Legislation – 2006 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 090 – Agricultural Land Preservation Foundation - Dwelling Relocation

Sponsor: *Chair, Environmental Matters Committee (Departmental bill).*
Department position: *support.*
Legislative result: *successful: passed with amendments by the House of Delegates and by the Senate; signed by the Governor.*

This legislation would grant explicit authority to MALPF's Board of Trustees to review and approve program participants' requests to relocate dwellings on Foundation property as long as the new location does not interfere with the property's agricultural use. As a condition of approval, the existing dwelling must be demolished or, under exceptional and compelling circumstances, converted to an agricultural use integral to the farming operation.

HB 459 – Maryland Agricultural Land Preservation Foundation – Easements – Funds and Released Lots

Sponsors: *Delegates Stocksdale, Aumann, Boschert, Bozman, Elliott, Elmore, Gilleland, Kach, Kohl, Krebs, Parker, Shewell, and Stull.*
Related bills: *HB 460 (on lot size); HB 769 (on matching funds cap).*
Department position: *support with amendments.*
Legislative result: *unsuccessful: the bill received an unfavorable report from the Environmental Matters Committee of the House of Delegates; the substance of the bill passed in HB 460 and HB 769.*

This bill would increase the cap on the maximum amount the State can provide as a match in the MALPF matching funds program from $1 million to $2 million and increases county discretion in approving lot sizes greater than one acre (to a maximum of two acres) when landowners exercise the rights they retain under a MALPF easement for an owner's, child's, or unrestricted lot.

HB 460 – Maryland Agricultural Land Preservation Foundation - Restrictions of Released Lots

Sponsors: *Delegates Stocksdale, Aumann, Boschert, Elliott, Elmore, Gilleland, Kach, Kohl, Krebs, Parker, Shewell, and Stull.*
Related bill: *HB 459.*
Department position: *support with amendments.*
Legislative result: *successful: passed with amendments by the House of Delegates and the Senate; signed by the Governor.*

This legislation would authorize MALPF to waive specified restrictions governing the maximum size of released lots of one acre, so that the maximum lot size could be two acres if: (1) MALPF receives a recommendation to allow a maximum lot size of more than one acre from the county agricultural preservation advisory board and the planning and zoning authority of the jurisdiction where the land is situated; and (2) MALPF makes a determination that a lot size greater than one acre will not interfere significantly with the agricultural use of the land under easement. Previously, exceptions to one-acre lots were made only if county regulations required a lot to be larger than one acre and/or if septic requirements could only be met with a lot greater than one acre.

HB 483 – Income Tax - Subtraction Modification – Amounts Received for Agricultural Preservation

Sponsors: *Delegates Smigiel, Costa, Dumais, Dwyer, Eckardt, Elmore, Haddaway, Jameson, McConkey, Quinter, Rosenberg, Sossi, and F. Turner.*
Department position: *support.*
Legislative result: *unsuccessful: the bill received an unfavorable report from the Ways and Means Committee of the House of Delegates.*

This bill would creates a subtraction modification under the State income tax for income derived from the sale of agricultural easements to the Maryland Agricultural Land Preservation Foundation (MALPF), the Rural Legacy Program, or Program Open Space. In addition, any income received from these agencies for the purpose of preserving agricultural land may also be exempted from State taxation.

HB 490 – Maryland Agricultural Land Preservation Foundation – District Agreement – Time Requirement

Sponsors: *Delegates Stocksdale, Elliott, Krebs, and Shewell.*
Related bill: *HB 769.*
Department position: *support with amendments.*
Legislative result: *unsuccessful: the bill received an unfavorable report from the Environmental Matters Committee of the House of Delegates; substance of the bill was included in HB 769.*

This bill would repeal the five-year time requirement to which a landowner must agree to be eligible for inclusion into an agricultural preservation district under the Maryland Agricultural Land Preservation Program. Also, this bill provides that, in the ordinance that establishes a district, the county governing body must establish the length of time required for a district agreement from one to ten years.

