

Introduced Feb 4, 2013  
Public Hearing Feb 19, 2013  
Council Action March 4, 2013  
Executive Action March 5, 2013  
Effective Date May 5, 2013

**County Council Of Howard County, Maryland**

2013 Legislative Session

Legislative Day No. 2

Bill No. 7 -2013

Introduced by: The Chairperson at the request of the County Executive

AN ACT providing that historic outbuildings are eligible property for purposes of the Historic Tax Credit Program; providing that work performed by an architect or historic preservation consultant is a qualified expense; making certain technical corrections; and generally related to Howard County tax credits.

Introduced and read first time February 4, 2013. Ordered posted and hearing scheduled.

By order Stephen LeGendre  
Stephen LeGendre, Administrator

Having been posted and notice of time & place of hearing & title of Bill having been published according to Charter, the Bill was read for a second time at a public hearing on February 19, 2013.

By order Stephen LeGendre  
Stephen LeGendre, Administrator

This Bill was read the third time on March 4, 2013 and Passed , Passed with amendments , Failed .

By order Stephen LeGendre  
Stephen LeGendre, Administrator

Sealed with the County Seal and presented to the County Executive for approval this 5<sup>th</sup> day of March, 2013 at 3:00 a.m./p.m.

By order Stephen LeGendre  
Stephen LeGendre, Administrator

Approved by the County Executive March 5, 2013  
Ken Ulman  
Ken Ulman, County Executive

NOTE: [[text in brackets]] indicates deletions from existing law; TEXT IN SMALL CAPITALS indicates additions to existing law; Strike-out indicates material deleted by amendment; Underlining indicates material added by amendment.

1 **Section 1. Be It Enacted** by the County Council of Howard County, Maryland, that the  
2 Howard County Code is amended as follows:

3 By amending:

4 Title 20. Taxes, charges and fees.

5 Subtitle 1. Real property tax; administration, credits, and enforcement.

6 Part II. Statewide tax credits.

7 Section 20.112(b). Historically valuable, architecturally valuable, or  
8 architecturally compatible structures.

9

10 **Title 20. Taxes, charges and fees.**

11 **Subtitle 1. Real property tax; administration, credits, and enforcement.**

12 **Part II. Statewide tax credits**

13

14 **Section 20.112. Historically valuable, architecturally valuable, or architecturally**  
15 **compatible structures.**

16 (b) *Definitions.* In this section the following terms have the meanings indicated:

17 (1) *Certificate of eligibility* means the order issued by the Commission to the  
18 owner of an eligible property, which authorizes the Department of Finance  
19 to apply a historic tax credit to the eligible property.

20 (2) *Commission* means the Historic District Commission created under  
21 sections 6.324 and 16.604 of the County Code.

22 (3) *Eligible property* means:

23 (i) A structure that is listed on the Howard County Historic Sites  
24 Survey and is designated by the Commission as historically  
25 significant;

26 (ii) A structure eligible for inclusion in the Howard County Historic  
27 Sites Survey, which is added to the survey prior to the final  
28 approval of a certificate of eligibility;

29 (iii) An existing principal structure OR HISTORIC OUTBUILDING located  
30 within a local historic district in Howard County, which is  
31 determined by the Commission to be of historic or architectural

1 significance, or to be architecturally compatible with the historic  
2 structures in the district; or  
3 (iv) A cemetery, at least 50 years old, not operated as a business, which  
4 is listed on the Howard County Cemetery Inventory under section  
5 16.1303 of the County Code.

6 (4) *Eligible work* means:

7 (i) Work done on an eligible property:

- 8 a. In compliance with the rules adopted by the Commission  
9 under subsection 16.606[[d]](E) of the County Code;
- 10 b. After the owner receives initial approval of an application  
11 for a certificate of eligibility; and
- 12 c. In conformity with the application for which initial  
13 approval was given.

