SENATE BILL 885

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By: Senator Middleton

Introduced and read first time: February 5, 2018 Assigned to: Education, Health, and Environmental Affairs

Committee Report: Favorable Senate action: Adopted Read second time: March 15, 2018

CHAPTER _____

1 AN ACT concerning

Maryland Agricultural Land Preservation Foundation – Condemnation of Land Under Easement

4 FOR the purpose of altering the statutory formula that determines the compensation $\mathbf{5}$ required to be paid to the Maryland Agricultural Land Preservation Fund on 6 condemnation of land under a certain easement held by the Maryland Agricultural 7 Land Preservation Foundation; requiring the Foundation to distribute a portion of certain compensation to a certain entity under certain circumstances; providing for 8 9 the application of certain provisions of this Act; altering a certain definition; making 10 conforming changes; and generally relating to the compensation to be paid on 11 condemnation of land under an easement held by the Foundation.

- 12 BY repealing and reenacting, with amendments,
- 13 Article Agriculture
- 14 Section 2–515
- 15 Annotated Code of Maryland
- 16 (2016 Replacement Volume and 2017 Supplement)
- 17 BY repealing and reenacting, with amendments,
- 18 Article Real Property
- 19 Section 12–104(f)
- 20 Annotated Code of Maryland
- 21 (2015 Replacement Volume and 2017 Supplement)
- 22 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

Strike out indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1	That the Laws of Maryland read as follows:	
2	Article – Agriculture	
3	2-515.	
4 5 6 7 8	(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.	
9 10	(2) (i) not include:	In this paragraph, "economic or residential development" does
11		1. Roads OR BRIDGES;
12		2. Water lines or pipelines;
13		3. Sewer lines or pipelines;
14		4. Power transmission lines or natural gas pipelines; or
15		5. Stormwater or drainage facilities.
16 17 18 19	(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.	
20	(iii)	The condemning authority shall demonstrate that:
$\begin{array}{c} 21 \\ 22 \end{array}$	Foundation easement; a	1. A greater public purpose exists than that served by the nd
23		2. There is no reasonable alternative site.
$\begin{array}{c} 24 \\ 25 \end{array}$	(b) (1) THI PRESERVATION EASEM	S SUBSECTION APPLIES ONLY TO AN AGRICULTURAL LAND IENT:
$\frac{26}{27}$	(I) ACQUIRED BY A COUNTY LAND PRESERVATION PROGRAM ON OR BEFORE JUNE 30, 2018; OR	
$28 \\ 29$	(II) Works on or before	APPROVED FOR PURCHASE BY THE BOARD OF PUBLIC E JUNE 30, 2018, AND HELD BY THE FOUNDATION.

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1 (2) In the event of condemnation of land under an agricultural preservation 2 easement HELD BY THE FOUNDATION, the condemning authority, whether State [or], 3 county, OR OTHER AUTHORITY, shall pay:

4 [(1)] (I) To the landowner the full amount to which the landowner would 5 be entitled if the land was not under easement, less any amount paid [to the landowner by 6 the Foundation or a county agricultural land preservation program for the easement] TO 7 THE FOUNDATION, A COUNTY AGRICULTURAL LAND PRESERVATION PROGRAM, OR 8 OTHER ENTITY UNDER ITEM (II) OF THIS PARAGRAPH; and

9 [(2)] (II) To the Maryland Agricultural Land Preservation Fund, [or] a 10 county agricultural land preservation program, OR ANY OTHER ENTITY CONTRIBUTING 11 PAYMENT FOR THE ORIGINAL EASEMENT PURCHASE, an amount equal to any amount 12 paid by the Foundation, [or the] A county agricultural land preservation program, OR 13 OTHER ENTITY for the easement.

14 **[**(c) (1)**] (3)** If a part or all of the property is acquired by the exercise of the 15 power of eminent domain, the fair market value of the property is not affected by its having 16 been qualified for a tax credit under § 9–206 of the Tax – Property Article except that there 17 shall be deducted from fair market value the lesser of:

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(i) The value of the easement granted; or

19 (ii) The excess of the aggregate amount of the property taxes that 20 would have been due on the property if the easement had not been granted above the 21 aggregate amount of property taxes actually paid on the property since the easement was 22 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.

27 (C) (1) THIS SUBSECTION APPLIES ONLY TO AN AGRICULTURAL LAND 28 PRESERVATION EASEMENT:

29 (I) ACQUIRED BY THE FOUNDATION BY DONATION ON OR 30 AFTER JULY 1, 2018; OR

31(II) APPROVED FOR PURCHASE BY THE BOARD OF PUBLIC32WORKS ON OR AFTER JULY 1, 2018, AND HELD BY THE FOUNDATION.

33 (2) IN THE EVENT OF CONDEMNATION OF LAND UNDER AN 34 AGRICULTURAL PRESERVATION EASEMENT, THE CONDEMNING AUTHORITY, 35 WHETHER STATE, COUNTY, OR OTHER AUTHORITY, SHALL PAY: 1(I)TO THE LANDOWNER THE FULL AMOUNT TO WHICH THE2LANDOWNER WOULD BE ENTITLED IF THE LAND WAS NOT UNDER EASEMENT, LESS3ANY AMOUNT PAID TO THE FOUNDATION UNDER ITEM (II) OF THIS PARAGRAPH; AND

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

9 (3) IF AN EASEMENT WAS ORIGINALLY PURCHASED WITH FUNDS 10 CONTRIBUTED BY ENTITIES OTHER THAN THE FOUNDATION, THE FOUNDATION 11 SHALL DISTRIBUTE TO THE CONTRIBUTING ENTITY A PORTION OF THE FAIR MARKET 12 VALUE COMPENSATION IN PROPORTION TO THE PERCENTAGE OF THE ORIGINAL 13 EASEMENT PURCHASE PRICE CONTRIBUTED BY THE ENTITY.

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Article – Real Property

15 12–104.

16 (f) The damages to be awarded for the taking of land or an interest in land over 17 which an easement in gross or other right to restrict its use has been granted pursuant to 18 § 2–504 of the Agriculture Article shall be as provided for in this subsection AND § 2–515 19 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.

25 (2) The damages to be awarded where part of a tract of land is taken is the 26 fair market value of the part taken less the deduction computed as described in paragraph 27 (1) of this subsection, but not less than the actual value of the part taken less the deduction 28 computed as described in paragraph (1) of this subsection, plus any severance or resulting 29 damages to the remaining land by reason of the taking and of future use by the plaintiff of 30 the part taken.

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