

Chapter 581

(House Bill 214)

AN ACT concerning

Maryland Agricultural Land Preservation Foundation – Critical Farms Fund and Program

FOR the purpose of authorizing the Maryland Agricultural Land Preservation Foundation to acquire certain interests in property for certain purposes, and to dispose of that property under certain circumstances in accordance with the Critical Farms Program; requiring the development of a certain method and a certain procedure for a certain purpose; establishing the Critical Farms Fund for the acquisition of certain easements under the Critical Farms Program and the Farmland Preservation Partnership Program; clarifying that the Governor may include a certain appropriation in the annual budget; requiring the Foundation to submit a certain report to the General Assembly under a certain circumstance; exempting certain dispositions of real property from approval by the Board of Public Works; and generally relating to the Maryland Agricultural Land Preservation Foundation's Critical Farms Program.

BY repealing and reenacting, with amendments,
Article – Agriculture
Section 2–504, 2–505(c), 2–517, and 2–517.1
Annotated Code of Maryland
(2007 Replacement Volume and 2010 Supplement)

BY repealing and reenacting, without amendments,
Article – Agriculture
Section 2–505(a) and (b)
Annotated Code of Maryland
(2007 Replacement Volume and 2010 Supplement)

BY repealing and reenacting, with amendments,
Article – State Finance and Procurement
Section 10–302.1
Annotated Code of Maryland
(2009 Replacement Volume and 2010 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

Article – Agriculture

2-504.

The Maryland Agricultural Land Preservation Foundation has the following general powers:

- (1) To sue and be sued in contractual matters in its own name;
- (2) To enter into contracts generally and to execute all instruments necessary or appropriate to carry out its purposes;
- (3) To acquire, by gift, purchase, devise, bequest or grant, easements in gross or other rights to restrict the use of agricultural land and woodland as may be designated to maintain the character of the land as agricultural land or woodland;
- (4) TO ACQUIRE AND HOLD, BY GIFT, PURCHASE, DEVISE, BEQUEST OR GRANT, REAL AND PERSONAL PROPERTY, OR ANY INTEREST THEREIN, TO CARRY OUT THE LEGISLATIVE INTENT OF PRESERVING PRIME AGRICULTURAL LAND AND WOODLAND AND CONSERVING, IMPROVING, ADMINISTERING, INVESTING, OR DISPOSING OF ANY PROPERTY TO FURTHER THE PURPOSES OF THE CRITICAL FARMS PROGRAM UNDER THIS SUBTITLE;**
- [(4)] (5)** To adopt, with the approval of the Secretary, regulations and procedures necessary to implement the provisions of this subtitle; and
- [(5)] (6)** To promote the dissemination of information to farmers throughout the State concerning the activities of the Foundation.

2-505.

- (a) The Maryland Agricultural Land Preservation Fund is created and continued for the purposes specified in this subtitle.
- (b) The Maryland Agricultural Land Preservation Fund shall comprise:
 - (1) Any money made available to the Fund by general or special fund appropriations; and
 - (2) Any money made available to the Fund by grants or transfers from governmental or private sources.
- (c)
 - (1) The Comptroller of the Treasury may not disburse any money from the Maryland Agricultural Land Preservation Fund other than:
 - (i) For costs associated with the staffing and administration of the Maryland Agricultural Land Preservation Foundation;

(ii) For reasonable expenses incurred by the members of the board of trustees of the Maryland Agricultural Land Preservation Foundation in the performance of official duties; [and]

(iii) For consideration in the purchase of agricultural land preservation easements beginning with fiscal year 1979 and each fiscal year thereafter; **AND**

(IV) FOR COSTS ASSOCIATED WITH ACQUISITION OF AGRICULTURAL LAND PRESERVATION EASEMENTS APPROVED BY THE FOUNDATION THROUGH THE CRITICAL FARMS PROGRAM, AS PROVIDED IN § 2-517 OF THIS SUBTITLE.

(2) The Maryland Agricultural Land Preservation Foundation may provide grants to the Maryland Agricultural and Resource-Based Industry Development Corporation, subject to conditions jointly agreed upon by the Foundation and the Corporation, to facilitate:

(i) An installment purchase agreement program; or

(ii) The funding of the Next Generation Farmland Acquisition Program.

(3) The Maryland Agricultural Land Preservation Foundation may provide grants to counties to facilitate:

(i) The Critical Farms Program, as provided in § 2-517 of this subtitle, subject to conditions jointly agreed upon by the Foundation and the county;

(ii) The purchase of easements under a county installment purchase agreement program approved by the Foundation, as provided in § 2-510.1 of this subtitle; and

(iii) The payment of the principal of and interest on bonds issued by a county for the sole purpose of purchasing agricultural land preservation easements that meet the requirements of this subtitle, subject to conditions jointly agreed upon by the Foundation and the county.

