

## THE GENERAL ASSEMBLY OF PENNSYLVANIA

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# HOUSE BILL

## No. 2521

Session of  
1994

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INTRODUCED BY LLOYD, B. SMITH, COLAIZZO, SANTONI, PESCI, TRICH,  
GORDNER, YEWCIC, MILLER, HERSHEY AND MAITLAND,  
FEBRUARY 2, 1994

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AS RE-REPORTED FROM COMMITTEE ON APPROPRIATIONS, HOUSE OF  
REPRESENTATIVES, AS AMENDED, APRIL 11, 1994

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## AN ACT

1 Amending the act of June 30, 1981 (P.L.128, No.43), entitled "An  
2 act authorizing the creation of agricultural areas,"  
3 providing standards, criteria and requirements for the  
4 purchasing of agricultural conservation easements; providing  
5 for review of county programs; imposing duties on the State  
6 Agricultural Land Preservation Board and county boards; and  
7 further providing for subdivision of land and change of  
8 ownership.

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

11 Section 1. Section 14.1 of the act of June 30, 1981  
12 (P.L.128, No.43), known as the Agricultural Area Security Law,  
13 amended or added December 14, 1988 (P.L.1202, No.149), June 22,  
14 1990 (P.L.242, No.57), April 13, 1992 (P.L.100, No.23) and  
15 December 17, 1993 (P.L.522, No.75), is amended to read:

16 Section 14.1. Purchase of agricultural conservation easements.

17 (a) State Agricultural Land Preservation Board.--The  
18 Department of Agriculture and the State Agricultural Land  
19 Preservation Board shall administer pursuant to this section a  
20 program for the purchase of agricultural conservation easements

1 by the Commonwealth.

2 (1) There is established within the Department of  
3 Agriculture as a departmental board the State Agricultural  
4 Land Preservation Board. The State board shall consist of 17  
5 members.

6 (i) There shall be eight voting ex officio members  
7 of the State board: the Secretary of Agriculture, who  
8 shall serve as the board chairman; the Secretary of  
9 Community Affairs, or his designee; the Secretary of  
10 Environmental Resources, or his designee; the Chairman  
11 and the Minority Chairman of the House Agriculture and  
12 Rural Affairs Committee, or their designees; the Chairman  
13 and the Minority Chairman of the Senate Agriculture and  
14 Rural Affairs Committee, or their designees; and the Dean  
15 of the College of Agriculture of The Pennsylvania State  
16 University.

17 (ii) Five members shall be appointed by the  
18 Governor. One member shall be a current member of the  
19 governing body of a county, one member shall be a person  
20 who is recognized as having significant knowledge in  
21 agricultural fiscal and financial matters, one member  
22 shall be an active resident farmer of this Commonwealth,  
23 one member shall be a residential, commercial or  
24 industrial building contractor, and one member shall be a  
25 current member of a governing body. Initially, two  
26 members shall be appointed for a term of four years, two  
27 members shall be appointed for a term of three years and  
28 one member shall be appointed for a term of two years.  
29 Thereafter, the terms of all members appointed herein  
30 shall be four years. The term of a person appointed to

1 replace another member whose term has not expired shall  
2 be only the unexpired portion of that term. Members may  
3 be reappointed to successive terms.

4 (iii) One member each shall be appointed by the  
5 Speaker of the House of Representatives, the Minority  
6 Leader of the House of Representatives, the President pro  
7 tempore of the Senate and the Minority Leader of the  
8 Senate, who shall, at the time of appointment, be  
9 resident farm owners and operators of at least one  
10 commercial farm in this Commonwealth. The initial term of  
11 the appointee of the President pro tempore of the Senate  
12 shall be four years, the initial term of the appointee of  
13 the Speaker of the House of Representatives shall be  
14 three years, the initial term of the appointee of the  
15 Minority Leader of the Senate shall be two years and the  
16 initial term of the appointee of the Minority Leader of  
17 the House of Representatives shall be one year.

