

Legislation – 2008 Legislative Session

Relating to Agricultural Land Preservation Issues

House of Delegates legislation only:

HB 445 – Property Tax Credits – St. Mary's County – Land Preservation Easements

Sponsor: St. Mary's County Delegation.

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

Legislative status: Successful: the bill was passed by the House of Delegates and the Senate; the Governor signed the bill.

This bill extends eligibility for an optional St. Mary's County property tax credit to real property, including improvements, subject to a State or county land preservation program. Under current law, the property has to be subject to the Maryland Agricultural Land Preservation District Program or the St. Mary's County Agricultural Land Preservation District Five-year Program. The bill takes effect June 1, 2008 and applies to all taxable years beginning after June 30, 2008.

HB 976 – Maryland Agricultural Land Preservation Program – Lot Releases

Sponsor: Chair, Environmental Matters Committee (by request of the Department of Agriculture).

Department position: Support.

Legislative status: Successful: the bill was passed by the House of Delegates and the Senate; the Governor signed the bill.

This bill requires the landowner or a child who builds a house on a lot released from easement on farmland subject to a MALPF easement to sign a statement acknowledging that the adjacent farmland may be used for any agricultural purpose in the future and that it may interfere with the use and enjoyment of the property through noise, odor, vibration, fumes, dust, glare and more. Further, the signed statement must also indicate that there is no recourse against the effects of normal agricultural operation performed in accordance with good husbandry practices. The bill also requires the child or lot owner to acknowledge that these conditions are binding to any successor land owner. Finally, the bill gives the Maryland Department of the Environment (MDE) the authority to determine what size lot is needed (between 1 and 2 acres) to accommodate certain septic requirements. Under current law only a 1 acre lot may be released from an easement for the landowner or children's lot unless certain septic conditions apply. When those conditions apply, a 2-acre lot is released. This bill would allow the lot to be larger than 2 acres if MDE requires it.

Senate legislation only:

SB 165 – Maryland Estate Tax – Exclusion for Family Farm or Family-Owned Business

Sponsor: Senator Haines.

Department position: n.a.

Legislative status: Unsuccessful; the bill was not reported out of the Senate Budget and Taxation Committee.

This bill would alter the determination of the Maryland estate tax by excluding from the value of the gross estate up to \$1.0 million of “qualified real property” as defined by the Internal Revenue Code (IRC). The bill would also require the Comptroller to provide, by regulation, for the imposition of additional State estate taxes if specified conditions are not met which would lead to imposition of additional federal estate taxes. The bill would take effect July 1, 2008, and would be applicable to decedents dying after December 31, 2007.

SB 409 – Real Property – Agricultural and Historic Property – Prohibition on Condemnation

Sponsor: Senator Della.

Department position: n.a.

Legislative status: Unsuccessful; the bill was not reported out of the Senate Judicial Proceedings Committee.

This bill prohibits the State or any of its instrumentalities or political subdivisions from acquiring any part of private property by condemnation if the property is (1) subject to an easement held by the Maryland Agricultural Land Preservation Foundation or an easement under the Maryland Rural Legacy Program; (2) listed in the National Register of Historic Places; and (3) designated as a National Historic Landmark.

SB 495 – Homestead Property Tax Credit – Farm or Agricultural Use Land

Sponsor: Senators Haines, Brinkley, Colburn, Dyson, Edwards, Middleton, and Stoltzfus.

Department position: n.a.

Legislative status: Unsuccessful; the bill was not reported out of the Senate Budget and Taxation Committee.

This bill would enable a homeowner to receive a homestead property tax credit for a second dwelling if it is located on a parcel of land to be actively used for farm or agricultural purposes and will be used as the principal residence of a family member or employee of the homeowner.

SB 662 – Agricultural Land Transfer Tax – Surcharge and Distribution of Revenue

Sponsor: Senators Middleton, Currie, Kasemeyer, McFadden, DeGrange, Jones, Madaleno, Kramer, Brinkley, Munson, Peters, Robey, King, Edwards, and Zirkin.

Department position: support with amendments.

Legislative result: Successful; passed with different amendments by the Senate and the House of Delegates; the Senate concurs with the House amendments; signed by the Governor.