HB 699 – Agriculture - Preservation of Historic Structures

Sponsors: *Delegates Stull, Aumann, Bartlett, Bobo, Bohanan, Boteler, Bozman, G. Clagett, Cluster, Conway, Edwards, Elliott, Elmore, Frank, Glassman, Haddaway, Jameson, Krebs, Kullen, Levy, Mayer, McComas, McConkey, McKee, Montgomery, Myers, O'Donnell, Rudolph, Shank, Smigiel, Sossi, Stocksdale, and Wood.*
Department position: *no position.*
Legislative result: *successful: passed by the House of Delegates and the Senate with different amendments; the House of Delegates concurs with the Senate amendments; bill signed by the Governor.*

This legislation establishes a 10-member Maryland Advisory Committee on Historic Agricultural Structure Preservation and creates a new Barn Preservation Fund to provide grants to preserve historic barns and agricultural structures.

HB 769 – Maryland Agricultural Land Preservation Foundation – Easements – Program Requirements

Sponsors: *Delegates Jennings, Cane, Glassman, Lawton, Montgomery, Sossi, Stull, and Weir.*
Related bills: *HB 459 (on matching funds cap); HB 490 (on agricultural districts).*
Department position: *support with amendments.*
Legislative result: *successful: passed by the House of Delegates and the Senate with different amendments; the House of Delegates concurred with the Senate amendments; bill signed by the Governor.*

This legislation would decree that on or before January 31, 2007, MALPF shall submit to the General Assembly, in accordance with § 2-1246 of the State Government Article, a report outlining procedures, laws, and regulations that the Foundation determines to be necessary in order to implement the elimination of agricultural districts from the Maryland Agricultural Land Preservation Program. The report would include: (a) an implementation timeline, and (b) statutory language for the repeal and reenactment of §§ 2-509 and 2-

510 of the Agriculture Article, including the removal of the requirement for districts from the easement application process to become effective July 1, 2007, and the elimination of districts from the program to become effective June 30, 2008. Also, this legislation would increase the maximum State match for MALPF's matching funds program from $1 million to $2 million. Further, this legislation would change the voluntary commitment required of program applicants not to develop from five years statewide to three-to-ten years, with the commitment length determined by individual counties. And additionally, this legislation would change the provision that keeps applicants who reject full offers from reapplying to the Program for two years to allow those applicants to reapply immediately to the Program to sell their easements. However, an applicant who rejects an easement offer from the Foundation for two consecutive years could not then reapply for the following two consecutive years.

HB 829 – Maryland Agricultural Land Preservation Foundation – Use of Land for Existing Easements

Sponsors: *Delegates Bates and Miller.*
Department position: *oppose.*
Legislative result: *unsuccessful: the bill received an unfavorable report from the Environmental Matters Committee of the House of Delegates.*

This bill would (1) increase the maximum number of lots available on a property from three to six, (2) release these lots as unrestricted lots that could be developed for commercial sale, (3) for each unrestricted lot developed, reduce by one the landowner's right to an owner's or child's lot, (4) reduce the density at which lots could be developed from one lot for the first full twenty acres and one lot each for the next two full fifty acre increments to a density of one lot per fifty acres, and (5) would subject the location of the lots to be subdivided to the approval of the local agricultural advisory board or MALPF.

HB 1254 – Maryland Agricultural Land Preservation Foundation and Rural Legacy Program – Bonus Density – Prohibition

Sponsors: *Delegates Smigiel, Rosenberg, and Sossi.*
Department position: *oppose.*
Legislative result: *unsuccessful: the bill received an unfavorable report from the Environmental Matters Committee of the House of Delegates.*

This bill would prohibit MALPF from purchasing an easement in a zoning district in which the county grants "bonus density." This bill also would prohibit a county from using specified MALPF funds for the purchase of an easement in a zoning district in which the county grants bonus density. Furthermore, this bill would prohibit funds under the Rural Legacy Program within the Department of Natural Resources (DNR) from being used for the purchase of an easement or the acquisition of property in a zoning district in which the county grants bonus density. "Bonus density" is allowing, after the purchase of an easement on a property, more subdivisions on an adjacent property than would otherwise be allowed under the zoning ordinance for the adjacent property.

