

## Chapter 146

(House Bill 890)

AN ACT concerning

### Land Preservation – Land Draining to a Reservoir

FOR the purpose of requiring ~~the Maryland Agricultural Land Preservation Foundation to prioritize certain grants relating to the preservation of land that drains into a reservoir in the State~~ a local governing body to consider whether certain land drains into a reservoir in the State in prioritizing certain applications to sell certain easements under the Maryland Agricultural Land Preservation Program; adding to the list of land conservation priorities that the Secretary of Natural Resources is required to consider in allocating the State's share of funds under Program Open Space; and generally relating to the priorities for land preservation and conservation under the Maryland Agricultural Land Preservation Program and Program Open Space.

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

BY repealing and reenacting, with amendments,  
Article – Agriculture  
Section ~~2-505(e)~~ 2-508  
Annotated Code of Maryland  
(2007 Replacement Volume and 2010 Supplement)

BY repealing and reenacting, without amendments,  
Article – Natural Resources  
Section 5-903(a)  
Annotated Code of Maryland  
(2005 Replacement Volume and 2010 Supplement)

BY repealing and reenacting, with amendments,  
Article – Natural Resources  
Section 5-903(h)  
Annotated Code of Maryland  
(2005 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

~~2-505.~~

~~(a) The Maryland Agricultural Land Preservation Fund is created and continued for the purposes specified in this subtitle.~~

~~(e) (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.~~

~~(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.~~

~~(5) THE MARYLAND AGRICULTURAL LAND PRESERVATION FOUNDATION SHALL PRIORITIZE GRANTS UNDER THIS SUBSECTION THAT PRESERVE LAND THAT DRAINS INTO A RESERVOIR IN THE STATE.~~

2-508.

(a) (1) For purposes of this subtitle the following words have the meanings indicated.

(2) "Total amount to be allotted" means the amount, as certified by the Comptroller, which remains in the Maryland Agricultural Land Preservation Fund at the beginning of the fiscal year after payment of all expenses of the Foundation and the board of trustees during the previous fiscal year as specified in § 2-505(c)(1) and (2) of this subtitle, and after subtraction of funds committed for payment as consideration for easements purchased during previous fiscal years, and after subtraction of any money remaining in the Fund as a result of a transfer of local Program Open Space funds made pursuant to § 5-903 of the Natural Resources Article.

(3) "General purchases of easements" means purchases of agricultural land preservation easements under this subtitle in which the governing body of the county in which the land is located is not required to make a contribution to the Maryland Agricultural Land Preservation Fund.

(4) "Matching purchases of easements" means purchases of agricultural land preservation easements under this subtitle in which the governing body of the county in which the land is located is required to make a contribution to the Maryland Agricultural Land Preservation Fund of an amount equal to at least 40 percent of the value of the easement for each such purchase.

(5) "Allotted purchases" means general or matching purchases made pursuant to offers to buy tendered by the Foundation on or before January 31 of any fiscal year.

(6) "County" means any county containing productive agricultural land which is being actively farmed and which meets the criteria for land for which easements may be purchased.

(7) “Eligible county” means a county as defined in paragraph (6) of this subsection which has secured approval from the Foundation for a local agricultural land preservation program.

(b) Beginning with fiscal year 1979, and in each fiscal year thereafter, the Foundation shall determine the maximum amount which may be expended for allotted purchases of easements on land located within each county. The maximum amount which may be expended for allotted purchases of easements in any county in any fiscal year shall be:

(1) An amount, to be used for general allotted purchases, equal to one twenty-third of one half of the total amount to be allotted; and

(2) An amount, to be used for matching allotted purchases, which shall be computed for each eligible county by dividing one half of the total amount to be allotted equally among those counties having an approved program. The maximum amount available from the Foundation for the Foundation’s share in matching allotted purchases may not exceed \$2,000,000 in any county in any fiscal year.

