

Bill No.: _____

Requested: _____

Committee: _____

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By: **Prince George’s County Delegation and Montgomery County Delegation**

A BILL ENTITLED

1 AN ACT concerning

2 **Maryland–National Capital Park and Planning Commission – Prince**
3 **George’s County Agricultural Preservation Easement Program**

4 **PG/MC 116–08**

5 FOR the purpose of establishing the Prince George’s County Agricultural Preservation
6 Easement Program; providing for the purposes of the Program; requiring the
7 Prince George’s County Planning Board to administer the Program in
8 consultation with the Prince George’s County Soil Conservation District;
9 authorizing the County Council of Prince George’s County to enact certain
10 ordinances relating to agricultural preservation and to delegate certain
11 authority of the Planning Board relating to the Program to the Soil
12 Conservation District; requiring the Board to adopt certain regulations;
13 establishing the Prince George’s County Agricultural Preservation Easement
14 Fund; requiring the Planning Board to administer the Fund; requiring the
15 Board to deposit certain funds into the Fund for certain purposes; requiring the
16 Fund to be used for certain purposes; requiring the Planning Board to solicit
17 and consider the recommendations of the Soil Conservation District when
18 making certain decisions; authorizing the Planning Board to purchase certain
19 easements on certain land that is outside the Maryland–Washington
20 Metropolitan District but is within the Maryland–Washington Regional District
21 in Prince George’s County; authorizing the Planning Board to expend certain

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



22 current funds for certain purposes; requiring a certain property owner to convey
23 a certain easement to the Planning Board at a certain time and recording a
24 certain easement in the land records; providing that certain provisions of law do
25 not apply to a certain subtitle; authorizing the Prince George’s County Council,
26 sitting as the district council to enact ordinances that create a certain program
27 for the purchase of certain development rights; defining certain terms; and
28 generally relating to the Prince George’s County Agricultural Preservation
29 Easement Program in the Maryland–National Capital Park and Planning
30 Commission.

31 BY adding to
32 Article 28 – Maryland–National Capital Park and Planning Commission
33 Section 5–501 through 5–507 to be under the new subtitle “Subtitle 5. Prince
34 George’s County Agricultural Preservation Easement Program”
35 Annotated Code of Maryland
36 (2003 Replacement Volume and 2007 Supplement)

37 BY repealing and reenacting, with amendments,
38 Article 28 – Maryland–National Capital Park and Planning Commission
39 Section 8–101
40 Annotated Code of Maryland
41 (2003 Replacement Volume and 2007 Supplement)

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

44 **Article 28 – Maryland–National Capital Park and Planning Commission**

45 **SUBTITLE 5. PRINCE GEORGE’S COUNTY AGRICULTURAL PRESERVATION**
46 **EASEMENT PROGRAM.**

47 **5–501.**

48 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS
49 INDICATED.

50 (B) “AGRICULTURAL PROPERTY” MEANS A PROPERTY THAT IS USED
51 FOR:

52 (1) **AGRICULTURE, VITICULTURE, AQUACULTURE,**
53 **SILVICULTURE, HORTICULTURE, OR LIVESTOCK AND EQUINE ACTIVITIES;**

54 (2) **TEMPORARY OR SEASONAL OUTDOOR ACTIVITIES THAT DO**
55 **NOT PERMANENTLY ALTER THE PROPERTY’S PHYSICAL APPEARANCE AND THAT**
56 **DO NOT DIMINISH THE PROPERTY’S RURAL CHARACTER; AND**

57 (3) **ACTIVITIES THAT ARE INTRINSICALLY RELATED TO THE**
58 **ONGOING AGRICULTURAL ENTERPRISE ON THE PROPERTY.**

59 (C) **“BOARD” MEANS THE PRINCE GEORGE’S COUNTY PLANNING**
60 **BOARD OF THE COMMISSION.**

61 (D) **“FUND” MEANS THE PRINCE GEORGE’S COUNTY AGRICULTURAL**
62 **PRESERVATION EASEMENT FUND.**

63 (E) **“PRESERVATION” MEANS THE LIMITATION OF THE USE OF**
64 **AGRICULTURAL PROPERTY TO THOSE USES CONSISTENT WITH, AND NOT**
65 **ADVERSELY AFFECTING:**