HB 1268 – Land Use – Transfer of Development Rights – Restriction

Sponsor: *Delegate Smigiel.*
Legislative result: *unsuccessful: the bill received an unfavorable report from the Environmental Matters Committee of the House of Delegates.*

This bill would provide that development rights transferred under a transfer of development rights (TDR) program may not be transferred to a zoning district for which the local legislative body sanctions preservation easements.

†***HB 1272 – Maryland Agricultural Land Preservation Foundation and Rural Legacy Program – Priority Preservation Areas – Protecting Public Investment in Land Preservation***

Sponsors: *Delegates Smigiel, Kelley, Rosenberg, and Sossi.*
Similar bills: *HB 002 and SB 005.*

Department position: *oppose.*
Legislative result: *unsuccessful: the bill received an unfavorable report from the Environmental Matters Committee of the House of Delegates.*

This bill, similar to HB 002 and SB 005, would establish a Priority Preservation Area (PPA) certification program to be evaluated and certified by MALPF and the Maryland Department of Planning (MDP). Unlike the program set up in the agricultural stewardship bills, this program would be freestanding, not made a required (or voluntary) element of a county's comprehensive land-use plan. Also, unlike the program set up in the agricultural stewardship bill, this certification would directly affect the allocation of existing funds to MALPF's county partners. Beginning in 2008, counties with certified PPAs would receive an amount three times the general allocation of counties with uncertified PPAs. The term of certification would be two years, parallel to the existing certification program for local agricultural land preservation programs.

HB 1274 – Land Preservation Programs – Repayment of Transfers to the General Fund

Sponsors: *Delegates James, Barkley, Bobo, Bronrott, Cane, Hubbard, Lee, Madaleno, Montgomery, Petzold, and Stern.*
Related bill: *HB 815.*
Legislative result: *unsuccessful: the bill received an unfavorable report from the Appropriations Committee of the House of Delegates.*

This proposed bill would alter provisions of Chapter 473 of 2005 to: (1) require the repayment of State transfer tax revenues transferred to the General Fund for fiscal year 2004 and subsequent years, thereby requiring an additional $292.1 million to be repaid; and (2) repeal as obsolete a provision that provides that the repayment would only take effect once the Transportation Trust Fund has been fully repaid. However, the bill would not otherwise modify the current repayment schedule. State transfer taxes fund different land conservation programs, including MALPF, Program Open Space, Rural Legacy, and the Heritage Conservation Fund.

HB 1276 – Income Tax Credit for Preservation and Conservation Easements – County Tax Credit Authorized

Sponsors: *Delegates James, Boschert, Heller, Howard, Ramirez, and Ross.*
Related bill: *SB 360.*
Department position: *support.*
Legislative result: *unsuccessful: the bill was not reported out of the Ways and Means Committee of the House of Delegates.*

This proposed bill would allow, subject to a county governing body's approval, the State income tax credit for preservation and conservation easements to be applied against a county income tax.

HB 1423 – Income Tax – Credit for Preservation and Conservation Easements – Refundability

Sponsor: *Delegate James.*
Related bill: *SB 337.*
Department position: *support.*
Legislative result: *unsuccessful: the bill was not reported out of the Ways and Means Committee of the House of Delegates.*

This proposed bill would expand the existing Preservation and Conservation Easement tax credit by making the credit refundable. The amount of refundable credit claimed in each year would not exceed $5,000, and any excess amount of credit would be carried forward as provided under current law.

