

Legislation – 2007 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 475 – Public School Construction Assistance Act of 2007**

Sponsors: Delegates Healey, Cardin, G. Clagett, V. Clagett, Davis, Gaines, Gilchrist, Haynes, Heller, Hixson, Howard, Hubbard, Ivey, James, Kaiser, N. King, Love, Montgomery, Niemann, Pendergrass, Rice, Ross, Stukes, F. Turner, and Walker.

Similar bill: SB 616

Legislative result: unsuccessful: the bill passed the House of Delegates with amendments; the bill was not reported out of the Budget and Taxation Committee of the Senate.

This bill would impose recordation and real estate transfer taxes on the transfer of a controlling interest in an entity that owns interests in real property in Maryland that constitute at least 80% of the value of the entity's assets and have an aggregate value of at least \$1,000,000. The local recordation taxes revenues and State real estate transfer taxes would be dedicated to public school construction and renovation for FY 2008-2011. After FY 2011, the revenues would be distributed according to the standard formula, with MALPF receiving its 17.05% share of the additional real estate transfer tax revenues collected. This bill is related to SB 616, but is not cross-listed because the bills differ slightly on the minimum aggregate value that applies.

HB 812 – State Property Tax – Homestead Property Tax Assessment Cap Increase

Sponsor: Delegate Hixson.

Department position: no position.

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

This bill would increase from 110% to 115% the homestead property tax credit percentage for State property tax. The bill applies to tax years beginning after June 30, 2008. The Homestead Property Tax Credit caps the annual increase in taxable assessed value for homes and the one acre of property immediately surrounding the home if the owner resides there. So, under current law, even if the assessed value of the house doubles in the three year cycle of reassessment, the state and county can only raise the taxable value by about 10% per year. This bill would allow increases of 15% per year for the state portion of the tax.

HB 974 – Agricultural Land Preservation – Easements – Future Dwelling House

Sponsors: Delegates Stocksdale, Bartlett, Bates, Beitzel, Elliott, George, Jennings, Krebs, Kullen, McKee, Shewell, Sossi, and Wood.

Department position: opposed as unnecessary to meet purposes of the bill.

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

This bill would allow the reservation of a non-sub-dividable dwelling house on property where no existing house now exists in addition to any retained development rights when an easement is sold to the Maryland Agricultural Land Preservation Foundation. The purpose of this bill is to address the problem when a landowner withholds a lot for a dwelling before easement sale and finds that the lot cannot get a successful perc test or must include more acreage than was withheld to meet septic requirements. In such a case, the landowner must request that the lot be relocated on the property, pay for another survey, and retains the right to subdivide the lot permanently from the farm, assuming that enough acreage was withheld to meet

septic requirements.

HB 1041 – Maryland Agricultural Land Preservation Fund – Foundation Grants

Sponsors: Delegate Rudolph.

Related bill: HB 1353.

Department position: support with amendments.

Legislative result: Successful: the bill is passed with amendments by the House of Delegates and passed with different amendments by the Senate; the House concurs with the Senate version; the Governor signs the bill.

This bill would authorize MALPF to make grants to its county partners and to the Maryland Agriculture- and Resource-Based Industry Development Corporation (MARBIDCO) from the Maryland Agricultural Land Preservation Fund to implement fully the installment purchase agreement (IPA) program that provides grants to counties for landowners applying to sell the easements on their farms to MALPF who wish to settle using a county IPA program, and provides grants to MARBIDCO to settle easements purchased using the State IPA program under development. Counties that commit to purchasing agricultural conservation easements through MALPF by issuing county bonds would be able to take future general allocations from the Foundation as grants to service the resulting indebtedness for the MALPF easements purchased with those bond funds. This authorization would take effect on October 1, 2007.

HB 1331 – Maryland Agricultural Land Preservation Foundation – Removal of Districts

Sponsors: Delegates Cane, Conway, Eckardt, Elmore, Glassman, Haddaway, Jennings, Mathias, Rudolph, Smigiel, Stull, and Weldon.

Department position: support.

Legislative result: successful: this bill was passed by the House of Delegates; an amended version was passed by the Senate; the House concurred with the Senate version; the Governor signed the bill.

This bill would remove the requirement that landowners seeking to sell an agricultural conservation easement to the Maryland Agricultural Land Preservation Foundation must first be in an agricultural district requiring a commitment not to develop for five years. As of July 1, 2007, landowners can apply directly without the district commitment to sell an easement to the Foundation unless the county in which the land is located requires a district agreement as a condition for participating in the agricultural land preservation program. All State-level districts will be phased out within five years.

HB 1353 – Maryland Agricultural Land Preservation Fund

Sponsors: Chair, Environmental Matters Committee (Departmental bill).

Related bill: HB 1041.

