
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL
No. 1499 Session of
1981

INTRODUCED BY WENGER, ARMSTRONG, BRANDT, HONAMAN, PITTS, MILLER
AND E. H. SMITH, JUNE 3, 1981

REFERRED TO COMMITTEE ON AGRICULTURE AND RURAL AFFAIRS,
JUNE 3, 1981

AN ACT

1 Amending the act of January 19, 1968 (1967 P.L.992, No.442),
2 entitled "An act authorizing the Commonwealth of Pennsylvania
3 and the counties thereof to preserve, acquire or hold land
4 for open space uses," transferring functions to the
5 Department of Environmental Resources and providing for the
6 creation of agricultural preserve boards and establishing
7 their powers and duties.

8 The General Assembly of the Commonwealth of Pennsylvania
9 hereby enacts as follows:

10 Section 1. Sections 3, 4, 5, 6, 7 and 10, act of January 19,
11 1968 (1967 P.L.992, No.442), entitled "An act authorizing the
12 Commonwealth of Pennsylvania and the counties thereof to
13 preserve, acquire or hold land for open space uses," are amended
14 to read:

15 Section 3. Planning Requirements.--The Department of
16 [Forests and Waters] Environmental Resources and the Department
17 of Agriculture shall not acquire any interest in real property
18 under the provisions of this act, unless said real property has
19 been designated for open space uses in a resource, recreation,

1 or land use plan submitted to and approved by the State Planning
2 Board. A county shall not acquire any interest in real property
3 under the provisions of this act unless said real property has
4 been designated for open space uses in a resource, recreation or
5 land use plan approved by the County Planning Commission.
6 Furthermore, if the purpose of the interest to be acquired is
7 the protection and conservation of farmland, such interest shall
8 not be acquired unless said real property has also been
9 recommended for open space uses by the agricultural preserve
10 board appointed pursuant to this act.

11 Section 4. Applicability.--The Commonwealth of Pennsylvania,
12 through the Department of [Forests and Waters] Environmental
13 Resources or the Department of Agriculture, may exercise the
14 powers granted by this act only with the consent of the [county
15 commissioners] county governing body of the county in which the
16 real property is situated. All counties may exercise the powers
17 granted by this act, without limitation as to area.

18 Section 5. Acquisition of Interests in Real Property.--(a)
19 The Commonwealth of Pennsylvania, through the Department of
20 [Forests and Waters] Environmental Resources, may acquire any
21 interest in real property by purchase, contract, condemnation,
22 gift, devise or otherwise, for any of the following purposes:

23 (1) To protect and conserve water resources and watersheds;

24 (2) To protect and conserve forests and land being used to
25 produce timber crops;

26 (3) To protect an existing or planned park, forest, wildlife
27 preserve, nature reserve or other recreation or conservation
28 site by controlling the use of contiguous or nearby lands in
29 order to protect the scenic, aesthetic or watershed values of
30 the site;

1 (4) To protect and conserve natural or scenic resources,
2 including but not limited to soils, beaches, streams, flood
3 plains or marshes;

4 (5) To protect scenic areas for public visual enjoyment from
5 public rights of way;

6 (6) To preserve sites of historic, geologic or botanic
7 interest;

8 (7) To promote sound, cohesive, and efficient land
9 development by preserving open spaces between communities;

10 (8) To limit the use of the real property so as to achieve
11 open space benefits by reselling real property acquired in fee
12 simple, subject to restrictive covenants or easements limiting
13 the use thereof for the purposes specified in clauses (1)
14 through (7) hereof.

15 (b) The Commonwealth of Pennsylvania, through the Department
16 of Agriculture, may acquire any interest in real property by
17 purchase, contract, gift, or devise for any of the following
18 purposes:

19 (1) To protect and conserve farmland;

20 (2) To protect and conserve water resources and watersheds;

21 (3) To limit the use of real property so as to achieve open
22 space benefits by reselling real property acquired in fee
23 simple, subject to restrictive covenants or easements limiting
24 the use thereof for the purposes specified in clauses (1) and
25 (2) hereof.

26 (c) Counties may acquire any interest in real property by
27 purchase, contract, condemnation, gift, devise or otherwise, for
28 any of the purposes set forth in clauses (a) (1) through (a) (8)
29 of this section, and may acquire any interest in real property
30 by purchase, contract, gift or devise, for any of the purposes

1 set forth in [clause] clauses (b) (1) and (3) of this section.

2 (d) A county may designate real property as an agricultural
3 preserve, providing that such designation is consistent with
4 section 3 hereof.

5 (e) The county governing body may establish an agricultural
6 preserve board consisting of residents of the county to:

7 (1) Prepare recommendations regarding county criteria and
8 procedures for the establishment of agricultural preserves
9 within the county.

10 (2) Prepare procedures for the implementation of a deed
11 restriction program to preserve agricultural uses within the
12 designated preserves as authorized by State laws.

13 (3) Implement such procedures as have been adopted by the
14 county governing body, including the hiring of staff and
15 consultants as shall be necessary to carry out the purposes of
16 this act.

