinion provided by the Office of the Attorney General that stated that counties already have the ability to ask grantors to waive the 25-year termination clause under existing statute and regulation and to make commitment to a perpetual easement a condition of approval for easement applications.*

This bill would allow counties to require new easement applicants to commit to a perpetual easement and to ask current owners of easement property to consider a waiver of the 25-year termination clause.

**HB 827 – Maryland Agricultural Land Preservation Foundation – Installment Purchase Agreements**

*Sponsors: Delegates Glassman and Parrott.*

*Department position: oppose, but supportive of the objective of the bill if acceptable language can be worked out.*

*Legislative result: unsuccessful: the bill received an unfavorable report from the House Environmental Matters Committee.*

This bill would create an installment purchase agreement option payable over 20 years to supplement the existing lump-sum and installment payments options for landowners selling agricultural land preservation easements to the Maryland Agricultural Land Preservation Foundation.

**HB 827 – Worcester County – Agricultural Preservation Advisory Board – Membership**

*Sponsors: Delegates Bozman and Conway.*

*Department position: the Department takes no position on bills that are not statewide and do not directly affect MALPF.*

*Legislative result: successful: passed by the House of Delegates and the Senate and signed by the Governor.*

The bill increases the membership of Worcester County's agricultural preservation advisory board from five to seven, increases the number of farming members from three to four, and shortens the length of the appointment from five years to four.

**HB 1084 – Tax Incentives and Benefits – Credits and Subtraction Modification**

*Sponsors: Delegates Gordon, Jones, Kaiser, McKee, and Ross.*

*Department position: oppose.*

*Legislative result: unsuccessful: not reported out of the House Ways and Means Committee.*

This bill would repeal a range of tax credits allowed against specified State taxes and would alter those tax benefits provided under law by converting them to income tax subtraction modifications in determining Maryland taxable income. This bill would modify the income tax credit to which landowners who donate or offer bargain sales of easements to the Maryland Environmental Trust or the Maryland Agricultural Land Preservation Foundation may be entitled to an income tax deduction based on subtraction modifications, significantly reducing tax benefits from the donation of development rights or restrictive easements to the State land preservation programs.

**Senate legislation only:**

**\*SB 564 – Maryland Agricultural Land Preservation Foundation – Guidelines for Easement Rankings**

*Sponsors: Senators Middleton and Dyson.*

*Related bill: HB 804 (because HB 804 originally included additional provisions on easement valuation, these bills were not officially cross-listed).*

*Department position: support.*

*Legislative result: successful: passed with amendments by the Senate and the House of Delegates and signed by the Governor.*

This bill would require the Foundation establish statewide ranking guidelines to review easement ranking systems of the counties used for the Round One of easement offers to better meet program objectives.

**House of Delegates and Senate legislation (cross-listed bills):**

**HB 140 – Creation of a State Debt – Maryland Consolidated Capital Bond Loan of 2003, the Maryland Consolidated Capital Bond Loans of 1995, 1996, 1997, 1998, 1999, 2000, and 2002, the General Construction Loans of 1988 and 1989, Arthur G. Murphy, Sr. Youth Services Center Loan of 1986, and Southern Maryland Regional Strategy-Action Plan for Agriculture Loan of 2003**

**SB 146 – Creation of a State Debt – Maryland Consolidated Capital Bond Loan of 2003, the Maryland Consolidated Capital Bond Loans of 1995, 1996, 1997, 1998, 1999, 2000, and 2002, and the General Construction Loans of 1988 and 1989**

*Sponsor: The Speaker of the House of Delegates (by request of the Administration).  
The President of the Senate (by request of the Administration).*

*Department position: support the Administration's position.*

*Legislative result: successful: passed with amendments by the House of Delegates and then passed with incompatible amendments by the Senate; sent to conference committee to reconcile; and then signed by the Governor; bill originating in the Senate did not leave committee.*

These cross-listed bills are Maryland's capital budget legislation and would authorize the creation of a State Debt in the amount of \$742,470,000 for the purposes specified in the bill. Specific to the Maryland Agricultural Land Preservation Foundation, the legislation authorized \$21,160,000 in bonds to replace the real estate transfer tax revenues diverted for FY 2003 and FY 2004 by the Budget Reconciliation and Finance Acts and to cover outstanding obligations (already signed option contracts approved by the Board of Public Works) that were de-funded by an earlier diversion of revenues. The legislation also provides \$3,000,000 in GreenPrint funding, of which \$750,000 will be used to purchase easements on MALPF

agricultural districts.

**\*HB 805/SB 626 – Maryland Agricultural Land Preservation Foundation – Easements – Lot Exclusions and Allowable Economic Activity**

*Sponsors: Delegate James.*

*Senators Middleton, Dyson, and Colburn.*

*Department position: support.*

*Legislative result: successful: passed with amendments by the House of Delegates and the Senate; the Governor signed SB 626.*

These cross-listed bills would give more flexibility to the Foundation's Board to allow farm- and forestry-related activities and home occupations on easement properties, if there is no impact on the land and the investment of the State in land preservation is protected. This legislation would also limit the total number of lots allowed on a property to 3 (down from 10), decrease density (from 1:20 per lot to 1:20 for the first lot and 1:50 for the subsequent 2 lots), allow easement applicants to opt for one unrestricted lot that carries with the land rather than the 3 family lots, and make the exclusion of dwellings existing at the time of easement sale a function of lot exclusion limits.

**HB 935/SB 657 – Budget Reconciliation and Financing Act of 2003**

*Sponsor: The Minority Leader (by request of the Administration).*

*The President of the Senate (by request of the Administration).*

*Department position: support the Administration's position.*

*Legislative result: successful: passed with irreconcilable amendments by the House of Delegates and the Senate; passed after a conference committee addressed the differences; the Governor signed HB 935.*

These cross-listed bills would alter grants and programs, alter the permissible uses of funds, repeal required appropriations, and transfer funds to the General Fund, as specified in the bill. Specific to the Maryland Agricultural Land Preservation Foundation, the real estate transfer tax revenues dedicated to the purchase of agricultural conservation easements would be transferred to the General Fund. Those revenues would be, to some extent, offset by bonds authorized in HB 140 (2003).