<u>Senate legislation only</u>:

SB 337 – Income Tax – Credit for Preservation and Conservation Easements – Refundability

Sponsor: *Senator Dyson.*
Related bill: *HB 1423.*
Department position: *support.*
Legislative result: *unsuccessful: the bill received an unfavorable report from the Senate Budget and Taxation Committee.*

The bill would allow property owners who convey an easement to MALPF or the Maryland Environmental Trust (MET) to receive a refund for any unused portion of their allowable State income tax credit. The amount of refundable credit claimed in each year would not exceed $5,000. Any excess amount of credit would be carried forward as provided under current law.

SB 360 – Income Tax Credit for Preservation and Conservation Easements – County Tax Credit Authorized

Sponsors: *Senators Dyson, Currie, Hogan, Lawlah, and Munson.*
Related bill: *HB 1276.*
Department position: *support.*
Legislative result: *unsuccessful: the bill passed with amendments in the Senate, but was not reported out of the Ways and Means Committee of the House of Delegates.*

This bill would allow, subject to the approval of a county's governing body, an individual to claim a credit against the county income tax for an easement conveyed to MALPF or the Maryland Environmental Trust (MET). The credit allowed under this section may not exceed the lesser of the State income tax for that taxable year or $5,000, though a county's governing body may determine the exact amount of a credit and place any further limitations that it deems appropriate. In addition, a county may provide for a credit against the county income tax for an easement conveyed to the Department of Natural Resources (DNR) that is donated in full under the Rural Legacy Program or Program Open Space.

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

†***HB 002/SB 005 – Agricultural Stewardship Act of 2006***

Sponsors: *The Speaker and Delegates McIntosh, Conway, Hixson, Aumann, Barkley, Bartlett, Barve, Bates, Bohanan, Bobo, Bozman, Branch, Bromwell, Bronrott, Brown, Burns, Cadden, Cane, Cardin, G. Clagett, V. Clagett, Cluster, Conroy, D. Davis, DeBoy, Donoghue, Doory, Dumais, Eckardt, Edwards, Elliott, Elmore, Feldman, Franchot, Frush, Gaines, Glassman, Goodwin, Gordon, Griffith, Gutierrez, Hammen, Harrison, Haynes, Healey, Heller, Holmes, Hogan, Howard, Hubbard, James, Jameson, Jennings, Jones, Kaiser, Kelley, King, Krebs, Krysiak, Kullen, Lawton, Lee, Leopold, Levy, Love, Madaleno, Malone, Mandel, Marriott, Mayer, McComas, McConkey, McHale, McKee, Menes, Moe, Montgomery, Morhaim, Murray, Nathan-Pulliam, Niemann, O'Donnell, Paige, Parker, Patterson, Pendergrass, Petzold, Proctor, Pugh, Quinter, Rosenberg, Smigiel, Sophocleus, Sossi, Stern, Stocksdale, Stull, Trueschler, F. Turner, V. Turner, Vallario, Vaughn, Weir, and Zirkin.*
Senators Miller, Hollinger, Middleton, Brinkley, Colburn, Conway, Dyson, Klausmeier, Garagiola, Brochin, and Munson.
Similar bill: *HB 1272.*
Department position: *support with amendments.*
Legislative result: *successful: SB 5 was passed by the Senate with amendments and by the House of Delegates with different amendments; a conference committee was appointed after the Senate refused to concur and the House refused to recede; the bill was not reported out of the conference committee; HB 2 was passed by the House of Delegates with amendments and passed by the Senate with different amendments; a conference committee was appointed after the House refused to concur and the Senate refused to recede; the conference committee report was adopted, and HB 2 was signed by Governor.*

