



Maryland Department of Agriculture

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MARYLAND DEPARTMENT OF AGRICULTURE

LEGISLATIVE COMMENT

DATE: January 22, 2019 BILL NO: SB 25

SUBJECT: REAL PROPERTY – CONSERVATION EASEMENTS,
COVENANTS, RESTRICTIONS AND CONDITIONS –
RECORDING NOTICE

COMITTEE: JUDICIAL PROCEEDINGS

MDA POSITION: SUPPORT

EXPLANATION:

For the purpose of authorizing the Maryland Agricultural Land Preservation Foundation (MALPF), the Maryland Historical Trust, the Maryland Environmental Trust, and the Maryland Department of Natural Resources to record notice of certain easements, covenants, restrictions, and conditions in the land records of the county in which the property interest is located; specifying the information required to be provided in the notice; requiring that the notice be indexed for recording in a certain manner; stating that failure to record the notice in accordance with this Act does not impair the rights or interests of the holders of the easement, covenant, restriction, or condition; and generally relating to conservation easements, covenants, restrictions, and conditions.

COMMENT:

The purpose of MALPF easements is to preserve productive farmland and woodland for the continued production of food and fiber for all of Maryland's citizens. To accomplish this and other statutory and ancillary goals, MALPF easements restrict agricultural land from non-agricultural commercial, industrial, and residential development. The program has easements on more than 2,300 properties, covering over 316,000 acres at a public investment of more than \$740 million.

This legislation creates an opportunity for certain state agencies to periodically update county land records to evidence the state's interest in properties encumbered by the state with a conservation or preservation easement. The first MALPF easement was recorded in 1979. The state's interest in MALPF-eased property is perpetual, however, landowners' interest in land is finite. Over time, and as properties are conveyed from owner to owner, the state's interest in these eased properties may not be picked up by a title search, as title companies' searches generally report on the status of property for a period of 60 years, or less, prior to the date of the search.

The older the easement recording date is, the greater the chance that public notice of the state's interest in eased properties may not be captured in title searches. Providing the state agencies listed in the bill with the ability to periodically update land records with notices referencing the original encumbrances of perpetual covenants, restrictions, and/or conditions will assist prospective purchasers in making informed decisions, and alleviate potential violations that may occur had they been unaware of the existence of the encumbrance.

MALPF ASKS FOR A FAVORABLE REPORT FOR SENATE BILL 25.