66 (1) **THE AGRICULTURAL CHARACTER OF THE PROPERTY;**

67 (2) **THE SCENIC VALUES ENJOYED BY THE GENERAL PUBLIC; OR**

68 (3) **THE GOVERNMENTAL PRESERVATION POLICIES FURTHERED**
69 **BY THE EASEMENT ACQUISITION.**

70 (F) **“PROGRAM” MEANS THE PRINCE GEORGE’S COUNTY**
71 **AGRICULTURAL PRESERVATION EASEMENT PROGRAM.**

72 **5-502.**

73 **THIS SUBTITLE APPLIES ONLY IN PRINCE GEORGE’S COUNTY.**

74 **5-503.**

75 **(A) THERE IS A PRINCE GEORGE’S COUNTY AGRICULTURAL**
76 **PRESERVATION EASEMENT PROGRAM.**

77 **(B) THE PURPOSE OF THE PROGRAM IS TO:**

78 **(1) IMPLEMENT THE POLICIES OF THE PRINCE GEORGE’S**
79 **COUNTY GENERAL PLAN AND THE GREEN INFRASTRUCTURE PLAN TO**
80 **PRESERVE, PROTECT, AND ENHANCE AGRICULTURAL PROPERTIES,**
81 **PARTICULARLY THOSE AGRICULTURAL PROPERTIES IN THE RURAL TIER;**

82 **(2) PRESERVE ECOLOGICALLY FRAGILE AND AESTHETICALLY**
83 **VALUABLE ENVIRONMENTS OF THE COUNTY, INCLUDING STREAMS, STREAM**
84 **VALLEYS, FLOODPLAINS, WETLANDS, GROUNDWATER, STEEP SLOPES,**
85 **WOODLANDS, HABITATS, SCENIC VISTAS, AND SCENIC CORRIDORS;**

86 **(3) RETAIN AGRICULTURAL LAND AND AUGMENT OTHER LOCAL**
87 **AND STATE PROGRAMS CERTIFIED IN ACCORDANCE WITH THE CODE OF**
88 **MARYLAND REGULATIONS FOR THE PRESERVATION OF AGRICULTURAL LAND;**

89 **(4) RECOGNIZE THE PUBLIC VALUE IN PROTECTING**
90 **AGRICULTURE AND AGRICULTURAL VIEWSHEDS, VISTAS, AND RURAL CULTURE**
91 **AND CHARACTER AS WELL AS LONGSTANDING AGRICULTURAL ENTERPRISES;**

92 **(5) LIMIT NONAGRICULTURAL USES;**

93 **(6) CONSERVE AND PROTECT BIODIVERSITY AND WILDLIFE AND**
94 **AQUATIC HABITATS;**

95 **(7) PROMOTE INTEREST IN AND THE STUDY OF AGRICULTURE**
96 **AND AGRICULTURAL PRESERVATION; AND**

97 **(8) PROMOTE TOURISM THROUGH THE PRESERVATION OF**
98 **SCENIC RESOURCES.**

99 **5-504.**

100 (A) **SUBJECT TO SUBSECTION (B) OF THIS SECTION, THE BOARD SHALL**
101 **ADMINISTER THE PROGRAM IN CONSULTATION WITH THE PRINCE GEORGE’S**
102 **COUNTY SOIL CONSERVATION DISTRICT.**

103 (B) **(1) THE PRINCE GEORGE’S COUNTY COUNCIL MAY ENACT**
104 **ORDINANCES TO PROVIDE FOR:**

105 (I) **AGRICULTURAL PRESERVATION, OUTREACH, AND**
106 **MARKETING;**

107 (II) **MAINTENANCE OF ACTIVITIES ON AGRICULTURAL**
108 **PROPERTIES OF THE COMMISSION; AND**

109 (III) **THE PRESERVATION OF THE AGRICULTURAL INDUSTRY.**

110 (2) **THE PRINCE GEORGE’S COUNTY COUNCIL, IN**
111 **CONSULTATION WITH THE BOARD, MAY ENACT AN ORDINANCE THAT**
112 **DELEGATES SOME OR ALL OF THE POWERS AND DUTIES OF THE BOARD**
113 **RELATING TO THE PROGRAM TO THE PRINCE GEORGE’S COUNTY SOIL**
114 **CONSERVATION DISTRICT.**