18 Thereafter, the terms of all appointees shall be four  
19 years. An appointment made to fill an unexpired term  
20 shall be only for the duration of the unexpired term.  
21 Members may be reappointed to successive terms.

22 (2) Nine members shall constitute a quorum for purposes  
23 of conducting meetings and official actions pursuant to  
24 authority given to the State board under this act. Members  
25 appointed pursuant to paragraph (1)(ii) and (iii) shall  
26 receive per diem in the amount of \$100 for attendance at a  
27 meeting of the State board. Such members shall also be  
28 entitled to reimbursement in accordance with Commonwealth  
29 regulations for reasonable traveling, lodging and other  
30 necessary expenses incurred in the discharge of their duties.

1           (3) It shall be the duty and responsibility of the State  
2 board to exercise the following powers:

3           (i) To adopt rules and regulations pursuant to this  
4 act: Provided, That the board shall have the power and  
5 authority to promulgate, adopt, publish and use  
6 guidelines for the implementation of this act until  
7 September 30, 1990, or the effective date of final rules  
8 and regulations, whichever first occurs, pending adoption  
9 of final rules and regulations. Guidelines proposed under  
10 the authority of this section shall be subject to review  
11 by the General Counsel and the Attorney General in the  
12 manner provided for the review of proposed rules and  
13 regulations pursuant to the act of October 15, 1980  
14 (P.L.950, No.164), known as the "Commonwealth Attorneys  
15 Act," but shall not be subject to review pursuant to the  
16 act of June 25, 1982 (P.L.633, No.181), known as the  
17 "Regulatory Review Act."

18           (ii) To adopt rules of procedure and bylaws  
19 governing the operations of the State board and the  
20 conduct of its meetings.

21           (iii) To review, and accept or reject, the  
22 recommendation made by a county board for the purchase of  
23 an agricultural conservation easement by the  
24 Commonwealth.

25           (iv) To execute agreements to purchase agricultural  
26 conservation easements in the name of the Commonwealth if  
27 recommended by a county and approved by the State board  
28 as provided in subparagraph (iii).

29           (v) To purchase in the name of the Commonwealth  
30 agricultural conservation easements if recommended by a

1 county and approved by the State board as provided in  
2 subparagraph (iii).

3 (vi) To purchase agricultural conservation easements  
4 jointly with a county if recommended by a county and  
5 approved by the State board as provided in subparagraph  
6 (iii).

7 (vii) To allocate State moneys among counties for  
8 the purchase of agricultural conservation easements, in  
9 accordance with provisions of subsection (g).

10 (viii) To establish and maintain a central  
11 repository of records which shall contain records of  
12 county programs for purchasing agricultural conservation  
13 easements, records of agricultural conservation easements  
14 purchased by counties, and records of agricultural  
15 conservation easements purchased by the Commonwealth. All  
16 records indicating the purchase of agricultural  
17 conservation easements shall refer to and describe the  
18 farm land subject to the agricultural conservation  
19 easement.

20 (ix) To record agricultural conservation easements  
21 purchased by the Commonwealth or jointly owned, in the  
22 office of the recorder of deeds of the county wherein the  
23 agricultural conservation easements are located.

24 (x) To establish and publish the standards, criteria  
25 and requirements necessary for State board approval of  
26 county programs for purchasing agricultural conservation  
27 easements.

28 (xi) To review and certify and approve, or  
29 disapprove, county programs for purchasing agricultural  
30 conservation easements.

1           (xii) To exercise other discretionary powers as may  
2 be necessary and appropriate for the exercise and  
3 performance of its duties, powers and responsibilities  
4 under this act.

5           (xiii) To determine an annual easement purchase  
6 threshold.

7           (xiv) To review and approve or disapprove for  
8 recertification each county program for the purchase of  
9 agricultural conservation easements. Such review shall be  
10 conducted seven years following the date of State board <—  
11 approval of the initial county program BY DECEMBER 31, <—  
12 1996, and every seventh year thereafter.