(4) Grants provided by the Maryland Agricultural Land Preservation Foundation may not be:

(i) Used to fund county land preservation programs; or

(ii) Pledged to secure county-issued bonds.

2-517.

(a) (1) The Maryland Agricultural Land Preservation Foundation [and the Department of Planning] shall establish a Critical Farms Program **THAT IS SEPARATE AND INDEPENDENT FROM THE REQUIREMENTS OF THE MARYLAND AGRICULTURAL LAND PRESERVATION PROGRAM ESTABLISHED UNDER THIS SUBTITLE.**

(2) 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.

(b) (1) **[A] THE FOUNDATION, WITH** county **APPROVAL**, shall determine if a property qualifies for the Critical Farms Program in accordance with the criteria developed under paragraph (2) of this subsection.

(2) (i) The Foundation [and], **IN CONSULTATION WITH** the Department **OF PLANNING**, shall develop criteria for counties to consider when determining whether a property qualifies for the Program.

(ii) The criteria shall include:

1. The qualifying strategic characteristics of the property, including location and productivity;

2. The circumstances creating the risk of the property being sold for nonagricultural purposes;

3. When applicable, the characteristics of the purchaser of strategic farmland seeking assistance from the Program;

4. The consistency of the proposed acquisition with county goals and priorities and, **IF APPLICABLE**, the county's priority preservation area; and

5. Evaluation of the property as a priority easement acquisition.

[(c) The Maryland Agricultural Land Preservation Foundation and the Department of Planning shall examine options for easement acquisition on critical farms and identify those that will enable the Critical Farms Program to succeed.]

(C) (1) THE MARYLAND AGRICULTURAL LAND PRESERVATION FOUNDATION SHALL DEVELOP, IN CONSULTATION WITH THE DEPARTMENT OF GENERAL SERVICES:

(I) A METHOD FOR VALUATING AN OPTION TO PURCHASE AN EASEMENT ON PROPERTY UNDER THE CRITICAL FARMS PROGRAM; AND

(II) A PROCEDURE FOR PURCHASING AN EASEMENT OPTION FROM THE OWNER OR PURCHASER OF A CRITICAL FARM UNDER THE CRITICAL FARMS PROGRAM.

(2) FOR PURPOSES OF SETTING AN EASEMENT ACQUISITION VALUE FOR A STATE EASEMENT PROGRAM, A PROPERTY PARTICIPATING IN THE PROGRAM BY SALE OF EASEMENT OPTION SHALL BE VALUED:

(I) AS IF IT WAS NOT SUBJECT TO ANY RESTRICTION IMPOSED UNDER THIS SUBTITLE; AND

(II) IN ACCORDANCE WITH THE VALUATION REQUIREMENTS OF THE SPECIFIC STATE EASEMENT PROGRAM TO WHICH THE CRITICAL FARMS PROGRAM PARTICIPANT MAY APPLY TO SELL AN EASEMENT.

(3) AFTER A FINAL EASEMENT SALE, THE FOUNDATION SHALL BE REIMBURSED BY THE CRITICAL FARMS PROGRAM PARTICIPANT FOR THE AMOUNT THAT WAS PAID BY THE FOUNDATION FOR THE EASEMENT OPTION.

(4) THE FOUNDATION SHALL DEPOSIT THE REIMBURSEMENT IN THE CRITICAL FARMS FUND.

(5) THE FOUNDATION MAY BE REIMBURSED FOR EXPENSES ASSOCIATED WITH THE ACQUISITION OF AN EASEMENT OPTION FROM THE PROCEEDS OF THE FINAL EASEMENT SALE AND SHALL DEPOSIT THE REIMBURSED EXPENSES IN THE CRITICAL FARMS FUND.

(D) (1) WHEN ACQUIRING A FEE SIMPLE INTEREST IN PROPERTY UNDER THE CRITICAL FARMS PROGRAM, THE MARYLAND AGRICULTURAL LAND PRESERVATION FOUNDATION MAY SUBMIT TO THE BOARD OF PUBLIC WORKS FOR APPROVAL AT THE SAME TIME AS ACQUISITION A PLAN FOR SUBSEQUENT DISPOSITION OF ALL OR ANY PORTION OF THE PROPERTY.

(2) DISPOSITION OF PROPERTY UNDER THE PROGRAM MAY INCLUDE THE SALE, LEASE, EXCHANGE, OR TRANSFER OF THE PROPERTY.

(3) ANY PROCEEDS FROM THE DISPOSITION OF PROPERTY UNDER THE PROGRAM SHALL BE DEPOSITED IN THE CRITICAL FARMS FUND.

(4) WHEN DISPOSING OF PROPERTY UNDER THIS SUBSECTION, THE FOUNDATION SHALL IMPOSE A PERPETUAL AGRICULTURAL LAND PRESERVATION EASEMENT ON THE PROPERTY TO RESTRICT THE USE OF THE PROPERTY TO AGRICULTURAL PURPOSES.

