

Maryland Rural Legacy Program

Md. Code Ann., Nat. Res. §§ 5-9A-01 to 5-9A-09

Current as of December 2024

§5-9A-01.

(a) The General Assembly declares that:

(1) Sprawl development and other modifications to the landscape in Maryland continue at an alarming rate, consuming land rich in natural resource, agricultural, and forestry value, adversely affecting water quality, wetlands and habitat, threatening resource-based economies and cultural assets, and rending the fabric of rural life;

(2) Current State, county, and local land conservation programs help to limit the effect of sprawl development but lack sufficient funding and focus to preserve key areas before escalating land values make their protection impossible or the land is lost to development; and

(3) A grant program that leverages available funding, focuses on preservation of strategic resources, including those resources threatened by sprawl development, streamlines real property acquisition procedures to expedite land preservation, takes advantage of innovative preservation techniques such as transferable development rights and the purchase of development rights, and promotes a greater level of natural and environmental resources protection than is provided by existing efforts, will establish a rural legacy for future generations.

(b)(1) A Rural Legacy Program is established to enhance natural resource, agricultural, forestry, and environmental protection as provided in subsection (a) of this section while maintaining the viability of resource-based land usage and proper management of tillable and wooded areas through accepted agricultural and silvicultural practices for farm production and timber harvests.

(2) The Program provides funds to the local governments and land trusts to purchase interests in real property from willing sellers, including easements, transferable development rights, and fee estates, focused in designated Rural Legacy Areas.

(3) The Program shall encourage partnerships among the federal, State, and local governments, and nonprofit land trust organizations and encourage local land conservation initiatives.

(4) The Program is administered by a Rural Legacy Board in the Department of Natural Resources, an advisory committee, and existing State staff.

(c) The Program is funded:

(1) Pursuant to § 13-209 of the Tax – Property Article and § 5-903(a)(2)(iii) of this title;

(2) By the proceeds from the sale of general obligation bonds as provided in § 5-9A-09 of this subtitle; and

(3) By money appropriated in the State budget to the Program.

(d) For fiscal year 2024, the Governor shall include in the annual budget bill an appropriation of \$5,444,127 to the Program.

(e) When negotiating and awarding grants, the Board shall encourage sponsors to utilize zero coupon bonds in the implementation of the Rural Legacy Plan in order to reduce the utilization of general obligation bonds in funding the grants.

§5-9A-02.

- (a) In this subtitle the following words have the meanings indicated.
- (b) "Application" means an application to the Rural Legacy Board to designate a Rural Legacy Area.
- (c) "Board" means the Rural Legacy Board.
- (d) "BPW" means the Maryland State Board of Public Works.
- (e) "Grant agreement" means an agreement between the Board and a sponsor to implement a Rural Legacy Plan in a designated Rural Legacy Area.
- (f) "Land trust" means a qualified conservation organization that:
 - (1) Is a qualified organization under § 170(h)(3) of the Internal Revenue Code and regulations adopted under § 170(h)(3); and
 - (2) Has executed a cooperative agreement with the Maryland Environmental Trust.
- (g) "Priority funding area" means an area designated as a priority funding area under § 5-7B-02 of the State Finance and Procurement Article.
- (h) "Program" means the Rural Legacy Program established by this subtitle.
- (i) "Rural Legacy Area" means a region within or outside a metropolitan area designated by the Board as rich in a multitude of agricultural, forestry, natural, and cultural resources.
- (j) "Rural Legacy Plan" means a plan accepted by the Board for acquisition of easements and fee interests in Rural Legacy Areas.
- (k) "Sponsor" means a local government, group of local governments, or a land trust.

§5-9A-03.

- (a) There is a Rural Legacy Board established in the Department of Natural Resources to administer the Rural Legacy Program.
- (b) The Board consists of the following members:
 - (1) The Secretary of Agriculture;
 - (2) The Secretary of Natural Resources; and
 - (3) The Secretary of the Department of Planning.
- (c) The Secretary of Natural Resources shall serve as Chairman of the Board.
- (d)(1) The Department of Natural Resources shall provide staff to the Board.
 - (2) The Department of Agriculture and the Department of Planning may provide additional staff.