14 (ii) Eligible work includes:

- 15 a. The repair or replacement of exterior features of the  
16 structure;
- 17 b. Work that is necessary to maintain the physical integrity of  
18 the structure with regard to safety, durability, or  
19 weatherproofing;
- 20 c. Maintenance of the exterior of the structure, including  
21 routine maintenance as defined in section 16.601 of the  
22 County Code; and
- 23 d. Repair or maintenance of existing gravestones, walls,  
24 fencing, or other site features of an eligible property that is  
25 a historic cemetery.

26 (iii) Eligible work does not include:

- 27 a. New construction;
- 28 b. Interior finish work that is not necessary to maintain the  
29 structural integrity of the building; or
- 30 c. Landscape maintenance or new landscape plantings.

31 (5) *Qualified expenses*:

- 1           (i)     The amount of money paid by the owner of an eligible property to
- 2                     a licensed [[contractor]] CONTRACTOR, ARCHITECT, OR HISTORIC
- 3                     PRESERVATION CONSULTANT for eligible work, or for materials
- 4                     used to do eligible work.
- 5           (ii)     In order to be eligible for a tax credit under this section, qualified
- 6                     expenses must be \$500.00 or greater.
- 7       (6)     *Routine maintenance.* Work that qualifies as routine maintenance under
- 8                     section 16.601 of the County Code.

9

10   ***Section 2. And Be It Further Enacted by the County Council of Howard County,***

11   ***Maryland, that this Act shall be applicable to all taxable years beginning after June 30, 1***

12   ***2013.***

13

14   ***Section 3. And Be It Further Enacted by the County Council of Howard County,***

15   ***Maryland, that this Act shall become effective 61 days after its enactment.***

BY THE COUNCIL

This Bill, having been approved by the Executive and returned to the Council, stands enacted on March 5, 2013.

Stephen M. LeGendre  
Stephen M. LeGendre, Administrator to the County Council

BY THE COUNCIL

This Bill, having been passed by the yeas and nays of two-thirds of the members of the Council notwithstanding the objections of the Executive, stands enacted on \_\_\_\_\_, 2013.

\_\_\_\_\_  
Stephen M. LeGendre, Administrator to the County Council

BY THE COUNCIL

This Bill, having received neither the approval nor the disapproval of the Executive within ten days of its presentation, stands enacted on \_\_\_\_\_, 2013.

\_\_\_\_\_  
Stephen M. LeGendre, Administrator to the County Council

BY THE COUNCIL

This Bill, not having been considered on final reading within the time required by Charter, stands failed for want of consideration on \_\_\_\_\_, 2013.

\_\_\_\_\_  
Stephen M. LeGendre, Administrator to the County Council

BY THE COUNCIL

This Bill, having been disapproved by the Executive and having failed on passage upon consideration by the Council stands failed on \_\_\_\_\_, 2013.

\_\_\_\_\_  
Stephen M. LeGendre, Administrator to the County Council

BY THE COUNCIL

This Bill, the withdrawal of which received a vote of two-thirds (2/3) of the members of the Council, is withdrawn from further consideration on \_\_\_\_\_, 2013.

\_\_\_\_\_  
Stephen M. LeGendre, Administrator to the County Council



**Amendment 1 to Council Bill No. 9-2013**

**BY: Jennifer Terrasa**

**Legislative Day No. 3  
Date: March 4, 2013**

**Amendment No. 1**

*(This amendment removes the reservation of development rights.)*

1 In the title, strike “authorizing the County, under certain conditions, to transfer purchased  
2 development rights for a certain purpose; requiring the Department of Planning and Zoning to  
3 establish a process for such transfers;”.