17 (4) Conduct public hearings required under this act for
18 acquisition of interests for the purpose of protection and
19 conservation of farmland.

20 (f) Any municipality or political subdivision which
21 exercises its powers to enact local laws or ordinances within an
22 agricultural preserve in a manner which would restrict or
23 regulate farm structures or farming practices in contravention
24 of the purposes of this act shall do so only if such
25 restrictions or regulations bear a direct relationship to the
26 public health or safety.

27 (g) It shall be the policy of all Commonwealth agencies to
28 encourage the maintenance of viable farming in agricultural
29 preserves, and their administrative regulations and procedures
30 shall be modified to this end insofar as is consistent with the

promotion of public health and safety, with the provisions of any Federal statutes, standards, criteria, rules, regulations or policies, and any other requirements of Federal agencies, including provisions applicable only to obtaining Federal grants, loans and other funding.

Section 6. Public Hearing.--[Interests](a) Except as provided in subsection (b) of this section, interests in real property to be acquired pursuant to the provisions of this act shall be designated by the Department of [Forests and Waters] Environmental Resources, the Department of Agriculture or the county, whichever is acquiring them. After such designation, the said interests shall not be acquired until a public hearing is held and after notice to all owners of said interests in real property and to the municipalities in which county said interests in real property are located, in each county where the land is situate, at which hearing the department or county concerned shall set forth the interests to be taken and their proposed open space benefits. At the public hearing persons and municipalities affected by the proposed acquisition of interests in real property shall have an opportunity to present relevant evidence.

(b) If the purpose of the interest to be acquired is the protection and conservation of farmland, such interest shall only be acquired, other than by donation, in areas or preserves designated by the county. After such designation, the said interests shall not be acquired until a public hearing is held with notice to all owners of said interests in real property and to the municipalities and the county in which said interests in real property are located. The public hearing shall be held in the municipality in which said interests in real property are

1 situated, if said interests are located in more than one
2 municipality, the public hearing shall be held in the
3 municipality in which the greatest amount of interests are
4 located. A public hearing shall be held for each designated area
5 or preserve. At the hearing the county concerned shall set forth
6 the designated area or preserve, the interest to be acquired and
7 the proposed open space benefits. At the public hearing persons
8 and municipalities affected by the proposed designation of an
9 area or preserve for the acquisition of interests in real
10 property shall have an opportunity to present relevant evidence.

11 Section 7. Property Acquired in Fee Simple.--If the owner of
12 the interests in real property to be acquired pursuant to the
13 provisions of this act prefers to have the Commonwealth or the
14 county acquire the property in fee simple, the Commonwealth or
15 the county [shall be required to] may acquire the fee simple.
16 All real property acquired in fee simple by the Commonwealth,
17 through either the Department of [Forests and Waters]
18 Environmental Resources or the Department of Agriculture, or by
19 a county, under the provisions of this act, shall be offered for
20 resale publicly in the manner provided by law within two years
21 of the date of acquisition, subject to restrictive covenants or
22 easements limiting the land to such open space uses as may be
23 specified by the designating department or agency in accordance
24 with section 6 hereof, and consistent with the resource,
25 recreation, or land use plan established in accordance with
26 section 4 hereof. In the case of the Commonwealth, such resales
27 may be made without specific authority of the General Assembly
28 and shall be through the Department of [Property and Supplies]
29 General Services at public sale in the manner provided by law.

30 Section 10. Termination or Disposition of Open Space

1 Property Interests.--(a) If the Commonwealth, through either
2 the Department of [Forests and Waters] Environmental Resources
3 or the Department of Agriculture with the approval of the State
4 Planning Board, or a county with the approval of its County
5 Planning Commission, determines that it is essential for the
6 orderly development of an area to terminate or sell open space
7 property interests acquired under this act other than property
8 held in fee simple, the Commonwealth or the county shall offer
9 to transfer to the original property owner from whom said
10 property interests other than fee simple were acquired, or his
11 estate if the original property owner, or his estate, is the
12 current property owner, said property interests at a price which
13 shall be equal to the price paid by the Commonwealth or the
14 county to the original property owner for said interests; and,
15 if said offer is not accepted within ninety days, the
16 Commonwealth or the county shall then sell the open space
17 property interests at public sale in the manner provided by law.
18 In the case of the Commonwealth, such transfer or sale may be
19 made without specific authority of the General Assembly, and
20 shall be through the Department of [Property and Supplies]
21 General Services at public sale in the manner provided by law.

22 (b) If the purpose of the interest to be acquired under this
23 act is the protection and conservation of farmland, and acquired
24 by a county, the possible termination or disposition of this
25 interest shall be reviewed after a period of twenty-five years,
26 or any time thereafter, if the landowner requests such a review.
27 This review shall be conducted by the agricultural preserve
28 board and any termination or disposition of interests in real
29 property shall occur only after a review by the County Planning
30 Commission. Terms of the termination or disposition shall be

- 1 negotiated between the landowner and the agricultural preserve
- 2 board and approved by the county governing body.
- 3 Section 2. This act shall take effect immediately.