Department position: support

Legislative result: unsuccessful: the bill was not reported out of the Environmental Matters Committee of the House of Delegates; substance of the bill was amended into HB 1041.

This bill would authorize MALPF to make grants to its county partners and to the Maryland Agriculture- and Resource-Based Industry Development Corporation (MARBIDCO) from the Maryland Agricultural Land Preservation Fund to implement fully the installment purchase agreement (IPA) program that provides grants to counties for landowners applying to sell the easements on their farms to MALPF who wish to settle using a county IPA program, and provides grants to MARBIDCO to settle easements purchased using the State IPA program under development. This authorization would take effect on October 1, 2007.

HB 1354 – Certification of County Priority Preservation Areas

Sponsors: Chair, Environmental Matters Committee (Departmental bill).

Department position: support.

Legislative result: successful: this bill was passed by the House of Delegates and the Senate; the bill

was signed by the Governor.

This bill would alter the requirements for county priority preservation areas (PPAs) to require them to be large enough for and the county not to adopt or maintain policies, ordinances, regulations, or rules that interfere with normal agricultural and silvicultural activities as part of the certification and recertification requirements for county agricultural land preservation programs. This bill eliminates the requirement that counties explicitly target in their comprehensive land-use plan the kinds of agriculture that will be supported and the kinds of agriculture that will not be supported as part of the certification requirements adopted in the Agricultural Stewardship Act of 2006.

Senate legislation only:

SB 003 – Real Property – Condemnation – Procedures and Compensation

Sponsors: Senators DeGrange, Miller, Astle, Currie, Della, Garagiola, Gladden, Hogan, Kasemeyer, Kelley, Kramer, Pugh, Raskin, and Stone.

Related bill: SB 294.

Legislative result: successful: this bill was passed with amendments by the Senate and in a different amended version by the House of Delegates; the Senate concurred with the House's amendments; the bill was signed by the Governor.

This bill requires the government to make certain findings about a project before it can condemn private property for economic development or urban renewal purposes. Some of these findings include that it is part of a comprehensive land-use plan, that it is necessary to carry out the plan, that it is not condemned solely to benefit a private party and that the plan could not be accomplished by private developers. The bill establishes that it is the intent of the General Assembly that a viable business should be preserved whenever reasonable practicable and should not be acquired by condemnation for urban renewal or economic development purposes unless other alternatives are shown not to be reasonably practicable. When it is necessary to take a private property, the bill sets up a rigid set of disclosures, analysis and compensation that must be followed. The bill requires that every effort be made to include the business in the development plan. If relocation is necessary funding for actual value, relocation costs and loss of "goodwill" relationships is mandated. The bill includes specific protection for farms by requiring that a government unit may not condemn private property used for a farm operation if the property will be sold, leased, transferred, or otherwise conveyed to or for the benefit of a private party for the purposes of urban renewal or economic development.

SB 294 –Property Protection Act of 2007

CONSTITUTIONAL AMENDMENT

Sponsors: Senators Kittleman, Brinkley, Edwards, Greenip, Haines, Harris, Hooper, Jacobs, Mooney, Munson, Pipkin, Simonaire, and Stoltzfus.

Related bill: SB 003.

Legislative result: unsuccessful: this bill was not reported out of the Judicial Proceedings Committee of the Senate.

This bill would amend the Maryland Constitution to exclude from the definition of the term "public use" in the context of the State's or a local government's exercise of the power of eminent domain: urban renewal; community revitalization or redevelopment; attracting new business or encouraging the expansion or retention of existing business; job creation; or generating tax revenue. The bill thereby would eliminate the State's or a local government's ability to condemn private property for these purposes. The bill also would expressly prohibit private property from being acquired by condemnation to carry out an urban renewal project and would repeal the authority of a county or municipal authority to condemn private property for that purpose. Finally, the bill would amend provisions authorizing Baltimore City to acquire property for development or redevelopment, off-street parking, and port development by prohibiting private property from being acquired by condemnation for an economic development purpose.

SB 499 – Environment – Water Appropriation Permits – Groundwater Recharge Area

Sponsors: Senators Brinkley, Haines, and Munson.

Department position: oppose.

Legislative result: unsuccessful: the bill received an unfavorable report from the Senate Education, Health, and Environmental Affairs Committee.

This bill would alter the requirements for municipal corporations for obtaining a permit for the appropriation and use of State groundwater. The Maryland Department of the Environment would be required to include specified lands, including preserved farmland, for lands to be considered under the control of the municipal corporation in calculating a groundwater recharge area for a water appropriation permit. This bill would have the effect of a takings of water rights from farms preserved under the Maryland Agricultural Land Preservation program if they are located within the water recharge area of municipalities seeking to expand their right to withdraw groundwater for new development.