4

5 On page 2, strike lines 5 through 31, inclusive, and in their entirety.

6

7 On page 7, in line 23, strike “EITHER” and strike “[by] OR ACQUIRED BY THE COUNTY  
8 THROUGH” and substitute “BY”.

ADOPTED March 4, 2013  
FAILED \_\_\_\_\_  
SIGNATURE Stephen M. Gendron





Introduced \_\_\_\_\_  
Public Hearing \_\_\_\_\_  
Council Action \_\_\_\_\_  
Executive Action \_\_\_\_\_  
Effective Date \_\_\_\_\_

## County Council Of Howard County, Maryland

2013 Legislative Session

Legislative Day No. 2

Bill No. 9-2013

Introduced by: The Chairperson at the request of the County Executive

AN ACT revising the criteria used to determine whether property is eligible for the County Agricultural Land Preservation Program; revising the process by which development rights are purchased under the Program; authorizing the County, under certain conditions, to transfer purchased development rights for a certain purpose; requiring the Department of Planning and Zoning to establish a process for such transfers; and generally relating to the County Agricultural Land Preservation Program.

Introduced and read first time \_\_\_\_\_, 2013. Ordered posted and hearing scheduled.

By order \_\_\_\_\_  
Stephen LeGendre, Administrator

Having been posted and notice of time & place of hearing & title of Bill having been published according to Charter, the Bill was read for a second time at a public hearing on \_\_\_\_\_, 2013.

By order \_\_\_\_\_  
Stephen LeGendre, Administrator

This Bill was read the third time on \_\_\_\_\_, 2013 and Passed \_\_\_\_, Passed with amendments \_\_\_\_\_, Failed \_\_\_\_\_.

By order \_\_\_\_\_  
Stephen LeGendre, Administrator

Sealed with the County Seal and presented to the County Executive for approval this \_\_\_ day of \_\_\_\_\_, 2013 at \_\_\_ a.m./p.m.

By order \_\_\_\_\_  
Stephen LeGendre, Administrator

Approved/Vetoed by the County Executive \_\_\_\_\_, 2013

\_\_\_\_\_  
Ken Ulman, County Executive

NOTE: [[text in brackets]] indicates deletions from existing law; TEXT IN SMALL CAPITALS indicates additions to existing law; Strike-out indicates material deleted by amendment; Underlining indicates material added by amendment.

1 **Section 1. Be It Enacted** by the County Council of Howard County, Maryland, that the Howard  
2 County Code is amended as follows:

3  
4 By amending:

- 5 1. Title 15 – Natural Resources  
6 Section 15.505 “Administration”
- 7  
8 2. Title 15 – Natural Resources  
9 Section 15.506 “Eligibility criteria”
- 10  
11 3. Title 15 – Natural Resources  
12 Section 15.507 “Process for buying easements”
- 13  
14 4. Title 15 – Natural Resources  
15 Section 15.507A(c) “Alternative process for the purchase of easements”
- 16  
17 5. Title 15 – Natural Resources  
18 Section 15.514(a) “Rights”

19  
20 **Title 15. Natural Resources.**

21 **Subtitle 5. Agricultural Land Preservation.**

22  
23 **Section 15.505. Administration.**

24 (a) *Procedures.* The Board may develop procedures for the review of parcels offering  
25 development rights to the County, the rating of desirability, the pricing of an agricultural land  
26 preservation easement, and the functioning of the agricultural land preservation program and  
27 other related matters.

28 (b) *Purchase Price Formula.* There is a purchase price formula for determining the price the  
29 County will pay per acre to purchase an agricultural land preservation easement. The formula  
30 shall be set by resolution of the County Council.

1 (c) *Maps and Records*. The official maps of parcels subject to an agricultural land preservation  
2 easement are the 1 inch = 600 feet zoning maps. The Administrator is responsible for seeing that  
3 these maps are updated on a regular basis to reflect the addition of new parcels and the  
4 amendment of existing parcels.

