

# HOUSE BILL 722

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2lr0452  
CF 2lr0485

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By: **Montgomery County Delegation**

Introduced and read first time: February 8, 2012

Assigned to: Environmental Matters

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## A BILL ENTITLED

1 AN ACT concerning

2 **Montgomery County – Real Property – Enforceability of Recorded Covenants**  
3 **and Restrictions – Agricultural Activities and Structures**

4 **MC 16–12**

5 FOR the purpose of providing that certain provisions of certain recorded covenants  
6 and restrictions in Montgomery County are unenforceable; providing for the  
7 construction and application of this Act; and generally relating to the  
8 enforceability of certain recorded covenants and restrictions in Montgomery  
9 County.

10 BY adding to  
11 Article – Real Property  
12 Section 14–133  
13 Annotated Code of Maryland  
14 (2010 Replacement Volume and 2011 Supplement)

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

17 **Article – Real Property**

18 **14–133.**

19 **(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE**  
20 **MEANINGS INDICATED.**

21 **(2) “AGRICULTURAL ACTIVITY” MEANS AN ACTIVITY INCLUDED**  
22 **IN THE DEFINITION OF “AGRICULTURE” OR “FARMING” IN THE LOCAL ZONING**  
23 **CODE.**

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1           **(3) “AGRICULTURAL PROPERTY” MEANS PROPERTY LOCATED IN**  
2 **MONTGOMERY COUNTY THAT IS ENCUMBERED BY A RECORDED TRANSFER OF A**  
3 **DEVELOPMENT RIGHTS EASEMENT ESTABLISHED IN ACCORDANCE WITH A**  
4 **PROGRAM FOR THE TRANSFER OF DEVELOPMENT RIGHTS UNDER ARTICLE 28, §**  
5 **8–101(B)(3) OF THE CODE.**

6           **(4) “AGRICULTURAL STRUCTURE” MEANS A STRUCTURE, AS**  
7 **DEFINED IN THE LOCAL ZONING CODE, THAT IS USED FOR AN AGRICULTURAL**  
8 **ACTIVITY.**

9           **(5) “RECORDED COVENANTS AND RESTRICTIONS” MEANS ANY**  
10 **INSTRUMENT OF WRITING THAT IS RECORDED IN THE LAND RECORDS OF**  
11 **MONTGOMERY COUNTY AND THAT GOVERNS OR LEGALLY RESTRICTS THE USE**  
12 **OF REAL PROPERTY.**

13           **(B) THIS SECTION APPLIES ONLY IN MONTGOMERY COUNTY.**

14           **(C) (1) ANY PROVISION OF RECORDED COVENANTS AND**  
15 **RESTRICTIONS THAT PROHIBITS OR RESTRICTS AGRICULTURAL ACTIVITY OR**  
16 **THE CONSTRUCTION OF AN AGRICULTURAL STRUCTURE ON AGRICULTURAL**  
17 **PROPERTY IS UNENFORCEABLE.**

18           **(2) ANY PROVISION OF RECORDED COVENANTS AND**  
19 **RESTRICTIONS THAT PROHIBITS OR RESTRICTS COMMERCIAL OR BUSINESS**  
20 **ACTIVITY IS UNENFORCEABLE TO THE EXTENT THAT IT HAS THE EFFECT OF**  
21 **PROHIBITING OR RESTRICTING THE ESTABLISHMENT AND OPERATION OF**  
22 **AGRICULTURAL ACTIVITY ON AGRICULTURAL PROPERTY.**

23           **(D) THIS SECTION MAY NOT BE CONSTRUED TO LIMIT LOCAL ZONING**  
24 **REGULATIONS.**

25           SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be  
26 construed to apply retroactively and shall be applied to and interpreted to affect any  
27 recorded covenants and restrictions whether recorded before or after the effective date  
28 of this Act.

29           SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect  
30 June 1, 2012.