§5-9A-04.

- (a) The Board has and may exercise all powers necessary to carry out the purposes of this subtitle.

(b)(1) The Board may adopt regulations to implement the purposes of this subtitle, including procedures for expediting acquisitions and purchasing and selling transferable development rights and using the proceeds related to purchasing and selling transferable development rights in accordance with this subtitle and local law.

(2) The authority granted under this subsection may not be construed to permit adoption of a regulation applicable to land that is not subject to an easement under this subtitle.

(c)(1) The Board shall establish a method for appraisal of real property interests acquired under this subtitle.

(2) Any method for appraisal established by the Board may not include a value for any resource used or reserved by the owner for private economic benefit.

(d) The Board and sponsors may enter into agreements with other governmental agencies, including the Maryland Agricultural Land Preservation Foundation and the Maryland Environmental Trust, for the purpose of establishing partnerships to carry out this Program.

§5-9A-05.

(a) A sponsor may file an application to designate a Rural Legacy Area in accordance with a schedule established by the Board. A local government may not apply for or approve an application for a Rural Legacy Area designation inside another jurisdiction's boundaries without that jurisdiction's approval.

(b)(1) The application shall describe the proposed Rural Legacy Area, include a Rural Legacy Area Plan, identify existing protected lands, state the anticipated level of initial landowner participation in the Program and the amount of the grant requested, and comply with the criteria set forth below.

(2) To qualify for additional funds appropriated above the level appropriated in fiscal year 2000 as provided for in § 12-1007(d) of the Public Safety Article, an application shall include a certification that the local jurisdiction has not adopted any local amendments to the Maryland Building Rehabilitation Code.

(c) The Board shall evaluate and compare applications in accordance with the following criteria in order to select those that best carry forward the goals and objectives of the Program set forth in § 5-9A-01 of this subtitle:

(1) The significance of the agricultural, forestry, and natural resources proposed for protection, including:

(i) The degree to which proposed fee or easement purchases will protect the location, proximity, and size of contiguous blocks of lands, green belts or greenways, or agricultural, forestry, or natural resource corridors;

(ii) The nature, size, and importance of the land area to be protected, such as farmland, forests, wetlands, wildlife habitat and plant species, vegetative buffers, or bay or waterfront access; and

(iii) The quality and public or economic value of the land;

(2) The degree of threat to the resources and character of the area proposed for preservation, as reflected by patterns and trends of development and landscape modifications in and surrounding the proposed Rural Legacy Area;

(3) The significance and extent of the cultural resources proposed for protection through fee simple purchases, including the importance of historic sites and significant archaeological areas;

(4) The economic value of the resource-based industries or services proposed for protection through land conservation, such as agriculture, forestry, recreation, and tourism;

(5) The overall quality and completeness of the Rural Legacy Plan, including:

(i) The degree to which existing planning, zoning, and growth management policies contribute to land conservation and the protection of cultural resources;

(ii) The degree to which the proposed plan is consistent with the applicable local comprehensive plan, including protection of sensitive areas and mineral resources;

(iii) How well existing or new conservation programs are coordinated with the proposed acquisition plan;

(iv) How well the plan will maximize acquisition of real property interests in contiguous blocks of land within the Rural Legacy Area while providing for protection of isolated acquisitions important to the plan;

(v) Provisions for protection of resources, such as voluntarily granted or purchased easements, fee estate purchases, or gifts of lands;

(vi) How the sponsor plans to manage, prioritize, and sequence easement and land acquisitions;

(vii) Methodology for prioritizing and valuing or appraising easements;

(viii) Proposed titleholders for easement or fee estate acquisitions; and

(ix) The quality of the proposed stewardship program for holding and monitoring of easement restrictions in perpetuity;

(6) The strength and quality of partnerships created for land conservation among federal, State, and local governments and land trusts for implementing the plan, including:

(i) Financial support;

(ii) Dedication of staff and resources; and

(iii) Commitment to and development of local land conservation policies, such as changes in zoning and use of transferable development rights;

(7) The extent to which federal or other grant programs will serve as a funding match; and

(8) A sponsor's ability to carry out the proposed Rural Legacy Plan and the goals and objectives of the Program.