5 (D) *RESERVATION OF DEVELOPMENT RIGHTS*. NOTWITHSTANDING ANY PROVISION TO THE  
6 CONTRARY IN THE ACT, THE DEVELOPMENT RIGHTS ON ELIGIBLE LAND PURCHASED BY THE  
7 COUNTY PURSUANT TO SUBSECTION 15.503(A) OF THIS SUBTITLE AFTER MARCH 5, 2013 MAY BE  
8 RETAINED BY THE COUNTY AND THE COUNTY MAY TRANSFER THE DEVELOPMENT RIGHTS AS  
9 FOLLOWS:

- 10 (1) THE AGRICULTURAL LAND PRESERVATION EASEMENT ON THE PROPERTY SHALL  
11 SPECIFY THE NUMBER OF DEVELOPMENT RIGHTS PURCHASED BY THE COUNTY  
12 COMPUTED AT THE RATE OF ONE DEVELOPMENT RIGHT PER THREE GROSS ACRES.
- 13 (2) DIRECTOR OF THE DEPARTMENT OF PLANNING AND ZONING SHALL KEEP A  
14 CURRENT INVENTORY OF THE DEVELOPMENT RIGHTS ACQUIRED BY THE COUNTY.
- 15 (3) THE COUNTY MAY ONLY SELL AND TRANSFER DEVELOPMENT RIGHTS TO A  
16 PURCHASER WHO SHALL USE THE DEVELOPMENT RIGHTS TO DEVELOP PROPERTY IN  
17 THE RR ZONING DISTRICT PURSUANT TO SECTION 106 OF THE HOWARD COUNTY  
18 ZONING REGULATIONS.
- 19 (4) THE DEPARTMENT OF PLANNING AND ZONING SHALL ESTABLISH A PROCESS TO  
20 TRANSFER DEVELOPMENT RIGHTS WHICH SHALL:
  - 21 (I) PROVIDE AT LEAST 30 DAYS' NOTICE OF THE SALE OF THE DEVELOPMENT  
22 RIGHTS; AND
  - 23 (II) TRANSFER THE DEVELOPMENT RIGHTS BY FORMAL, WRITTEN CONTRACT TO  
24 THE HIGHEST RESPONSIBLE BIDDER; AND
  - 25 (III) RECORD THE TRANSFER IN THE LAND RECORDS FOR HOWARD COUNTY.
- 26 (5) THE TRANSFER OF DEVELOPMENT RIGHTS UNDER THIS SUBSECTION SHALL NOT BE  
27 CONSIDERED A DISPOSAL OF REAL PROPERTY PURSUANT TO SECTION 4.201 OF THIS  
28 CODE.
- 29 (6) IN THE EVENT THE COUNTY ELECTS TO EXTINGUISH THE DEVELOPMENT RIGHTS,  
30 THEN THE AGRICULTURAL LAND PRESERVATION EASEMENT ON THE PROPERTY  
31 SHALL STATE THE DEVELOPMENT RIGHTS ARE EXTINGUISHED BY THE COUNTY.

1  
2 **Section 15.506. Eligibility criteria.**

3 (a) *Buying Easements.* Howard County may buy the development rights on a parcel provided  
4 that the purchase is consistent with the intentions and policies of the general plan and the parcel  
5 meets each of the criteria listed below:

- 6 (1) *Developable.* The parcel shall be capable of being further developed to a greater  
7 residential density than presently exists or for nonagricultural uses. To meet this  
8 criteria, the parcel shall:
- 9 (i) Be in a zoning district which permits development to a higher residential  
10 density than presently exists; and
  - 11 (ii) Be capable of being subdivided or developed for nonagricultural uses by  
12 right.
- 13 (2) *Size.* The parcel [[shall meet one of the following size criteria:]] CONTAINS AT  
14 LEAST 20 CONTIGUOUS ACRES.
- 15 [(i) It is a parcel of at least 50 contiguous acres;
  - 16 (ii) It is a parcel of at least 20 acres and is contiguous to real property that is:
    - 17 a. Subject to an agricultural land preservation easement owned by  
18 Howard County or the Maryland Agricultural Land Preservation  
19 Foundation;
    - 20 b. Subject to a preservation or conservation easement owned by the  
21 Maryland Environmental trust or a local land trust;
    - 22 c. Owned by the Howard County Board of Education or the  
23 Washington Suburban Sanitary Commission;
    - 24 d. Owned by the State of Maryland or Howard County and used as a  
25 public park; or
    - 26 e. Subject to a preservation parcel easement, as defined in title 16 of  
27 the Howard County Code; or
  - 28 (iii) It is one of several contiguous parcels (at least 20 acres each) with a total  
29 acreage of at least 50 acres, for which an application to sell the  
30 development rights is submitted by each landowner and each landowner  
31 agrees that the County's acquisition of an easement on each parcel is