13           (xv) To authorize the development of a guidebook  
14 defining all technical elements necessary for a complete  
15 application for purchase of an agricultural conservation  
16 easement. Such guidebook shall include model formats of  
17 the specific components of applications. Guidebooks shall  
18 be distributed to every county with an approved program  
19 for purchasing agricultural conservation easements.

20       (4) The State board is authorized to:

21           (i) Take the actions necessary to qualify for  
22 Federal guarantees and interest rate assistance for  
23 agricultural easement purchase loans under Chapter 2 of  
24 the Food, Agriculture, Conservation, and Trade Act of  
25 1990 (Public Law 101-624, 104 Stat. 3616).

26           (ii) Segregate from the Agricultural Conservation  
27 Easement Purchase Fund, into a Farms for the Future Trust  
28 Fund, funds necessary to qualify for the maximum amount  
29 of funding made available under the Federal act. There  
30 shall be deposited in this trust fund, and are

1           appropriated for the purposes of this act, any interest  
2           rate assistance subsidies provided by participation in  
3           the Federal program. The State board is authorized to  
4           deposit interest accruing on moneys in the trust fund, in  
5           excess of the amounts needed to satisfy interest  
6           payments, in the Agricultural Conservation Easement  
7           Purchase Fund.

8           (b) County programs.--After the establishment of an  
9           agricultural security area by the governing body, the county  
10          governing body may authorize a program to be administered by the  
11          county board for purchasing agricultural conservation easements  
12          from landowners whose land is within an agricultural security  
13          area.

14          (1) The county board shall be composed of five, seven or  
15          nine members appointed by the county governing body. The  
16          chairman of the county governing body shall designate  
17          annually one member of the county board to serve as chairman  
18          of the county board. County board members shall be appointed  
19          from among the following groups: the number of farmers shall  
20          constitute one less than a majority of the board; one member  
21          shall be a current member of the governing body of a township  
22          or borough located within the county; one member shall be a  
23          commercial, industrial or residential building contractor;  
24          and the other members shall be selected at the pleasure of  
25          the county governing body. The county board membership of the  
26          member of the governing body of a township or borough located  
27          within the county shall be deemed vacant upon vacancy in, or  
28          the expiration of the term of, the township or borough office  
29          to which the member was elected. The term of the initial  
30          farmer appointees shall be three years, the initial term of

1 the current member of the governing body of a township or  
2 borough shall be two years and the initial term of all other  
3 members shall be one year. Thereafter, the term of all  
4 members shall be three years.

5 (2) It shall be the duty and responsibility of the  
6 county board to exercise the following powers:

7 (i) To adopt rules and regulations for the  
8 administration of a countywide program for the purchase  
9 of agricultural conservation easements within  
10 agricultural security areas in accordance with the  
11 provisions of this act, including, but not limited to,  
12 rules and regulations governing the submission of  
13 applications by landowners, establishing standards and  
14 procedures for the appraisal of property eligible for  
15 purchase as an agricultural conservation easement and  
16 establishing standards and procedures for the selection  
17 or purchase of agricultural conservation easements.

18 (ii) To adopt rules of procedure and bylaws  
19 governing the operation of the county board and the  
20 conduct of its meetings.

21 (iii) To execute agreements to purchase agricultural  
22 conservation easements in the name of the county.

23 (iv) To purchase in the name of the county  
24 agricultural conservation easements within agricultural  
25 security areas.

26 (v) To use moneys appropriated by the county  
27 governing body from the county general fund to hire staff  
28 and administer the countywide program.

29 (vi) To use moneys appropriated by the county  
30 governing body from the county general fund or the



1 proceeds of indebtedness incurred by the county and  
2 approved by the county governing body for the purchase of  
3 agricultural conservation easements within agricultural  
4 security areas.

5 (vii) To establish and maintain a repository of  
6 records of farm lands which are subject to agricultural  
7 conservation easements purchased by the county and which  
8 are located within the county.

