



# Maryland Department of Agriculture

Office of the Secretary

Agriculture | Maryland's Leading Industry

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Environment and Transportation Committee  
Chairman: Delegate Kumar P. Barve

## LETTER OF INFORMATION

### **HB 779 – Conserving Working Waterfront Farms Act of 2017**

The Sponsors of HB 779 desire to use a MALPF program approved by the General Assembly in 2005. Following recommendations in the Final Report of the MALPF Task Force on a Critical Farms Program, the primary goal has been defined legislatively (SB 502, 2005 Session) with the following language:

“The purpose of the Program is to provide interim or emergency financing for the acquisition of agricultural preservation easements on critical farms that would otherwise be sold for nonagricultural uses.”

The Task Force also recommended that the definition of a “critical farm” should include three elements:

1. The qualifying strategic characteristics of the property such as location and productivity;
2. The circumstances creating risk of the property being sold for nonagricultural purposes; and
3. The characteristics of the purchaser (a young farmer seeking a first farm or an experienced farmer seeking additional farmland).

Accordingly, the proposed objective of the Critical Farms Program is to acquire farmland either by easement or in fee that is:

- at high risk for development,
- cannot be acquired in a timely manner through the traditional land preservation programs,
- are located within the county's Priority Preservation Area (areas designated by the county as essential to concentrate funding to create large, contiguous blocks of preserved agricultural land), and/or
- are being acquired by individuals who are likely to protect the State's interest in an easement who otherwise cannot purchase a farm critical to Maryland's land preservation goals.

At the request of the sponsors, the MALPF Board of Trustees voted at their January 24, 2017, meeting to not support this legislation. It was determined that the priorities as set forth for preservation of farmland under the legislation do not align with the priorities of the Foundation. The Board does not support legislation that would remove from the counties the ability to decide what properties should be a priority for preservation.

As drafted, HB 779 would have the MALPF program prioritize working waterfront farms. The legislation gives equal consideration to “other benefits attributable to wildlife habitat enhancement, shoreline protection, and water quality protection.” These additional attributes are priorities of the Department of Natural Resources and would be better served within the Rural Legacy and/or Maryland Environmental Trust programs.

HB 779 is problematic for the following reasons:

#### **Criteria for designating a farm as a Critical Farm.**

The dangers of a farm succumbing to development pressure or other non-agricultural use are many, and several criteria need to be considered in designating agricultural land as a farm in critical need of protection. Properties which exhibit high productivity, contain prime soils and are in good farmland locations merit higher priority than waterfront locations, which typically have poorer soils than inland farms. Further, agricultural land preservation dollars are used to protect prime farmland in perpetuity. To give priority to waterfront locations is short-sighted, given the threat of sea-level rise to these areas. Targeting waterfront farms potentially gives way to increased development and sprawl. Inland areas contiguous to protected waterfront farms become more desirable for development for their guaranteed pleasing view shed.

#### **Ranking properties.**

Several years ago, the Foundation’s Board recognized that the counties, having first-hand knowledge of the farms in their respective locales, are in the best position to identify properties and rank them in an order of priority using a MALPF-approved ranking system. Ranking farmland properties by definition places the farms in most danger of development and those with most desirable soils types as the highest priorities for protection.

Many counties have identified a priority preservation area in which they concentrate the preservation and conservation efforts. Though the waterfront properties targeted for agricultural land preservation by HB 779 are working farms, they are better suited to protection provided through DNR or other state or private preservation programs for their additional attributes such as shoreline and wildlife habitat.

#### **Diversion of Funds**

When the Critical Farms Program was created, it was intended that ‘new’ funding would be provided to support the program.

In the absence of funding as provided in Section 5 of the Agricultural Stewardship Act of 2006 or other funding dedicated to the purchase of waterfront farms, a currently indeterminate amount of funding that has been dedicated for purchase of preservation easements that is divided equally

between all 23 counties may be diverted to fund the Critical Farms program which, according to the proposed legislation, may give priority to certain counties that predominately have working waterfront farms. Doing so would leave funding for state-wide easement purchases lacking.