†SB 616 – Land Preservation and School Construction Assistance Act of 2007

Sponsors: Senators Currie, Frosh, Middleton, Conway, Astle, Britt, Edwards, Exum, Forehand, Gladden, Hooper, Jones, Klausmeier, Lenett, Madaleno, McFadden, Muse, Pinsky, Pugh, Raskin, Robey, and Rosapepe.

Similar bill: HB 475.

Legislative result: unsuccessful: the bill was not reported out of the Senate Budget and Taxation Committee.

This bill would impose recordation and real estate transfer taxes on the transfer of a controlling interest in an entity that owns interests in real property in Maryland that constitute at least 80% of the value of the entity's assets and have an aggregate value of at least \$500,000. The local recordation taxes revenues and State real estate transfer taxes would be dedicated to public school construction and renovation for FY 2008-2011. After FY 2011, the revenues would be distributed according to the standard formula, with MALPF receiving its 17.05% share of the additional real estate transfer tax revenues collected. This bill is related to HB 475, but is not cross-listed because the bills differ slightly on the minimum aggregate value that applies.

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

HB 050/SB 055 – Budget Bill [Fiscal Year 2008]

*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 050 was passed with amendments by the House of Delegates and then was passed with incompatible amendments by the Senate; agreement was reached in conference committee; HB 050 became law under Article III, Section 52(6) of the Maryland Constitution; SB 055 was not reported out of the Senate Budget and Taxation Committee.

This Administration legislation composes one of three omnibus bills required under the Governor's budget plan. The budget bill for FY 2008 is created to make the proposed appropriations contained in the State Budget for the fiscal year ending June 30, 2008, 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 remained normal for FY 2008. No bond bills were proposed or issued on behalf of the MALPF program, and no funding was diverted to Tri-County Council or elsewhere. Under this legislation, MALPF was appropriated \$78,233,205 from all sources for a total of \$89,751,792 for both program operation expenses and the purchase of easements.

HB 137/SB 102 – State Agencies – StateStat

Sponsors: The Speaker of the House (by request of the Administration) and Delegates Busch and

Haynes.

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

Department position: support the position of the Administration.

Legislative result: successful: HB 137 passed the House of Delegates and the Senate with the same amendments; HB 137 was signed by the Governor; SB 102 passed the Senate without amendments and then passed House with amendments; the Senate concurred with the House amendments; SB 219 was vetoed by the Governor as duplicative.

These cross-listed bills would establish a StateStat management accountability process for the Executive Branch agencies that replaces, for selected agencies, the existing strategic planning process.

HB 187 – Estates and Trusts – Conservation Easement – Governing Instrument

SB 219 – Estates and Trusts – Donation of Conservation Easements

Sponsors: Delegate Rosenberg.

Senators Frosh.

Legislative result: HB 187 passed the House of Delegates and the Senate with the same amendments; HB 187 was signed by the Governor; SB 219 passed the Senate and the House with the same amendments; SB 219 was signed by the Governor.

These cross-listed bills would clarify that personal representatives, trustees, and fiduciaries may donate a conservation easement on real property if the governing instrument authorizes the donation. The legislation would apply retroactively.

HB 319/SB 273 – Maryland Agricultural Land Preservation Foundation – Allegany County and Garrett County – Coal Rights

Sponsors: Garrett County Delegation and Allegany County Delegation.

Senators Edwards.

Department position: support with reservations.

Legislative result: unsuccessful: Senate bill passed, but both HB 319 and SB 273 received unfavorable reports from the House Environmental Matters Committee.

These cross-listed bills would authorize the Maryland Agricultural Land Preservation Foundation to purchase easements on eligible properties in Allegany and Garrett Counties without requiring the subordination of coal rights on those properties if the Board of Trustees judges that non-subordination poses minimal risk to the agricultural values of the properties. A report of the results of the bill would be required to be submitted by October 1, 2010.

HB 465 – Real Property – Sale of Property Encumbered by a Conservation Easement

SB 511 – Real Property – Conservation Easements – Notification of Buyers

Sponsors: Delegate James.

Senator Dyson.

Department position: support.

Legislative result: successful: HB 465 passed the House of Delegates with amendments and then passed by the Senate; HB 465 was signed by the Governor; SB 511 passed the Senate with amendments and then passed by the Senate; SB 511 was vetoed by the Governor as duplicative.

These cross-listed bills would require a seller of real property to provide copies of any conservation easements on the property to the buyer within a specified time. The contract for sale of the real property encumbered by a conservation easement would have to contain a notice of the easement or easements to be enforceable. The purchaser of real property encumbered by a conservation easement would be required to provide notice of the transfer to the holder of the conservation easement.

HB 466/SB 512 – Maryland Estate Tax – Exclusion for Qualified Conservation Easements

*Sponsors: Delegate James.
Senators Dyson, Madaleno, and Stoltzfus.*

Department position: no position.