(5) THE FOUNDATION MAY REQUIRE REIMBURSEMENT FOR EXPENSES ASSOCIATED WITH THE ACQUISITION AND DISPOSITION OF PROPERTY UNDER THIS SUBSECTION FROM THE PURCHASER OF THE PROPERTY AND SHALL DEPOSIT THE REIMBURSED EXPENSES IN THE CRITICAL FARMS FUND.

(6) PROPERTY CONVEYED UNDER THIS SUBSECTION IS NOT:

(I) EXCESS PERSONAL PROPERTY UNDER § 4-501 OF THE STATE FINANCE AND PROCUREMENT ARTICLE; OR

(II) SUBJECT TO THE REQUIREMENTS OF § 5-310 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

(E) (1) IN THIS SUBSECTION, “FUND” MEANS THE CRITICAL FARMS FUND.

(2) THERE IS A CRITICAL FARMS FUND IN THE DEPARTMENT.

(3) THE PURPOSE OF THE FUND IS TO FINANCE THE ACQUISITION OF AGRICULTURAL LAND PRESERVATION EASEMENTS ON CRITICAL FARMS BY:

(I) THE PURCHASE OF EASEMENT OPTIONS UNDER THIS SECTION AND UNDER § 2-517.1 OF THIS SUBTITLE; AND

(II) THE PURCHASE OF A FEE SIMPLE INTEREST IN LAND AND RESALE WITH AN AGRICULTURAL LAND PRESERVATION EASEMENT IN PLACE.

(4) THE FUND IS A CONTINUING, NONLAPSING REVOLVING FUND THAT IS NOT SUBJECT TO § 7-302 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

(5) THE GOVERNOR MAY INCLUDE EACH YEAR IN THE BUDGET AN APPROPRIATION TO THE FUND CONSISTENT WITH SECTION 5 OF THE AGRICULTURAL STEWARDSHIP ACT OF 2006.

(6) IF THE GOVERNOR'S APPROPRIATION INCREASES THE FUND TO MORE THAN \$16 MILLION, THE FOUNDATION SHALL SUBMIT A REPORT TO THE GENERAL ASSEMBLY, IN ACCORDANCE WITH § 2-1246 OF THE STATE GOVERNMENT ARTICLE, THAT ADEQUATELY DOCUMENTS THE ADDITIONAL NEED.

[(d)] **(F)** The Maryland Agricultural Land Preservation Foundation [and the Department of Planning] may [jointly] adopt regulations to implement the provisions of this section.

2-517.1.

(a) (1) [(i)] The Foundation may establish a Farmland Preservation Partnership Program that is governed by the requirements of this section.

(2) THE FARMLAND PRESERVATION PARTNERSHIP PROGRAM MAY INCLUDE THE ACQUISITION OF EASEMENTS UNDER THE CRITICAL FARMS PROGRAM AS PROVIDED UNDER § 2-517 OF THIS SUBTITLE.

[(ii)] **(3)** The objective of the Partnership Program is to preserve productive agricultural and forested lands.

[(2)] **(4)** (i) The Foundation may form partnerships for the purpose of purchasing easements on qualifying properties.

(ii) [The] **EXCEPT FOR THE CRITICAL FARMS PROGRAM WHERE STATE FUNDS MAY BE MADE AVAILABLE AS DETERMINED BY THE FOUNDATION,** THE Foundation's partners shall cover the full purchase price, which may include the administrative costs of any easement for which the Foundation will be the grantee or the co-grantee.

(iii) The properties that qualify for the Partnership Program shall meet the criteria developed by the Foundation in accordance with subsection (b) of this section.

(b) (1) The Foundation shall develop criteria that determine when a farm qualifies for the Partnership Program.

(2) At a minimum, any qualifying farm shall:

(i) Meet the Foundation's size criteria;

(ii) As determined by the Foundation, contain significant productive agricultural soil or forest soil; and

(iii) Be approved for participation in the Partnership Program by the governing body of the local jurisdiction in which the property is located.

(c) Notwithstanding any other provision of this subtitle, an easement acquired by the Foundation in accordance with this section is not subject to the ranking, valuation, or development restrictions of this subtitle, except as determined by the Foundation's board of trustees.

Article – State Finance and Procurement

10–302.1.

This subtitle does not apply to:

(1) the release of a lot subject to an agricultural land preservation easement under § 2–513 of the Agriculture Article; **OR**

(2) THE SALE, TRANSFER, EXCHANGE, LEASE, OR OTHER DISPOSITION OF REAL PROPERTY HELD BY THE MARYLAND AGRICULTURAL LAND PRESERVATION FOUNDATION UNDER THE CRITICAL FARMS PROGRAM UNDER § 2–517 OF THE AGRICULTURE ARTICLE.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2011.

Approved by the Governor, May 19, 2011.