This bill increases the agriculture transfer tax by 25% and uses most of the proceeds to fund the Next Generation Farmland Acquisition Program (that helps young farmers acquire their first farms, which are then preserved) to be offered by the Maryland Agricultural and Resource-Based Industry Development Corporation (MARBIDCO). The bill also dedicates up to \$4 million annually for MALPF, in partnership with MARBIDCO, for a leveraged Installment Purchase Agreement (IPA) Program. The agriculture transfer tax is triggered whenever agricultural land is converted to a use other than farming. Under previous law, the agricultural transfer tax applied at the following rates: 5% for the transfer of 20 acres or more of agricultural land; 4% for the transfer of less than 20 acres of agricultural land assessed for agricultural use or as unimproved agricultural land; or 3% for a transfer of less than 20 acres of

agricultural land assessed as improved agricultural land with site improvements. The new rates are, therefore, 6.25%, 5% and 3.75%.

SB 758 – Property Tax – Agricultural Use Assessment

Sponsor: Senator Colburn.

Department position: n.a.

Legislative status: Unsuccessful; the bill was not reported out of the Senate Budget and Taxation Committee.

This bill requires that property used as a migrant labor camp be considered actively used for farming and therefore qualify for an agricultural land use valuation and assessment for property tax purposes, provided that the camp operator holds a valid permit issued by the Department of Health and Mental Hygiene.

SB 909 – Maryland Agricultural Land Preservation Foundation – Board of Trustees – Young Farmer

Sponsor: Senator Middleton.

Department position: support.

Legislative result: Successful; passed by the Senate and the House of Delegates; signed by the Governor.

This bill expands the Board of the Maryland Agricultural Land Preservation Foundation to add one new member – a representative of the Young Farmers Advisory Board. The current non-*ex officio* membership of the MALPF Board is composed of 8 members, 5 of whom are farm representatives. The new Board member must meet the requirements set forth in existing law for service on the Young Farmers' Advisory Board, which include being under 45 years old and deriving at least 50% of his or her income from farming or agricultural activities in the State.

SB 915 – Task Force on the Future Conservation of Maryland's Open Space and Farmland

Sponsor: Senators Middleton, Dyson, Harris, and Colburn.

Department position: Support.

Legislative status: Unsuccessful; passed with different amendments by the Senate and the House of Delegates; the two versions of the bill were not reconciled.

This bill establishes a Task Force on the Future Conservation of Maryland's Open Space and Farmland, staffed by the Departments of Agriculture, Natural Resources, Planning, and Budget and Management. The task force must

- evaluate, determine, and project the impact that demographic changes have had and may have on land conversions;
- evaluate whether the State has adequate human resource funding capacity within its land preservation programs to accommodate potentially extensive land ownership transfers and land conversions;
- evaluate whether the State should allow a local government to use Program Open Space funds for specified purposes under specified conditions; and
- determine various financing mechanisms and potential resources for land acquisition in the future.

A final report must be issued by the Task Force. The bill terminates September 30, 2009.

SB 962 – Public Education - Bridge to Excellence – Video Lottery Terminals

Sponsors: Senators Brinkley and Kittleman.

Department position: n.a.
Legislative status: Unsuccessful; hearing before the Senate Budget and Taxation
Committee was cancelled.

This bill would authorize, under the regulation of the State Lottery Commission, the issuance of six video lottery operation licenses; limiting to 15,000 the number of video lottery terminals allowed in the State; requiring specified individuals to be licensed; specifying the manner in which video lottery proceeds are to be distributed; and specifying how State revenues from video lottery terminals will be distributed. MALPF would have received ½% of these revenues.

SB 970 – Agricultural Land Preservation Easements – Construction of Houses

Sponsors: Senator Haines
Department position: opposed.
Legislative result: Unsuccessful; the bill was not reported out of the Senate’s Education,
Health and Environmental Affairs Committee.

This bill would alter the MALPF law concerning the construction of homes on land subject to an agricultural land preservation easement. Under current law, a landowner may seek permission from MALPF to build one tenant home on easement property if it is at least 100 acres in size and if he or she can show compelling need. The home must be for a tenant “fully engaged in the farm operation.” This bill strikes the permission for a “tenant dwelling” and substitutes “housing for the landowner’s use.” The bill also reduces the acreage size to 70 acres and deletes the requirement to demonstrate compelling need. Under current law MALPF may determine the location and establish a size limitation on the tenant house. Under SB 970, MALPF may not limit the size of the dwelling.

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

HB 274/SB 133 – Maryland Agricultural Land Preservation Foundation – Allegany County and Garrett County – Coal Rights

Sponsors: Allegany County Delegation and Garrett County Delegation; Senator Edwards.
Department position: No position.
Legislative result: Unsuccessful; the House bill given an unfavorable report by the House’s Environmental Matters Committee; the Senate bill was passed by the Senate and given an unfavorable report by the House Environmental Matters Committee.