9 (viii) To record agricultural conservation easements  
10 purchased by the county in the office of the recorder of  
11 deeds of the county wherein the agricultural conservation  
12 easements are located and to submit to the State board a  
13 certified copy of agricultural conservation easements  
14 within 30 days after recording. The county board shall  
15 attach to all certified copies of the agricultural  
16 conservation easements submitted to the State board a  
17 description of the farm land subject to the agricultural  
18 conservation easements.

19 (ix) To submit to the State board for review the  
20 initial county program and any proposed revisions to  
21 approved county programs for purchasing agricultural  
22 conservation easements.

23 (x) To recommend to the State board for purchase by  
24 the Commonwealth agricultural conservation easements  
25 within agricultural security areas located within the  
26 county.

27 (xi) To recommend to the State board the purchase of  
28 agricultural conservation easements by the Commonwealth  
29 and the county jointly.

30 (xii) To purchase agricultural conservation

1 easements jointly with the Commonwealth.

2 (xiii) To exercise other powers which are necessary  
3 and appropriate for the exercise and performance of its  
4 duties, powers and responsibilities under this act.

5 (xiv) To submit to the State board applications for  
6 agricultural conservation easements in accordance with  
7 the guidebook authorized under section 14.1(a)(3)(xv).

8 (3) The county may incur debt pursuant to the act of  
9 July 12, 1972 (P.L.781, No.185), known as the "Local  
10 Government Unit Debt Act," for the purchase of agricultural  
11 conservation easements.

12 (4) County programs for the purchase of agricultural  
13 conservation easements approved by the State board in  
14 accordance with the provisions of this section shall be  
15 reviewed by the State board and approved or disapproved for  
16 recertification seven years from the date of State board <—  
17 approval of the initial county program BY DECEMBER 31, 1996, <—  
18 and every seventh year thereafter. On or before DECEMBER 31, <—  
19 1995, AND the end of each seven-year period THEREAFTER, the <—  
20 county board may submit to the State board A REQUEST for <—  
21 review and recertification OF the county program for the <—  
22 purchase of agricultural conservation easements and SHALL <—  
23 SUBMIT any proposed revisions to such program. County  
24 programs submitted to the SUBJECT TO State board for review <—  
25 and recertification under this paragraph shall be approved or  
26 disapproved in accordance with the requirements of subsection  
27 (d). After DECEMBER 31, 1996, AND the end of each seven-year <—  
28 period THEREAFTER, the State board shall not approve a county <—  
29 board's recommendation to purchase until the county program  
30 has been approved for recertification.

1 (c) Restrictions and limitations.--An agricultural  
2 conservation easement shall be subject to the following terms,  
3 conditions, restrictions and limitations:

4 (1) The term of an agricultural conservation easement  
5 shall be perpetual or for a term of 25 years.

6 (2) An agricultural conservation easement shall not be  
7 sold, conveyed, extinguished, leased, encumbered or  
8 restricted in whole or in part for a period of 25 years  
9 beginning on the date of purchase of the easement.

10 (3) If the land subject to the agricultural conservation  
11 easement is no longer viable agricultural land, the  
12 Commonwealth, subject to the approval of the State board, and  
13 the county, subject to the approval of the county board, may  
14 sell, convey, extinguish, lease, encumber or restrict an  
15 agricultural conservation easement to the current owner of  
16 record of the farmland subject to the easement after the  
17 expiration of 25 years from the date of purchase of the  
18 easement for a purchase price equal to the value at the time  
19 of resale determined pursuant to subsection (f) at the time  
20 of conveyance. A conveyance by the Commonwealth pursuant to  
21 this subsection shall not be subject to the requirements of  
22 Article XXIV-A of the act of April 9, 1929 (P.L.177, No.175),  
23 known as "The Administrative Code of 1929." The purchase  
24 price shall be payable to the Commonwealth and the county as  
25 their respective legal interests in the agricultural  
26 conservation easement appear, and a separate payment shall be  
27 made to the Commonwealth and the county accordingly at the  
28 time of settlement. Any payment received by the Commonwealth  
29 pursuant to this provision shall be paid into the fund.