Legislative result: unsuccessful: HB 466 was not reported out of the House Ways and Means Committee; SB 512 was withdrawn from the Senate Budget and Taxation Committee.

These cross-listed bills would significantly reduce the estate tax on land under a qualified conservation easement (as defined in the IRS Code at 2031c) by increasing the "applicable percentage" from 40% to 100% in the formula used to establish the exclusion amount. The bill raises the exclusion limit to \$1,000,000 for such property in Maryland. The current exclusion limit under federal law is \$500,000. The extension of this exclusion would apply to the estate of anyone who dies on or after January 1, 2007.

HB 633/SB 731 – Maryland Estate Tax – Exclusion for Family Farms Subject to Agricultural Preservation Easements

*Sponsors: Delegates Glassman, Beidle, V. Clagett, Elmore, Impallaria, Jennings, J. King, McDonough, Smigiel, and Stifler.
Senators Hooper, Astle, Brinkley, Colburn, Dyson, Edwards, Garagiola, Greenip, Haines, Harris, Jacobs, Kittleman, Middleton, Munson, Pipkin, Robey, Simonaire, and Stoltzfus*

Department position: support.

Legislative result: unsuccessful: HB 633 was not reported out of the House Ways and Means Committee; SB 731 was withdrawn from the Senate Budget and Taxation Committee.

These cross-listed bills would change the way the Maryland estate tax is calculated by excluding the value of the gross estate the value of real property subject to a perpetual agricultural preservation easement that has been granted to the Maryland Agricultural Land Preservation Foundation. This benefit passes from the decedent to or for the use of the specified relatives of the decedent. The legislation would apply to the estate of anyone who dies after December 31, 2006.

HB 657/SB 682 – Cecil County – Purchase of Development Rights Program – General Obligation Installment Purchase Agreements

*Sponsors: Cecil County Delegation.
Cecil County Senators.*

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

Legislative result: successful: HB 657 was passed with amendments by the House of Delegates and then was not reported out of the Senate Education, Health, and Environmental Affairs Committee; SB 682 was passed with amendments by the Senate and passed with those amendments by the House of Delegates; SB 682 was signed by the Governor.

These cross-listed bills would authorize the Commissioners of Cecil County to enter into general obligation installment purchase agreements for a total of not more than \$4,000,000 plus interest to acquire development rights on farmland in Cecil County as part of the County's Purchase of Development Rights Program.

HB 1220 – Chesapeake and Atlantic Coastal Bays Green Fund

SB 901 – Chesapeake Bay Green Fund

*Sponsors: Delegates McIntosh, Beidle, Bobo, Bromwell, Bronrott, Cane, V. Clagett, Frush, Haynes, Healey, Holmes, Hubbard, Lafferty, Lawton, Love, Malone, Montgomery, Morhaim, Niemann, Rosenberg, Waldstreicher, Ali, Glenn, Hucker, Manno, and Stein.
Senators Conway, Frosh, and Pinsky.*

Department position: support with amendments.

Legislative result: unsuccessful: HB 1220 was passed with amendments by the House of Delegates; HB 1220 was not reported out of the Education, Health, and Environmental Affairs Committee or Budget and Taxation Committee of the Senate. SB 901 was not reported out of the Education, Health, and Environmental Affairs Committee or the Budget and Taxation Committee of the Senate.

These cross-listed bills would establish a Chesapeake [and Atlantic Coastal] Bay[s] Green Fund, effective July 1, 2008, to provide funding to various State agencies and the Chesapeake Bay Trust for specified bay restoration and growth management activities. The fund, administered by the Comptroller, would be financed by an impervious surface fee assessed on "new impervious surface" development. Local governments would retain a portion of fee collections for specified purposes. The legislation also establishes a Chesapeake [and Atlantic Coastal] Bay[s] Green Fund Oversight and Accountability Committee.

HB 1386/SB 962 – Agricultural Ownership Entities – Homestead Tax Credit

Sponsors: Delegates Bartlett, Barve, Cardin, Doory, Elmore, George, Gilchrist, Hixson, Howard, Ivey, Jennings, Kaiser, N. King, Krebs, McKee, Murphy, Olszewski, Rice, Ross, Stukes, F. Turner, and Walker.

Senator Brinkley.

Department position: support.

Legislative result: successful: HB 1386 was passed with amendments by the House and passed with the same amendments by the Senate; HB 1386 was signed by the Governor; SB 962 was passed by the Senate and the House; SB 962 was signed by the Governor.

These cross-listed bills would alter the definitions under the Homestead Property Tax Credit law to extend the gradual staging in of higher property taxes resulting from an increase in property value to include shareholders in a family corporation and family partners in general partnerships. The legislation would take effect for tax years beginning June 30, 2007.