115 (3) **AN ORDINANCE ENACTED UNDER PARAGRAPH (1) OF THIS**
116 **SUBSECTION MAY NOT BE INCONSISTENT WITH THE PROVISIONS OF THIS**
117 **ARTICLE.**

118 **5-505.**

119 **SUBJECT TO THE APPROVAL OF THE PRINCE GEORGE’S COUNTY**
120 **COUNCIL, AND IN CONSULTATION WITH THE PRINCE GEORGE’S COUNTY SOIL**
121 **CONSERVATION DISTRICT, THE BOARD SHALL ADOPT REGULATIONS TO CARRY**
122 **OUT THE PROVISIONS OF THIS SUBTITLE.**

123 **5-506.**

124 (A) **THERE IS A PRINCE GEORGE’S COUNTY AGRICULTURAL**
125 **PRESERVATION EASEMENT FUND.**

126 (B) **THE BOARD SHALL ADMINISTER THE FUND.**

127 **(C) THE BOARD SHALL DEPOSIT IN THE FUND THOSE FUNDS**
128 **AUTHORIZED IN ACCORDANCE WITH § 2-118 OF THIS ARTICLE TO PRESERVE,**
129 **PROTECT, AND ENHANCE AGRICULTURAL PROPERTIES AND TO IMPLEMENT THE**
130 **PROGRAM’S PURPOSES AS SET FORTH IN THIS SUBTITLE.**

131 **(D) (1) THE FUND SHALL BE USED TO PURCHASE EASEMENTS TO**
132 **IMPLEMENT THE PURPOSES OF THE PROGRAM.**

133 **(2) IN DECIDING WHICH EASEMENTS TO PURCHASE, THE BOARD**
134 **SHALL SOLICIT AND CONSIDER THE RECOMMENDATIONS OF THE PRINCE**
135 **GEORGE’S COUNTY SOIL CONSERVATION DISTRICT.**

136 **(E) (1) IN ACCORDANCE WITH THIS SUBTITLE, THE BOARD MAY**
137 **PURCHASE EASEMENTS ON AGRICULTURAL LAND THAT IS OUTSIDE THE**
138 **METROPOLITAN DISTRICT IN PRINCE GEORGE’S COUNTY, BUT THAT IS WITHIN**
139 **THE MARYLAND-WASHINGTON REGIONAL DISTRICT IN PRINCE GEORGE’S**
140 **COUNTY.**

141 **(2) TO FURTHER THE PURPOSES OF THE PROGRAM, THE BOARD**
142 **MAY EXPEND ANY CURRENT FUNDS WHICH, UNDER THE PROVISIONS OF THIS**
143 **ARTICLE, ARE AUTHORIZED TO BE USED FOR THE PURCHASE OF EASEMENTS IN**
144 **PRINCE GEORGE’S COUNTY WITHIN THE METROPOLITAN DISTRICT.**

145 **(F) WHEN AN AGRICULTURAL PRESERVATION EASEMENT IS**
146 **PURCHASED IN ACCORDANCE WITH THIS SUBTITLE, THE PROPERTY OWNER**
147 **SHALL CONVEY A PERPETUAL PRESERVATION EASEMENT TO THE BOARD AT**
148 **THE TIME OF SETTLEMENT, WHICH SHALL BE RECORDED IN THE LAND**
149 **RECORDS FOR PRINCE GEORGE’S COUNTY.**

150 **5-507.**

151 **TITLE 10, SUBTITLE 2 OF THE STATE GOVERNMENT ARTICLE DOES NOT**
152 **APPLY TO THE PROVISIONS OF THIS SUBTITLE.**

153 **8-101.**

154 (a) The County Councils of Montgomery County and Prince George’s County
155 are each individually designated, for the purposes of this article, as the district council
156 for that portion of the regional district lying within each county, respectively. Sitting
157 together, they are jointly designated, for the special purposes delineated in this article,
158 as the bi-county district council for the entire Maryland–Washington Regional
159 District. The adoption of an ordinance or resolution by the bi-county district council
160 shall be accomplished only by the affirmative votes of a majority of the total
161 membership of each district council.

