

Department of Legislative Services  
Maryland General Assembly  
2018 Session

FISCAL AND POLICY NOTE  
First Reader

Senate Bill 885 (Senator Middleton)  
Education, Health, and Environmental Affairs

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Maryland Agricultural Land Preservation Foundation - Condemnation of Land  
Under Easement

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This bill modifies – for specified agricultural land preservation easements acquired by donation or approved for purchase on or after July 1, 2018 – the method of determination of the payment made to the Maryland Agricultural Land Preservation Foundation (MALPF) and other contributors to the original purchase of a MALPF easement, if the land under easement is subject to condemnation. The bill also allows – for specified easements acquired or approved for purchase on or before June 30, 2018 – for the condemning authority to pay any other entity that contributed payment for the original easement purchase, instead of only paying MALPF or a county agricultural land preservation program. The bill also alters a specified definition. **The bill takes effect June 30, 2018.**

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Fiscal Summary

**State Effect:** The bill is not expected to have a direct, material impact on State finances, as discussed below.

**Local Effect:** The bill is not expected to have a direct, material impact on local government finances.

**Small Business Effect:** None.

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## Analysis

### Bill Summary:

#### *Prospective Easements*

For agricultural land preservation easements acquired by MALPF by donation on or after July 1, 2018, or approved for purchase by the Board of Public Works (BPW) on or after July 1, 2018, and held by MALPF, the bill modifies the method of determining the amount MALPF and other contributors to the original purchase of the easement must be paid by the State, a county, or other condemning authority in the event of condemnation of land under an agricultural preservation easement.

Instead of the State, county, or other condemning authority paying to the Maryland Agricultural Land Preservation Fund or a county agricultural land preservation program an amount equal to any amount paid by MALPF or the county agricultural land preservation program for the easement, the condemning authority pays to the Maryland Agricultural Land Preservation Fund an amount equal to the fair market value of the easement (determined in a specified manner). If an easement was originally purchased with funds contributed by entities other than MALPF, MALPF must distribute to the contributing entity a portion of the fair market value compensation in proportion to the percentage of the original easement purchase price contributed by the entity. The condemning authority must pay the landowner the full amount to which the landowner would be entitled if the land was not under easement, less any amount paid to MALPF.

#### *Existing Easements*

For agricultural land preservation easements acquired by a county land preservation program on or before June 30, 2018, or approved for purchase by BPW on or before June 30, 2018, and held by MALPF, the bill allows (in the event of condemnation of land under a MALPF easement) for the condemning authority to pay any other entity that contributed payment for the original easement purchase (instead of only paying MALPF or a county agricultural land preservation program) in an amount equal to any amount paid by the entity.

#### *Alteration of a Definition*

The bill excludes “bridges” from the definition of “economic or residential development,” under a provision that requires approval by BPW, after review and recommendation of MALPF, of a condemnation of land under a MALPF easement if it is for economic or residential development or parkland.

**Current Law:** Statute specifies that State law provisions governing MALPF do not prohibit an agency of the State or of a county or other governmental authority from acquiring by condemnation land, which is under an agricultural preservation easement held by MALPF or a county agricultural land preservation program, if such acquisition is for a public purpose.

In the event of condemnation of land under an agricultural preservation easement, the condemning authority, whether State or county, must pay (1) to the landowner the full amount to which the landowner would be entitled if the land was not under easement, less any amount paid to the landowner by MALPF or a county agricultural land preservation program for the easement, and (2) to the Maryland Agricultural Land Preservation Fund or a county agricultural land preservation program an amount equal to any amount paid by MALPF or the county agricultural land preservation program for the easement.

If the purpose of the condemnation of land under a MALPF easement is either for economic or residential development or parkland, the acquisition of the land is subject to approval by BPW after review and recommendation of MALPF. The condemning authority must demonstrate that a greater public purpose exists than that served by the MALPF easement and that there is no reasonable alternative site. “Economic and residential development” does not include (1) roads; (2) water lines or pipelines; (3) sewer lines or pipelines; (4) power transmission lines or natural gas pipelines; or (5) stormwater or drainage facilities.

**State/Local Fiscal Effect:** MALPF indicates that condemnation of land under a MALPF easement (1) occurs infrequently; (2) typically affects only a small portion of an easement; and (3) results in minimal amounts of compensation (the last three condemnations approved by the MALPF Board of Trustees, in 2016 and 2017, netted a total of \$5,300). While the bill’s modification to the method of determining the payment made to MALPF, a county program, or other contributing entity, may increase or decrease the compensation payment for a given property, any impact is not expected to materially affect State or local government finances.

The Maryland Department of Agriculture indicates, however, that the bill resolves a statutory incompatibility between MALPF and the federal Readiness and Environmental Protection Integration Program (REPI) that will allow MALPF to enter into a multi-year agreement with the Department of the Navy and a number of other partners to allow for federal funding under REPI to contribute to purchases of MALPF easements that are eligible under REPI. REPI funds cost-sharing agreements with state and local governments and conservation organizations to promote compatible land uses and preserve habitats near military installations.

## **Additional Information**

**Prior Introductions:** None.

**Cross File:** None.

**Information Source(s):** Maryland Department of Agriculture; Anne Arundel, Harford, and Montgomery counties; Department of Legislative Services

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