

Bill No. 12-07
Concerning: Real Property -
Agricultural Zones - Disclosure
Revised: 10/2/2007 Draft No. 3
Introduced: June 12, 2007
Enacted: October 2, 2007
Executive: October 15, 2007
Effective: January 14, 2008
Sunset Date: None
Ch. 13, Laws of Mont. Co. 2007

COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

By: Council President at the request of the Ad Hoc Agricultural Policy Working Group

AN ACT to:

- (1) require sellers of real property in agricultural zones to notify potential buyers that state and county laws protect owners and operators of agricultural uses from certain lawsuits; and
- (2) generally amend the law governing real property disclosures.

By adding

Montgomery County Code
Chapter 40, Real Property
Section 40-12B

Boldface	<i>Heading or defined term.</i>
<u>Underlining</u>	<i>Added to existing law by original bill.</i>
[Single boldface brackets]	<i>Deleted from existing law by original bill.</i>
<u>Double underlining</u>	<i>Added by amendment.</i>
[[Double boldface brackets]]	<i>Deleted from existing law or the bill by amendment.</i>
* * *	<i>Existing law unaffected by bill.</i>

The County Council for Montgomery County, Maryland approves the following Act:

1 **Sec. 1. Section 40-12B is added as follows:**

2 40-12B. Real Property Sold in Agricultural Zones.

3 (a) If any real property is located in, adjoins, or confronts an area zoned
 4 agricultural, as defined in Section 59-C-9.1, the seller must disclose to each
 5 prospective buyer, before the buyer signs a contract for the sale of the
 6 property, that existing County and State law is intended to discourage owners
 7 of real property adjacent to agricultural-zoned land from filing certain lawsuits
 8 against an owner or operator of an agricultural use in those areas. The
 9 following text must be substantially included in the disclosure:

10 As required under Montgomery County Code §40-12B, you are hereby
 11 notified that the state of Maryland and Montgomery County have
 12 enacted laws that establish agriculture as the preferred use on land
 13 zoned Rural Density Transfer and as a permitted use in other
 14 agricultural zones, as defined in Section 59-C-9.1 of the County Code.
 15 The property subject to this contract is located in, adjoins, or confronts
 16 an area zoned agricultural. Residents and other occupants of property
 17 near land in agricultural zones should be prepared to accept effects of
 18 usual and customary agricultural operations, facilities, and practices,
 19 including noise, odors, dust, smoke, insects, operation of machinery,
 20 storage and disposal of manure, unusual hours of operation, and other
 21 agricultural activities.

22 Under Maryland law, an agricultural operation is not a nuisance, and a
 23 lawsuit may not be successful alleging that an agricultural operation
 24 interferes with the use or enjoyment of other property, if the agricultural
 25 operation:

26 (1) has continued for at least 1 year;

- 27 (2) complies with applicable health, environmental, zoning,
- 28 and permit requirements; and
- 29 (3) is not conducted negligently.

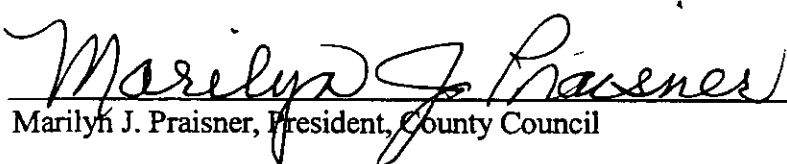
30 County law may provide additional protections for agricultural uses on
 31 agricultural-zoned land. For further information, contact the
 32 Montgomery County Department of Economic Development.

33 (b) A prospective buyer must indicate, by signing an addendum to the contract or
 34 a separate section of the contract printed in boldface type in a clearly
 35 demarcated box, that:

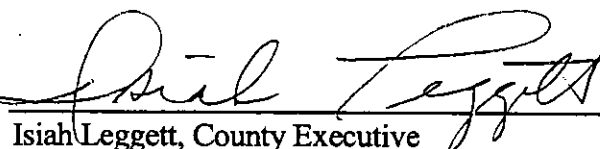
- 36 (1) the seller has provided the information required by subsection (a); and
- 37 (2) the buyer understands that:
 - 38 (A) adjacent property may be the source of agricultural-related
 - 39 nuisances; and
 - 40 (B) the buyer may obtain more information about these nuisances
 - 41 from the County Department of Economic Development.

42 **Sec. 2. Effective Date.** Section 40-12B, inserted by Section 1 of this Act
 43 takes effect on March 1, 2008.


44 *Approved:*

45 
 46 _____ 10/4/07
 47 Marilyn J. Praisner, President, County Council Date

48 *Approved:*

49 
 50 _____ 10/15/07
 51 Isiah Leggett, County Executive Date

52 *This is a correct copy of Council action.*

53 
 54 _____ 10/16/07
 55 Linda M. Lauer, Clerk of the Council Date