This bill would prohibit MALPF from requiring (as a condition of establishing an agricultural district) a coal rights owner in Garrett or Allegany County to subordinate his or her interest to the Foundation if the Foundation determines that exercise of the coal rights will not interfere with an agricultural operation conducted on land in the agricultural district. This is similar to the provisions in current law applicable to natural gas rights owners. A report on such occurrences would be required by the bill.

HB 314/SB 260 – Garrett County – County Commissioners – Agricultural Districts

Sponsor: Delegate Beitzel; Senator Edwards.
Department position: The Department takes no position on bills that are not statewide and do not directly affect MALPF.

Legislative status: *Successful; both bills were passed by the House of Delegates and the Senate; the House bill was vetoed by the Governor as duplicative; the Senate bill was signed by the Governor.*

This bill requires the Garrett County Commissioners to adopt specified rules, regulations, and procedures for the establishment and monitoring of agricultural districts and the evaluation of land to be included in the districts. Land may only be included in an agricultural district if the County's rules, regulations, and procedures governing the land meet specified requirements, and the landowner agrees to specified conditions, restrictions, and limitations. The Maryland Agricultural Land Preservation Foundation may not purchase an easement on land located in the County, but outside of an agricultural district established under the bill.

HB 333/SB 509 – Maryland Estate Tax – Exclusion for Qualified Agricultural Property

Sponsors: *Delegates Kullen, Beitzel, Bohanan, G. Clagett, Conway, Costa, DeBoy, Dwyer, Elmore, Jameson, Jennings, Krebs, Levy, Mathias, O'Donnell, Proctor, Rudolph, Stull, and Weldon; Senator Middleton.*

Department position: *n.a.*

Legislative status: *Unsuccessful; the House bill was not reported out of the House Ways and Means Committee; the Senate bill was not reported out of the Senate Budget and Taxation Committee.*

This bill would alter the determination of the Maryland estate tax by excluding from the value of the gross estate the value of "qualified agricultural property" that passes from the decedent to or for the use of a "qualified recipient." The bill would also require the Comptroller to adopt regulations to provide for the imposition of additional State estate taxes if within 10 years of the decedent's death, and before the death of a qualified recipient, the qualified recipient ceases to use the property for farming purposes. Qualified agricultural property is defined as real or personal property that is used primarily for farming purposes. A qualified recipient is an individual who enters into an agreement to use the qualified agricultural property for farming purposes after the decedent's death. The bill would take effect July 1, 2008 and apply to decedents dying after December 31, 2007.

HB 369/SB 213 – Chesapeake and Atlantic Coastal Bays 2010 Trust Fund and Nonpoint Source Fund

Sponsor: *The Speaker of the House (by request of the Administration) and Delegates McIntosh, Bobo, Busch, Cardin, V. Clagett, Holmes, Hubbard, Lafferty, Malone, Manno, Montgomery, Niemann, Pena-Melnyk, Sophocleus, Stein, Ali, Beidle, Carr, Frush, Glenn, Healey, Hucker, Sossi, and Weir; the President of the Senate (by request of the Administration) and Senators Frosh, Garagiola, Gladden, King, Madaleno, Peters, Pinsky, Raskin, Robey, Conway, Dyson, Lenett, Rosapepe, Harrington, Colburn, and Harris.*

Department position: *n.a.*

Legislative status: *Successful; passed with different amendments by both the House and the Senate; a conference committee reached consensus; the bill was signed by the Governor.*

This bill would modify the purpose of the Chesapeake Bay 2010 Trust Fund by specifying that it be used for nonpoint source pollution control projects and by expanding it to apply to the Atlantic Coastal Bays. The Fund would be renamed as the Chesapeake and Atlantic Coastal Bays 2010 Trust Fund. The bill generally would codify the BayStat Program and require it to

administer the Trust Fund. The bill would establish a BayStat Subcabinet and a related scientific advisory panel. Money in the Trust fund would be distributed by the subcabinet agencies (1) through competitive grants to various entities; (2) to the Maryland Agricultural Water Quality Cost Share Program (MACS) within the Maryland Department of Agriculture; (3) to the Woodland Incentives Fund within the Department of Natural Resources; and (4) to the Chesapeake and Atlantic Coastal Bays Nonpoint Source Fund, a new special fund administered by the Water Quality Financing Administration within the Maryland Department of the Environment to provide financial assistance for urban and suburban stormwater management practices and stream/wetland restoration. WQFA would be authorized to issue revenue bonds and deposit the net proceeds into the new fund. Finally, the bill would establish financial accounting provisions for the WQFA.