This legislation would require counties to develop a Priority Preservation Area (PPA) Element and to incorporate it into each county's comprehensive land-use plan. The PPA must be capable of supporting profitable agricultural activities, be governed by local policies to stabilize the land base to limit development, and be large enough to support the kind of agricultural enterprises that the county is seeking to preserve. MALPF and the Maryland Department of Planning (MDP) must review and certify the PPA. Each comprehensive plan revision and/or update is subject to PPA certification renewal. Effective July 2009, counties must include a Priority Preservation Area Element when applying for certification and recertification of effective county agricultural land preservation programs. By December 31, 2006, MALPF and MDP must jointly adopt regulations for the administration of county priority preservation area certification. This legislation also states the intent of the General Assembly for the Governor to include in the budget $20 million from the General Fund as well as MALPF dedicated funding from Special Funds. These additional revenues would fund the Critical Farms Program, the Installment Purchase Agreement Program, the Priority Preservation Areas Program, and/or the regular easement acquisition program. MALPF shall distribute funds among these programs to meet the programs' demand.

HB 150/SB 110 – Budget Bill (Fiscal Year 2007)

Sponsors: *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: HB 150 was not reported out of the House Appropriations Committee; SB 110 passed with amendments by the Senate and then passed with incompatible amendments by the House of Delegates; agreement was reached in conference committee; SB 110 became law without the Governor's signature.*

This Administration legislation composes one of three omnibus bills required under the Governor's budget plan. The budget bill for FY 2007 is created to make the proposed appropriations contained in the State Budget for the fiscal year ending June 30, 2007, in accordance with Article III, Section 52 of the Maryland Constitution; and generally relating to appropriations and budgetary provisions made related to that section. MALPF funding appropriations returned to normal for FY 2007; no bond bills were issued on behalf of the MALPF program. Under this legislation, MALPF was appropriated $92,166,792 from all sources, less $2,415,000 taken from MALPF appropriations and given to the Tri-County Council for land preservation projects, for a total of $89,751,792 for both program operation expenses and the purchase of easements.

HB 236/SB 658 – Maryland Estate Tax – Exclusion for Family Farms Subject to Agricultural Preservation Easements

Sponsors: *Delegates Glassman, Aumann, Barkley, Cluster, Conroy, Cryor, Dumais, Elliott, Frank, Haddaway, Hogan, Impallaria, James, Jennings, Kach, Kohl, Krebs, Mayer, McComas, McConkey, McDonough, Rudolph, Shank, Shewell, Smigiel, Sossi, Stocksdale, Stull, and Weldon.*
Senators Hooper, Brinkley, Colburn, Dyson, Garagiola, Hafer, Haines, Harris, Jacobs, Kittleman, Middleton, Mooney, Munson, Pipkin, and Stoltzfus.
Department position: *support.*
Legislative result: *unsuccessful: HB 236 not reported out of the Ways and Means Committee of the House of Delegates; SB 658 not reported out of the Budget and Taxation Committee of the Senate.*

These cross-listed bills would alter the determination of the Maryland estate tax by excluding from the gross estate's value the value of the real property that: (1) is subject to either a perpetual agricultural preservation easement that has been granted to MALPF or a MALPF-approved local agricultural land preservation program, and (2) passes from the decedent to or for the use of a specified relative of the decedent.

HB 815/SB 493 – Land Preservation - Repayment of Transfers to General Fund

Sponsors: *Delegates James, Cadden, Barkley, Barve, Bohanan, Cane, Cardin, G. Clagett, V. Clagett,*

C. Davis, DeBoy, Edwards, Franchot, Frush, Gaines, Holmes, Hubbard, Jennings, Leopold, Madaleno, McIntosh, Montgomery, Niemann, Proctor, Quinter, Stern, F. Turner, and Weir.
Senators Hogan, Astle, Britt, Brochin, DeGrange, Della, Dyson, Exum, Forehand, Frosh, Garagiola, Giannetti, Gladden, Green, Grosfeld, Hollinger, Hughes, Jimeno, Klausmeier, Kramer, Lawlah, McFadden, Middleton, Munson, Pinsky, Ruben, Stone, and Teitelbaum

Related bill: *HB 1274.*
Department position: *no position.*
Legislative result: *unsuccessful: HB 815 received an unfavorable report from the Appropriations Committee of the House of Delegates. SB 493 was never reported out of the Budget and Taxation Committee of the Senate.*

These cross-listed bills would accelerate, from fiscal years 2008 to 2012, the provisions established by Chapter 473 of 2005 regarding the repayment of State transfer tax revenues transferred to the General Fund after fiscal year 2005.