162 (b) (1) In this subsection, the term “zoning classification of agricultural
163 open space” means a zoning classification in which uses are limited to those
164 permissible in the agricultural open space portion of an agricultural preservation
165 development under § 27–445.01 of the Prince George’s County Code (1991 Edition, as
166 amended).

167 (2) Except as otherwise provided in §§ 8–126 and 8–127 of this
168 subtitle, each district council, respectively, in accordance with the conditions and
169 procedures specified in this article, may by ordinance adopt and amend the text of the
170 zoning ordinance and may by resolution or ordinance adopt and amend the map or
171 maps accompanying the zoning ordinance text to regulate, in the portion of the
172 regional district lying within its county, (i) the location, height, bulk, and size of
173 buildings, other structures, and units therein, building lines, minimum frontages,
174 depths and areas of lots, and percentages of lots which may be occupied; (ii) the size of
175 lots, yards, courts, and other open spaces; (iii) the erection of temporary stands and
176 structures; (iv) the density and distribution of population; (v) the location and uses of
177 buildings and structures and units therein for trade, industry, residence, recreation,
178 agriculture, public activities, and other purposes; and (vi) the uses of land, including
179 surface, subsurface, and air rights therein, for building, trade, industry, residence,
180 recreation, agriculture, forestry, or other purposes.

181 (3) (I) The powers granted by this subsection include the power to
182 establish a program for the transfer of development rights.

183 (II) **THE COUNTY COUNCIL FOR PRINCE GEORGE’S**
184 **COUNTY, SITTING AS A DISTRICT COUNCIL, MAY, BY ORDINANCE, CREATE A**
185 **PROGRAM FOR THE PURCHASE OF DEVELOPMENT RIGHTS UNDER TITLE 5,**
186 **SUBTITLE 5 OF THIS ARTICLE.**

187 (4) No regulation may prohibit the use of any land by the owner of
188 such land or the holder of any easement or right therein or the owner's or holder's
189 tenant for farming, other agricultural uses exclusively, or within Prince George's
190 County, for the purposes of storing natural or artificial gas at a level below 500 feet
191 from the surface of the earth.

192 (5) The County Council for Montgomery County, sitting as a district
193 council, may not receive an application for a zoning map amendment upon the same
194 land which has been the subject of a previous zoning application for map amendment
195 filed after June 1, 1965, for the same zoning classification upon which there was a
196 decision on the merits unless 36 months have expired since the filing of the application
197 for the previous zoning map amendment upon which there was a decision on the
198 merits. Further, an application for a zoning map amendment filed with the County
199 Council for Montgomery County, sitting as a district council, shall set forth the names
200 of all persons having a substantial interest in the subject property of the application,
201 such substantial interest to include all those persons with a share in such property
202 amounting to five percent or more whether held in an individual or corporate capacity
203 of the full cash value of such property exclusive of all mortgages, deeds of trust, liens
204 and encumbrances. It shall also set forth the names of all contract purchasers and all
205 those persons holding a mortgage, a deed of trust, or an option to purchase the
206 property. However, the foregoing time limitation and name requirement do not apply
207 to applications filed by the district council or by the Commission.

208 (c) In order to protect the historical, archeological, architectural or cultural
209 heritage of areas in Montgomery and Prince George's Counties comprising the regional
210 district and to preserve and enhance the quality of life in the community, in addition
211 to any power or authority of the district councils to regulate by ordinance, planning,
212 zoning or subdivision, each district council may provide by ordinance regulations for
213 the protection, preservation and enhancement of sites, structures with their
214 appurtenances and environmental settings, or districts of historical, archeological,
215 architectural or cultural value designated on the adopted and approved general plan.
216 The enactment and application of these regulations shall be reasonable and
217 appropriate to the purpose of this section and are limited to the protection,
218 preservation and enhancement of the exterior of the sites, structures or districts, and,
219 if such action constitutes a taking of private property, provision shall be made for just
220 compensation.

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221 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
222 October 1, 2008.