30 (4) Instruments and documents for the purchase, sale and

1 conveyance of agricultural conservation easements shall be  
2 approved by the State board or the county board, as the case  
3 may be, prior to execution and delivery. Proper releases from  
4 mortgage holders and lienholders must be obtained and  
5 executed to insure that all agricultural conservation  
6 easements are purchased free and clear of all encumbrances.

7 (5) Whenever any public entity, authority or political  
8 subdivision exercises the power of eminent domain and  
9 condemns land subject to an agricultural conservation  
10 easement, the condemnor shall provide just compensation to  
11 the owner of the land in fee and to the owner of the easement  
12 as follows:

13 (i) The owner of the land in fee shall be paid the  
14 full value which would have been payable to the owner but  
15 for the existence of an agricultural conservation  
16 easement less the value of the agricultural conservation  
17 easement at the time of condemnation.

18 (ii) The owner of the easement shall be paid the  
19 value of the easement at the time of condemnation.

20 (6) An agricultural conservation easement shall not  
21 prevent:

22 (i) The granting of leases, assignments or other  
23 conveyances or the issuing of permits, licenses or other  
24 authorization for the exploration, development, storage  
25 or removal of coal by underground mining methods, oil and  
26 gas by the owner of the subject land or the owner of the  
27 underlying coal by underground mining methods, oil and  
28 gas or the owner of the rights to develop the underlying  
29 coal by underground mining methods, oil and gas, or the  
30 development of appurtenant facilities related to the

1 removal of coal by underground mining methods, oil or gas  
2 development or activities incident to the removal or  
3 development of such minerals.

4 (ii) The granting of rights-of-way by the owner of  
5 the subject land in and through the land for the  
6 installation of, transportation of, or use of water,  
7 sewage, electric, telephone, coal by underground mining  
8 methods, gas, oil or oil products lines.

9 (iii) Construction and use of structures on the  
10 subject land necessary for agricultural production.

11 (iv) Construction and use of structures on the  
12 subject land for the purpose of providing necessary  
13 housing for seasonal or full-time employees: Provided,  
14 That only one such structure may be constructed on no  
15 more than two acres of the subject land during the term  
16 of the agricultural conservation easement.

17 (v) Customary part-time or off-season minor or rural  
18 enterprises and activities which are provided for in the  
19 county Agricultural Conservation Easement Purchase  
20 Program approved by the State board under subsection (d).

21 (7) Land subject to an agricultural conservation  
22 easement shall not be subdivided for any purpose which may  
23 harm the economic viability of the farmland for agricultural  
24 production. Land may be subdivided prior to the granting of  
25 an agricultural conservation easement, provided that  
26 subdividing will not harm the economic viability for  
27 agricultural production of the land subject to the easement.

28 (8) Nothing in this act shall prohibit a member of the  
29 State board or county board or his or her family from selling  
30 a conservation easement under this program, provided that all

1 decisions made regarding easement purchases be subject to the  
2 provisions of section 3(j) of the act of October 4, 1978  
3 (P.L.883, No.170), referred to as the Public Official and  
4 Employee Ethics Law.

5 (d) Program approval.--

6 (1) The standards, criteria and requirements established  
7 by the State board for State board approval of county  
8 programs for purchasing agricultural conservation easements  
9 shall include, but not be limited to, the extent to which the  
10 county programs consider and address the following:

11 (i) The quality of the farmlands subject to the  
12 proposed easements, including soil classifications and  
13 [productivity.] soil productivity ratings.

14 (ii) The likelihood that the farmlands would be  
15 converted to nonagricultural use unless subject to an  
16 agricultural conservation easement. [Priority for the  
17 purchase of an agricultural conservation easement shall  
18 be given to farmlands most likely to be converted to  
19 nonagricultural use.] For purposes of considering the  
20 likelihood of conversion, the existence of a zoning  
21 classification of the land shall not be relevant, but the  
22 market for nonfarm use or development of farmlands shall  
23 be relevant.