(d) The Board:

(1) Shall review applications and may request additional information from a sponsor;

(2) Shall submit applications to appropriate State agencies and to the advisory committee established by this subtitle and consider any recommendations made regarding the applications; and

(3) May negotiate the terms of an application and proposed Rural Legacy Area and plan with a sponsor.

(e)(1) A sponsor shall assure adequate public participation in the development of an application and provide the Board with a summary of that participation.

(2)(i) If an application proposes a Rural Legacy Area be located within 1 mile of the boundary of a municipal corporation, the municipal corporation shall have 45 days to review and comment on the application before the application is submitted to the Board.

(ii) The sponsor shall submit to the Board with the completed application a summary of the comments from the municipal corporation.

(f)(1) A land trust shall consult with a local government prior to filing an application.

(2) The Board may not approve or amend an application without local government approval.

(g) The right of public access may not be required under a conservation easement.

(h) A land trust may not hold exclusive title to real property interests acquired under this subtitle.

(i) An easement acquired under this subtitle is perpetual and may not be extinguished or released.

(j)(1) With the approval of a landowner, funds under this Program may be used to purchase a development right as part of an easement or fee estate acquisition. A development right shall be held by the titleholder and the Board and may be sold only within the same jurisdiction pursuant to local law.

(2) In a county with a locally adopted transferable development rights program and with the approval of the county, funds under this Program may be used to purchase transferable development rights in the county in accordance with the locally adopted transferable development rights program.

(3) The right to resell the development right shall be stated in the instrument of purchase.

(4) The Rural Legacy Board shall maintain records concerning:

(i) Real property from which transferable development rights are purchased; and

(ii) Real property to which rights are resold and transferred.

(5) The county shall provide to the Board information relating to the records required in paragraph (4) of this subsection.

(6) Transferable development rights may be resold only to owners or option purchasers of real property located in priority funding areas, including municipalities, within the county in which the rights were purchased.

(7)(i) The proceeds associated with the resale of transferable development rights shall be distributed only as described in this paragraph.

(ii) Fifty percent of the proceeds shall be used by the local government in which the development using transferable development rights is located to fund capital projects in the county or municipal corporation which is receiving transferable development rights. Funds shall be distributed to the municipal corporation if the receiving area is within the corporate limits of a municipal corporation.

(iii) Fifty percent of the proceeds shall be returned to the Rural Legacy Program for use in the county in which the proceeds were generated.

(iv) Proceeds may not be used for operating expenses.

(k) All easement acquisitions must be recorded among the land records where the real property is located.

(l) State or local condemnation authority may not be used to acquire real property interests under this Program.

(m) Funds may be used for the protection of historic sites or significant archeological areas that otherwise meet the goals of this Program only if the sponsor is acquiring real property interests through a fee simple purchase.

(n) A land or mineral owner who participates in this Program may reserve mineral rights for extraction in accordance with applicable law and the terms of the easement or fee acquisition.

(o) In its determination under subsection (c) of this section, the Rural Legacy Board may not make its determination solely on the basis of whether a county has adopted a transferable development rights program authorizing Rural Legacy Board purchases and sales of transferable development rights.

(p)(1) In this subsection, "ecosystem services" includes:

- (i) Climate resilience;
- (ii) Carbon sequestration;
- (iii) The provision of wildlife habitat;
- (iv) Contributions to forest health; and
- (v) The protection or restoration of wetlands.

