

BY: Senator Montgomery

(To be offered in the Montgomery County Senate Delegation)

AMENDMENTS TO HOUSE BILL 722

(First Reading File Bill)

AMENDMENT NO. 1

On page 1, in line 5, strike "providing that" and substitute "authorizing a certain person to bring an action in a court of competent jurisdiction to challenge"; and in line 6, strike "in Montgomery County are unenforceable" and substitute "as unenforceable to a certain extent under certain circumstances; providing for a certain rebuttable presumption; providing that Montgomery County shall have standing to intervene in a certain case".

AMENDMENT NO. 2

On page 2, after line 8, insert~~strike in their entirety lines 6 through 8, inclusive,~~ and substitute:

"(54) "EXISTING USE" MEANS ANY LAWFUL AGRICULTURAL ACTIVITY OR AGRICULTURAL STRUCTURE USE WHICH WAS INSTITUTED ON PROPERTY RECLASSIFIED AS AGRICULTURAL PROPERTY BEFORE THE RECLASSIFICATION."

in line 9, strike "(5)" and substitute "(6)"; in line 13, after "(B)" insert "(1)"; after line 13, insert:

"(2) ——— THIS SECTION APPLIES ONLY TO RECORDED COVENANTS AND RESTRICTIONS THAT ARE RECORDED IN THE LAND RECORDS OF MONTGOMERY COUNTY ON OR AFTER JUNE 1, 2012."

~~(3) THIS SECTION DOES NOT APPLY TO COVENANTS, RESTRICTIONS, CONDITIONS, OR CONSERVATION EASEMENTS FOR THE BENEFIT OF OR HELD BY ANY STATE OR LOCAL GOVERNMENTAL AGENCY OR PROGRAM, OR HELD BY A QUALIFIED PRIVATE LAND TRUST, FOR THE PURPOSE OF CONSERVING NATURAL RESOURCES OR AGRICULTURAL LAND IN ACCORDANCE WITH PURSUANT TO § 2-118 OF THIS ARTICLE, INCLUDING:~~

(I) THE MARYLAND ENVIRONMENTAL TRUST;

(II) THE MARYLAND DEPARTMENT OF NATURAL RESOURCES;

(III) THE MARYLAND AGRICULTURAL LAND PRESERVATION FOUNDATION; AND

(IV) FOREST CONSERVATION PROGRAMS IMPLEMENTED THROUGH THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION.”;

in lines 14 and 18, in each instance, strike “ANY” and substitute “A PERSON THAT HAS STANDING MAY BRING AN ACTION IN A COURT OF COMPETENT JURISDICTION TO CHALLENGE ANY”; in line 17, strike “IS UNENFORCEABLE” and substitute “AS UNENFORCEABLE TO THE EXTENT THAT THE PROVISION IS INCONSISTENT WITH THE CLASSIFICATION OF AGRICULTURAL PROPERTY AND CONTRARY TO PUBLIC POLICY” ; in line 20, strike “ACTIVITY IS UNENFORCEABLE” and substitute “ACTIVITY, AS UNENFORCEABLE”; in the same line, strike “IT” and substitute “THE PROVISION:

(I)”;

in line 22, after "PROPERTY" and insert ";

(II) IS INCONSISTENT WITH THE CLASSIFICATION OF
AGRICULTURAL PROPERTY; AND

(III) IS CONTRARY TO PUBLIC POLICY";

after line 22, insert:

"(3) FOR AGRICULTURAL PROPERTY WITH AN EXISTING USE THAT
IS CONSISTENT WITH AGRICULTURAL ACTIVITY, THERE SHALL BE A
REBUTTABLE PRESUMPTION THAT THE RECORDED COVENANTS AND
RESTRICTIONS THAT LIMIT AN EXISTING USE ARE:

(I) INCONSISTENT WITH THE CLASSIFICATION AS
AGRICULTURAL PROPERTY; AND

(II) CONTRARY TO PUBLIC POLICY.

(4) MONTGOMERY COUNTY SHALL HAVE STANDING TO
INTERVENE IN A CASE WHERE A PROVISION OF RECORDED COVENANTS AND
RESTRICTIONS IS CHALLENGED UNDER THIS SECTION.";

in line 23, strike "LIMIT" and substitute "RENDER"; and in line 24, after
"REGULATIONS" insert "UNENFORCEABLE"; and strike in their entirety lines 25
through 28, inclusive and substitute:

"SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be
construed to apply only prospectively and may not be applied or interpreted to have
any effect on or application to any recorded covenants and restrictions that are

(Over)

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recorded in the land records of Montgomery County before the effective date of this Act."