1. contingent upon the acquisition of easements on all of the other  
2. contiguous parcels. ]]

3. (3) *Soils.* The parcel shall meet the following soils criteria:

4. (i) More than 50 percent of the parcel shall be U.S. Department of  
5. Agriculture capability Class I, II and III soils, and more than 66 percent of  
6. the parcel shall be Class I through IV soils; and

7. (ii) The parcel shall have:

8. a. A complete soil conservation and water quality plan approved by  
9. the local soil conservation district; and

10. b. Verification by the local soil conservation district that the plan  
11. reflects current conditions and activities on the land.

12. (b) *Dedicated Acquisitions.* The criteria for the acceptance of development rights on a  
13. preservation parcel are that the parcel, if farmed, have a complete soil conservation and water  
14. quality plan approved by the local soil conservation district and verification that the plan reflects  
15. current conditions and activities on the land.

16. (c) *Donated Acquisitions:*

17. (1) The criteria for the acceptance of donated development rights on any parcel are  
18. that the parcel:

19. (i) If farmed, have a complete soil conservation and water quality plan  
20. approved by the local soil conservation district and verification that the  
21. plan reflects current conditions and activities on the land.

22. (ii) The parcel shall be capable of being further developed to a greater  
23. residential density than presently exists or for nonagricultural uses. To  
24. meet this criteria, the parcel shall:

25. a. Be in a zoning district which permits development to a higher  
26. residential density than presently exists; and

27. b. Be capable of being subdivided or developed for nonagricultural  
28. uses by right.

29. (2) Notwithstanding paragraph (1) of this subsection, an easement on real property  
30. may be donated to the County if the real property was released from an  
31. agricultural land preservation easement:

- (i) To create a lot under section 15.514 of this subtitle; or
- (ii) For a public interest use under section 15.516 of this subtitle.

**Section 15.507. Process for buying easements.**

This process applies only to buying easements and does not apply to donated easements or to easements acquired by dedication of a preservation parcel.

[[a) *Batching*. The Board will consider applications to sell development rights in batches, based on the number of anticipated applications and on available funds. The Board shall establish the maximum amount to be spent on easement purchases for each batch. The Board shall advertise when it will accept applications for a given batch and when the application period will end.]]

[[b]]A) *Applications*. An application to sell the development rights shall be submitted to the Administrator by the landowner. The application shall be in a form approved by the Department, shall contain the information required and shall be accompanied by a nonrefundable application fee, the amount of which is set by resolution of the County Council.

[[c]]B) *Number of Applications*. A landowner may submit an application for each parcel or may submit a single application as part of a package for multiple contiguous parcels.

[[d]]C) *Review by Administrator*:

- (1) The Administrator shall review each application to determine if all eligibility criteria for acquiring an easement are met.
- (2) If the eligibility criteria are met, the Administrator shall evaluate the parcel, considering geographic location, productivity, soil characteristics, accessibility, size, developability, contiguity to other land on which the County holds easements, restrictions and covenants on the land, comments from other County departments, and any other information which may assist the Board in evaluating the desirability of the property.
- (3) The Administrator shall prepare a detailed report on the parcel and the pricing formula score and shall submit the report, the application and the Administrator's evaluation and recommendation to the Board for its consideration.
- (4) If the eligibility criteria are not met, the Administrator shall reject the application and shall notify the landowner of the rejection and the reason(s) for rejection. The

1 landowner may request the Board to review the Administrator's  
2 [[design]]DECISION to reject the application.

