

Chapter 622

(Senate Bill 885)

AN ACT concerning

Maryland Agricultural Land Preservation Foundation – Condemnation of Land Under Easement

FOR the purpose of altering the statutory formula that determines the compensation required to be paid to the Maryland Agricultural Land Preservation Fund on condemnation of land under a certain easement held by the Maryland Agricultural Land Preservation Foundation; requiring the Foundation to distribute a portion of certain compensation to a certain entity under certain circumstances; providing for the application of certain provisions of this Act; altering a certain definition; making conforming changes; *providing for an abnormal effective date*; and generally relating to the compensation to be paid on condemnation of land under an easement held by the Foundation.

BY repealing and reenacting, with amendments,
 Article – Agriculture
 Section 2–515
 Annotated Code of Maryland
 (2016 Replacement Volume and 2017 Supplement)

BY repealing and reenacting, with amendments,
 Article – Real Property
 Section 12–104(f)
 Annotated Code of Maryland
 (2015 Replacement Volume and 2017 Supplement)

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

Article – Agriculture

2–515.

(a) (1) Subject to the provisions of paragraph (2) of this subsection, this subtitle does 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 the Foundation or a county agricultural land preservation program if such acquisition is for a public purpose.

(2) (i) In this paragraph, “economic or residential development” does not include:

1. Roads **OR BRIDGES**;
2. Water lines or pipelines;
3. Sewer lines or pipelines;
4. Power transmission lines or natural gas pipelines; or
5. Stormwater or drainage facilities.

(ii) If the purpose of the condemnation of land under a Foundation easement is either for economic or residential development or parkland, the acquisition of the land shall be subject to approval by the Board of Public Works after review and recommendation of the Foundation.

(iii) The condemning authority shall demonstrate that:

1. A greater public purpose exists than that served by the Foundation easement; and
2. There is no reasonable alternative site.

(b) **(1) THIS SUBSECTION APPLIES ONLY TO AN AGRICULTURAL LAND PRESERVATION EASEMENT:**

(I) ACQUIRED BY A COUNTY LAND PRESERVATION PROGRAM ON OR BEFORE JUNE 30, 2018; OR

(II) APPROVED FOR PURCHASE BY THE BOARD OF PUBLIC WORKS ON OR BEFORE JUNE 30, 2018, AND HELD BY THE FOUNDATION.

(2) In the event of condemnation of land under an agricultural preservation easement **HELD BY THE FOUNDATION**, the condemning authority, whether State [or], county, **OR OTHER AUTHORITY**, shall pay:

[(1)] (I) 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 the Foundation or a county agricultural land preservation program for the easement] **TO THE FOUNDATION, A COUNTY AGRICULTURAL LAND PRESERVATION PROGRAM, OR OTHER ENTITY UNDER ITEM (II) OF THIS PARAGRAPH**; and

[(2)] (II) To the Maryland Agricultural Land Preservation Fund, [or] a county agricultural land preservation program, **OR ANY OTHER ENTITY CONTRIBUTING PAYMENT FOR THE ORIGINAL EASEMENT PURCHASE**, an amount equal to any amount

paid by the Foundation, [or the] A county agricultural land preservation program, **OR OTHER ENTITY** for the easement.

[(c) (1)] (3) If a part or all of the property is acquired by the exercise of the power of eminent domain, the fair market value of the property is not affected by its having been qualified for a tax credit under § 9–206 of the Tax – Property Article except that there shall be deducted from fair market value the lesser of:

(i) The value of the easement granted; or

(ii) The excess of the aggregate amount of the property taxes that would have been due on the property if the easement had not been granted above the aggregate amount of property taxes actually paid on the property since the easement was granted.

[(2)] (4) If the Foundation or a county agricultural land preservation program purchases the easement for a monetary consideration, other than or in addition to, the tax credit, the condemnation award shall be further reduced by an amount equal to the additional consideration.

(C) (1) THIS SUBSECTION APPLIES ONLY TO AN AGRICULTURAL LAND PRESERVATION EASEMENT:

(I) ACQUIRED BY THE FOUNDATION BY DONATION ON OR AFTER JULY 1, 2018; OR

(II) APPROVED FOR PURCHASE BY THE BOARD OF PUBLIC WORKS ON OR AFTER JULY 1, 2018, AND HELD BY THE FOUNDATION.

(2) IN THE EVENT OF CONDEMNATION OF LAND UNDER AN AGRICULTURAL PRESERVATION EASEMENT, THE CONDEMNING AUTHORITY, WHETHER STATE, COUNTY, OR OTHER AUTHORITY, SHALL PAY:

(I) 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 FOUNDATION UNDER ITEM (II) OF THIS PARAGRAPH; AND

(II) TO THE MARYLAND AGRICULTURAL LAND PRESERVATION FUND AN AMOUNT EQUAL TO THE FAIR MARKET VALUE OF THE EASEMENT, WHICH SHALL BE DETERMINED BY A QUALIFIED APPRAISAL THAT ESTABLISHES THE RATIO OF THE VALUE OF THE EASEMENT INTEREST TO THE VALUE OF THE FEE SIMPLE INTEREST IN THE LAND AS OF THE DATE OF CONDEMNATION.

(3) IF AN EASEMENT WAS ORIGINALLY PURCHASED WITH FUNDS CONTRIBUTED BY ENTITIES OTHER THAN THE FOUNDATION, THE FOUNDATION

SHALL 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.

Article – Real Property

12–104.

(f) The damages to be awarded for the taking of land or an interest in land over which an easement in gross or other right to restrict its use has been granted pursuant to § 2–504 of the Agriculture Article shall be as provided for in this subsection **AND § 2–515 OF THE AGRICULTURE ARTICLE:**

(1) The damages to be awarded for the taking of an entire tract is its fair market value after deducting the lesser of (a) the value of the easement granted, or (b) the excess of the aggregate amount of the property taxes that would have been due on the property if the easement had not been granted above the aggregate amount of property taxes actually paid on the property since the easement was granted.

(2) The damages to be awarded where part of a tract of land is taken is the fair market value of the part taken less the deduction computed as described in paragraph (1) of this subsection, but not less than the actual value of the part taken less the deduction computed as described in paragraph (1) of this subsection, plus any severance or resulting damages to the remaining land by reason of the taking and of future use by the plaintiff of the part taken.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 30, 2018.

Approved by the Governor, May 15, 2018.