HB 1273/SB 359 – Real Property – Recordation of Deeds – Conservation Easements

Sponsors: *Delegates James, V. Clagett, Frush, Holmes, Lawton, Montgomery, and Stern.*
Senators Dyson, Forehand, Hughes, Jimeno, and Stone.
Department position: *support.*
Legislative result: *unsuccessful: HB 1273 withdrawn from the Environmental Matters Committee of the House of Delegates; SB 359 received an unfavorable report from the Judicial Proceedings Committee of the Senate.*

These cross-listed bills would require that, when property encumbered by a conservation easement or an agricultural easement is sold, the deed transferring ownership must (1) reference the liber and folio where the easement is located, (2) contain a description of the grantor and grantee, and (3) contain the date of the reference deed.

HB 1275/SB 361 – Property Tax – Assessment of Conservation Property

Sponsors: *Delegates James, Boschert, Bozman, Cardin, Heller, Howard, Ramirez, Ross, Bartlett, Cryor, C. Davis, Elmore, Gilleland, Goodwin, Gordon, Healey, Hixson, Kaiser, King, Marriott, McKee, Myers, and Patterson.*
Senators Dyson, Currie, Hogan, Lawlah, Munson, Brinkley, DeGrange, Jones, Kasemeyer, Kramer, McFadden, Ruben, Schrader, and Stoltzfus.
Department position: *support.*
Legislative result: *successful: HB 1275 was passed with amendments by the House of Delegates and the Senate; HB 1275 was signed by the Governor; SB 361 was passed with amendments by the Senate and the House; SB 361 was vetoed by the Governor as duplicative.*

This legislation establishes conservation property as a separate subclass of real property and provides that it be valued at a rate equivalent to the highest rate used for agricultural use land. This legislation says that conservation property is not required to be actively used for farm or agricultural purposes to be eligible for valuation. This legislation is primarily directed at including pre-1986 donated Maryland Environmental Trust (MET) easements under the 1986 changes in State tax laws. By its wording, it would also apply to pre-1986 MALPF easements.

HB 1640/SB 1013 – Maryland Growth Management Act of 2006

Sponsors: *Delegates Bozman, Healey, Barkley, Conroy, Conway, D. Davis, Donoghue, Eckardt, Elliott, Elmore, Gaines, Gordon, Haddaway, Hixson, Hubbard, Jones, King, Lawton, McComas, McHale, Menes, Moe, Montgomery, Ross, Rudolph, Shank, Sossi, and Weldon.*
Senators Pinsky, Britt, Colburn, Currie, Exum, Forehand, Giannetti, Green, and Jacobs.

Legislative result: unsuccessful: HB 1640 not reported out of the Environmental Matters Committee of the House of Delegates; SB 1013 not reported out of the Education, Health, and Environmental Affairs Committee of the Senate.

These cross-listed bills would require local jurisdictions exercising planning and zoning authority to develop growth boundaries and include them in their local comprehensive plans. This legislation would also establish a process to address disagreements regarding proposed growth boundaries, with the Maryland Department of Planning (MDP) serving as an arbitrator. Before a local jurisdiction could approve development of land outside established growth boundaries, the local jurisdiction would have to submit the plan to MDP for approval. This legislation would, further, authorize a county and a municipal corporation to enter into a joint planning agreement (JPA) to coordinate future growth both inside and outside established growth boundaries.