3 ([[e]]D) *Review by Board:*

- 4 (1) The Board [[shall]]MAY review the application, the Administrator's report and  
5 recommendation and [[shall]]MAY make an on-site inspection of the parcel.  
6 (2) The Board shall hold a public [[hearing]]MEETING to receive comments from the  
7 public as to whether the parcel offered is acceptable and desirable.  
8 (3) [[After the public hearing, the Board shall vote whether or not to continue  
9 considering acquisition of the easement. An affirmative vote of at least five  
10 members is required before continuing to consider acquisition of the development  
11 rights.  
12 (4)]] After THE PUBLIC MEETING, [[voting to continue considering acquisition of the  
13 development rights on a parcel]] the Board shall determine the price to be offered  
14 according to the pricing formula AND MAY PROVIDE ANY RECOMMENDATIONS TO  
15 THE COUNTY EXECUTIVE CONCERNING THE ACQUISITION [[and shall add optional  
16 points, if any, according to the pricing formula]].

17 [[(f) Prioritization. After completing all the steps listed in subsection (e) above for all parcels in  
18 the batch, the Board shall rank the applications under consideration in order of their total point  
19 scores, from highest to lowest. ]]

20 ([[g]]E) *Purchase:*

- 21 (1) *Offers to landowners.* After determining the price to be paid per acre, based on the  
22 pricing formula, the Board shall make an offering proposal to the landowner to  
23 purchase the development rights[[, beginning with the property with the highest  
24 point score and proceeding in order of rank to the property with the lowest point  
25 score, until the funds available for the batch have been committed]]. AN OFFER  
26 MADE UNDER THIS SECTION IS SUBJECT TO THE AVAILABILITY OF ADEQUATE  
27 BORROWING AUTHORITY.  
28 (2) *Recommendation to County Executive.* If the landowner agrees to the price, terms  
29 and conditions of the offering proposal, the Board shall advise the County  
30 Executive of the agreement in a written notification briefly describing the  
31 property and the price, terms and conditions agreed upon.

1 (3) *Action by County Executive.* The County Executive may not modify the agreed  
2 upon price, terms and conditions, and may only approve or disapprove the  
3 purchase as proposed.

4 (4) *Installment purchase; multiyear agreement.* If the County is to pay the price in  
5 installments, County Council approval of a multiyear agreement is required,  
6 pursuant to section 612 of the Howard County Charter.

7 [[(5) *Deferment to next batch.* If the total amount of money available for the batch has  
8 been committed for the purchase of development rights and offers have not been  
9 made on all properties in the batch, the Board may recommend that some or all of  
10 the remaining applications in the batch be considered with the next batch.]]

11  
12 **Section 15.507A. Alternate process for the purchase of easements.**

13 (c) *Notification to Potential Participants; [[Processing:]]*

14 [[(1)]] The Administrator may advertise the requirements for participation in the  
15 program or may notify potential Applicants through any means authorized under  
16 the program from which the funds originate.

17 [[(2) The purchase of an agricultural land preservation easement may be processed  
18 individually, and need not be considered in a batch, as provided in subsection  
19 15.507(a) of this subtitle.]]

20  
21 **Section 15.514. Rights.**

22 (a) *General.* The landowner retains all rights of a fee simple owner, except for the development  
23 rights which are EITHER extinguished [[by]] OR ACQUIRED BY THE COUNTY THROUGH the  
24 easement and the restrictions and conditions imposed in the deed of easement pursuant to this  
25 subtitle. The agricultural land preservation easement IS PERPETUAL AND does not grant the public  
26 any rights of access or rights to the use of the land.

27  
28 **Section 2. And Be It Further Enacted by the County Council of Howard County, Maryland,**  
29 *that provisions of this Act shall apply to any application for development rights filed on or after*  
30 *March 5, 2013.*



- 1 **Section 3. And Be It Further Enacted by the County Council of Howard County, Maryland,**
- 2 *that this Act shall become effective 61 days after its enactment.*