HB 898/SB 434 – Incentives for Agriculture Act of 2008

Sponsor: Delegate Cane (Chair, Task Force on Incentives for Agriculture) and Delegates Braveboy, Conway, Eckardt, Elmore, Haddaway, Haynes, Howard, Hubbard, Ivey, Jennings, Mathias, Montgomery, Morhaim, O'Donnell, Rudolph, Shewell, Smigiel, Sossi, Stull, and Walkup; Senator Dyson (Chair, Task Force on Incentives for Agriculture).

Department position: n.a.

Legislative status: Unsuccessful; the House bill was not reported out of the House Environmental Matters Committee; the Senate bill was not reported out of the Senate Budget and Taxation Committee.

This bill would

- expand the Preservation and Conservation Easement Credit;
- alter the determination of the Maryland estate tax by excluding from the value of the gross estate the value of “qualified agricultural property” that passes from the decedent to or for the use of a “qualified recipient;”
- expand the ethanol and bio-diesel production credits established under the Renewable Fuels Promotion Act of 2005; and
- require the Governor to appropriate money for the Next Generation Farmland Acquisition Program for fiscal 2010 through 2013.

HB 939/SB 95 – Maryland-National Capital Park and Planning Commission – Prince George's County Agricultural Preservation Easement Program PG/MC 116-08

Sponsors: The Prince George's County Delegation and Montgomery County Delegation; Senators Miller, Britt, Currie, Muse, Peters, Pinsky, Rosapepe, and Harrington.

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

Legislative status: Successful; the House bill was adopted by special order; the Senate bill was passed by both the Senate and the House; the Senate bill was signed by the Governor.

This bill would establish a Prince George's County Agricultural Preservation Easement Program to be administered by the Prince George's County Soil Conservation District (SCD). The bill would also establish a Prince George's County Agricultural Easement Fund to be used to purchase perpetual agricultural preservation easements; the fund would be financed through the Maryland-National Capital Park and Planning Commission's annual budget. The bill would establish several provisions relating to the fund and its uses and provide various authorities to the Prince George's County Council relating to agricultural land preservation. Among other

things, the bill would authorize the Prince George's County Planning Board of M-NCPPC to purchase easements outside the metropolitan district but within the Maryland-Washington Regional District.

HB 1018/SB 94 – Prince George's County – Property Tax Credits – Agricultural Land Preservation Programs PG 421-08

Sponsors: The Prince George's County Delegation; Senators Miller, Currie, Britt, Muse, Peters, Pinsky, and Rosapepe.

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

Legislative status: Successful; the House and Senate bills passed both legislative bodies with amendments; signed by the Governor.

This bill would authorize Prince George's County to grant a property tax credit for agricultural land, including any farm improvement used in connection with an approved agricultural activity that is subject to a State or county agricultural land preservation program. Property owners who are granted the property tax credit but subsequently withdraw the property from a State or county land preservation program would be liable for property taxes that would have otherwise been paid (up to 10 years), including interest and a penalty. The county would be authorized to provide, by law, any procedural or enforcement provision necessary to carry out the administration of the tax credit. The bill would take effect June 1, 2008, and would be applicable to all taxable years beginning after June 30, 2008.

HB 1289/SB 175 – Maryland Estate Tax – Exclusion for Family Farms Subject to Agricultural Preservation Easements

Sponsors: Delegates Aumann, Boteler, Frank, Haddaway, Jennings, and Stifler.

Department position: support.

Legislative result: unsuccessful because it has not been passed in the House of Delegates or in the Senate, being stalled in the House of Delegates' Ways and Means Committee.

This proposed bill alters 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 1423/SB 674 – Water Resources – Groundwater Appropriation or Use – Priority Funding Areas

Sponsors: Delegates Hecht, Barkley, Beidle, Cardin, G. Clagett, V. Clagett, Howard, Kaiser, Lafferty, Lee, Niemann, Schuler, Shank, Sossi, Stull, Waldstreicher, and Weldon.

Senator Brinkley.

Department position: n.a.

Legislative result: Successful; both bills were passed with amendments and signed by the Governor.

This bill authorizes the Maryland Department of the Environment, in accordance with existing State policy and provided that it will not jeopardize the State's natural resources, to give priority for groundwater appropriations and use in Carroll, Frederick, or Washington counties to a

public water system that provides water to specified municipal corporations or to specified priority funding areas. MDE is authorized to adopt regulations to implement the bill.