(2) An easement acquired under this subtitle may allow for the potential of economic return from the protection, management, maintenance, or improvement of ecosystem services provided by the property, so long as the Department determines:

(i) Those uses affirmatively increase the conservation attributes of the property beyond the requirements of the easement; and

(ii) Any credits created in accordance with this subsection are used only:

1. To mitigate offsite environmental damage in a priority funding area, as defined in § 5-7B-02 of the State Finance and Procurement Article; or

2. In a manner the Department determines to be consistent with the applicable local comprehensive plan and State and local objectives for land protection.

§5-9A-06.

(a) The Board may designate a Rural Legacy Area and accept a Rural Legacy Plan in accordance with the criteria set forth in this subtitle and the overall goals and objectives of the Program.

(b)(1) The Board may award a grant to a sponsor of a designated Rural Legacy Area in an amount determined by the Board and pursuant to the terms of a grant agreement.

(2) A portion of the grant may be used to pay for:

- (i) Administrative costs, not to exceed 3% of the grant amount; and
- (ii) Program compliance costs for monitoring easements, as stated in the grant agreement.

(3) The Board may establish time limitations on the use of grant funds.

(c)(1) The Board's actions in subsections (a) and (b) of this section are subject to approval by the Board of Public Works.

(2) BPW approval encumbers the grant funds.

(d) The Board shall encourage local governments to reflect rural legacy plans in their comprehensive land use plans as updated and revised.

§5-9A-07.

- (a) The Board and the sponsor of a designated Rural Legacy Area shall execute a grant agreement.
- (b) The sponsor shall comply with the terms of the grant agreement, carry out the Rural Legacy Plan, and adhere to regulations adopted by the Board.
- (c) If a sponsor violates any provision of the grant agreement or ceases to meet the requirements of this subtitle, the Board may exercise any remedy provided by the agreement or by law.
- (d)(1) The sponsor shall submit to the Board for approval contracts for easement or fee estate acquisitions.
 - (2) The Board may accept a contract subject to approval by the Board of Public Works.
- (e) Upon BPW approval, the State shall pay the sponsor for the acquisition.
- (f) The sponsor shall submit an annual report to the Rural Legacy Board.
- (g) The Board shall report to the Governor and, subject to § 2-1257 of the State Government Article, to the General Assembly before November 1 of each year on:
 - (1) The financial status of the Program for the preceding fiscal year, including the amount of grants encumbered and disbursed;
 - (2) The number of applications received;
 - (3) The number and location of Rural Legacy Areas designated; and
 - (4) The Program's progress in contributing to land preservation efforts.

§5-9A-08.

- (a)(1) There is an Advisory Committee to the Board in the Department of Natural Resources.
 - (2) The Committee is established to review applications for Rural Legacy Areas, make recommendations for Rural Legacy Area designations to the Board, and consider such other matters as requested by the Board.
- (b) The Committee has 11 members as follows:
 - (1) A trustee of the Maryland Agricultural Land Preservation Foundation;
 - (2) A trustee of the Maryland Environmental Trust;
 - (3) A representative of the agriculture industry;
 - (4) A representative of a nonprofit land conservation organization;
 - (5) A representative of a nonprofit environmental organization;
 - (6) A representative of the forest industry;
 - (7) A representative of a county government department of parks and recreation;
 - (8) A representative of a business organization;

(9) A private land owner;

(10) A representative of the mineral resources industry; and

(11) A representative of a municipal corporation.

(c)(1) Committee members are appointed by the Governor with the advice and consent of the Senate.

(2) The terms of members are staggered as required by the terms provided for members of the Committee on July 1, 1997.

(3) The Governor shall solicit nominees from industries and groups which are represented on the Committee.

(4) The members shall represent geographically and ethnically diverse areas.

(d)(1) The term of membership is 3 years.

(2) A person may not serve more than two consecutive terms.

(e) The Governor shall designate the chairperson of the Committee.

(f) The Department of Natural Resources, in cooperation with the Department of Agriculture and the Department of Planning, shall provide staff support for the Committee.

§5-9A-09.

The Governor shall include in the annual capital budget an amount not less than \$5 million for this Program.