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MARYLAND DEPARTMENT OF AGRICULTURE

LEGISLATIVE COMMENT

DATE: January 22, 2019 BILL NO: SB 57

SUBJECT: AGRICULTURE - COUNTY AGRICULTURAL LAND
PRESERVATION PROGRAMS

COMITTEE: EDUCATION, HEALTH, AND ENVIRONMENTAL AFFAIRS

MDA POSITION: SUPPORT

EXPLANATION:

For the purpose of extending for a certain number of years the length of time a county may retain certain revenue from the agricultural land transfer tax for use in certain agricultural land preservation programs; requiring the Maryland Department of Planning and the Maryland Agricultural Land Preservation Foundation (MALPF), in accordance with certain provisions of law, to review any update to a county's comprehensive plan or other change that may affect a certain area; clarifying that certain provisions of law apply to an application for recertification of a county agricultural land preservation program; specifying that a county that applies for certification or recertification of an agricultural land preservation program must include a priority preservation element in the county's comprehensive plan; and generally relating to county agricultural land preservation programs.

COMMENT:

The purpose of MALPF easements are 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 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.

In 2018, HB 620 passed into law, revising certain provisions of Md. Annotated Code, Article – State Finance and Procurement, Section 5-408 (Section 5-408) and Article – Tax – Property, Section 13-306 (Section 13-306). These parts of the Code affect the *Certification of Local Agricultural Land Preservation Programs* (certification program).

The certification program was created by the Maryland General Assembly in 1990 and is jointly administered by the Maryland Department of Planning (MDP) and MALPF. Eligibility requirements for county participation in the certification program include demonstration of an effective local program to preserve productive farmland and forests, and the designation of a MALPF-approved priority preservation area (PPA), and its inclusion in the county's comprehensive plan. A PPA shows qualifying areas of the county targeted for agricultural or silvicultural preservation. County participation in the certification program is voluntary. A county's certification status is valid for three years, and is renewable for additional three-year periods after review and approval by MDP and MALPF of a county's recertification request.

Section 5-408. The new law gives MDP and MALPF the discretion to extend counties' recertification status from three to five years. HB 620 has also given MDP and MALPF the discretion to revoke a county's recertification if the county has caused certain material changes that would change the boundaries of the PPA, or increase non-agricultural uses and/or density within the PPA.

Section 13-306. Certified counties enjoy the benefit of retaining 75 percent of their locally generated agricultural transfer tax revenue, while non-certified counties retain 33 percent. Before the passage of HB 620, certified and non-certified counties were required to spend or commit to spend all retained revenue on qualifying land preservation expenditures within three years of collection, or those collected funds revert to the MALPF Fund. The new law now affords counties six years within which to spend or commit funds for qualifying land preservation expenditures.

SB 57 revises Md. Annotated Code, Article – Agriculture, Section 2-501 et seq. to be consistent with the provisions of HB 620, which passed into law effective July 1, 2018.

MALPF ASKS FOR A FAVORABLE REPORT FOR SENATE BILL 57.