(c) If the Foundation receives acceptances of offers to buy in insufficient numbers to expend the total amount to be allotted for allotted purchases, the Foundation, to the extent feasible, shall tender additional offers to buy in sufficient numbers to expend the total amount to be allotted. Any such additional offers to buy shall be tendered:

(1) To landowners who have applied to sell easements on land which was otherwise acceptable, but who had not received an offer to buy solely because of limitations on the amount of money to be spent for allotted purchases;

(2) To applicants on a statewide basis as provided by the priority ranking system established under § 2-510(e) of this subtitle; and

(3) Only after the expiration of the period allowed for acceptance of offers to buy under allotted general and matching purchases.

**(D) IN PRIORITIZING AN APPLICATION TO SELL AN EASEMENT, A LOCAL GOVERNING BODY SHALL CONSIDER WHETHER THE LAND DRAINS INTO A RESERVOIR IN THE STATE.**

### Article – Natural Resources

5-903.

(a) (1) Of the funds distributed to Program Open Space under § 13-209 of the Tax – Property Article, up to \$3,000,000 may be transferred by an appropriation in the State budget, or by an amendment to the State budget under Title 7, Subtitle 2 of

the State Finance and Procurement Article, to the Maryland Heritage Areas Authority Financing Fund established under Title 13, Subtitle 11 of the Financial Institutions Article to be used for the purposes provided in that subtitle.

(2) (i) 1. Of the remaining funds not appropriated under paragraph (1) of this subsection:

A. One half of the funds shall be used for recreation and open space purposes by the Department and the Historic St. Mary's City Commission; and

B. 20% of the funds or \$21,000,000, whichever is greater, shall be appropriated to the Forest and Park Service in the Department to operate State forests and parks.

2. Except as otherwise provided in this section, any funds the General Assembly appropriates to the State under this subsection shall be used only for land acquisition projects.

(ii) At least \$1,500,000 of the State's share of funds available under subparagraph (i)1A of this paragraph for this program shall be utilized to make grants to Baltimore City for projects which meet park purposes. The grants shall be in addition to any funds Baltimore City is eligible to receive under subsection (b) of this section, and may be used for acquisition or development. In order for Baltimore City to be eligible for a State grant, the Department shall review projects or land to be acquired within Baltimore City, and upon the Department's recommendation, the Board of Public Works may approve projects and land including the cost. Title to the land shall be in the name of the Mayor and City Council of Baltimore City. The State is not responsible for costs involved in the development or maintenance of the land.

(iii) 1. A portion of the State's share of funds available under subparagraph (i)1A of this paragraph for this program not to exceed \$8,000,000 for each fiscal year may be transferred by an appropriation in the State budget to the Rural Legacy Program under Subtitle 9A of this title.

2. In each fiscal year, up to \$2 million of the funds transferred under this subparagraph to the Rural Legacy Program may be used to purchase zero coupon bonds for easements.

3. Sums allocated to the Rural Legacy Program may not revert to the General Fund of the State.

(iv) The Department may acquire real property under subparagraph (i)1A of this paragraph based on an offer by the State that is less than the lowest approved appraisal for the property.

(v) For each of fiscal years 2010 and 2011, \$1,217,000 of the State's share of funds available under subparagraph (i)1A of this paragraph may be appropriated in the budgets of the Department, the Department of General Services, and the Department of Planning for expenses necessary to administer this Program.

(h) In allocating the State's share of funds under this section, the Secretary shall consider the following land conservation priorities, notwithstanding other priorities specified in this title:

(1) Conserving working landscapes, as defined in § 5-101 of this title;  
[and]

(2) Protecting and restoring forests from threats, including catastrophic wildfires, hurricanes, windstorms, snow or ice storms, flooding, drought, invasive species, insect or disease outbreak, and development; **AND**

**(3) CONSERVING LAND THAT DRAINS INTO A RESERVOIR IN THE STATE.**

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

**Approved by the Governor, April 12, 2011.**