24 (iii) The stewardship of the land and use of  
25 conservation practices and best land management  
26 practices, including, but not limited to, soil erosion  
27 and sedimentation control and nutrient management.

28 (iv) Fair, equitable, objective and  
29 nondiscriminatory procedures for determining purchase  
30 priorities. The highest priority for the purchase of an

agricultural conservation easement shall be given to farmlands with the highest soil classifications and soil productivity ratings and to farmlands most likely to be converted to nonagricultural use.

(v) Identification of areas in the county devoted primarily to agricultural use in which development is occurring or is likely to occur during the next 20 years.

(vi) Access of the farmlands subject to the proposed easements to agricultural suppliers and markets for agricultural goods.

(vii) Proximity of the farmlands subject to the proposed easements to other agricultural lands in the county which are subject to agricultural conservation easements.

(2) The State board shall act on a county's program for purchasing agricultural conservation easements within 60 days of its receipt, and shall notify immediately the county in writing of approval or disapproval of its program in accordance with the criteria set forth in this subsection. Failure of the State board to act on the submission of a county program under this provision within 60 days of its receipt shall be deemed to constitute approval of the county program by the State board.

(e) Easement purchase.--

(1) The State board may reject the recommendation made by a county for purchase of an agricultural conservation easement whenever:

(i) The recommendation does not comply with a county program certified and approved by the State board for purchasing agricultural conservation easements. In

1 determining the adherence of the recommendation to the  
2 county program, the State board may consider:

3 (A) agricultural value of the easement;

4 (B) purchase price of the easement;

5 (C) agricultural viability of the farmland;

6 (D) ranking of the farmland on the priority list  
7 of the county;

8 (E) development pressure or potential for such  
9 pressure;

10 (F) proximity of the farmland to other land in  
11 the county under agricultural conservation easements;

12 (G) adequacy of the appraisal of the easement;  
13 and

14 (H) whether residential and farm buildings are  
15 part of the easement or are excluded from the  
16 easement.

17 (ii) Clear title cannot be conveyed.

18 (iii) The farmland which would be subject to the  
19 agricultural conservation easement is not located within  
20 a duly established agricultural security area established  
21 or recognized under this act.

22 (iv) The allocation of a county established pursuant  
23 to subsection (h) is exhausted or is insufficient to pay  
24 the purchase price.

25 (v) Compensation is not provided to owners of  
26 surface-mineable coal disturbed or affected by the  
27 creation of such easement.

28 (2) The State board shall act to approve or disapprove  
29 the recommendation by a county for purchase of an  
30 agricultural conservation easement within 60 days of its



1     [receipt.] receipt, unless the following conditions delay  
2     approval:

3             (i) The occurrence of a catastrophic event which  
4             precludes the convening of the State board. Any natural  
5             disaster, including, but not limited to, fire, flood,  
6             excessive wind, snow or earthquake shall constitute a  
7             catastrophic event.

8             (ii) The issue of a subdivision causes further  
9             questions by the State board.

10            (iii) Legal actions or court decisions are pending  
11            that would affect the recommendation in question.

12     The 60-day period shall be extended until all issues set  
13     forth in this paragraph are resolved to the satisfaction of  
14     the State board, whereby the State board shall act  
15     immediately on the recommendation of the county board.  
16     Decisions delayed due to catastrophic events shall be  
17     determined in as reasonable an amount of time as possible.

18            (3) If the State board disapproves the recommendation by  
19     a county for purchase of an agricultural conservation  
20     easement, the county shall be given written notice of the  
21     disapproval within ten days of the decision of the State  
22     board. The written notice shall state the reason for the  
23     State board's disapproval of the recommendation.

24            (4) A decision of the State board issued under the  
25     authority of this subsection shall be an adjudication subject  
26     to the provisions of 2 Pa.C.S. (relating to administrative  
27     law and procedure).

28            (5) Failure of the State board to act on a  
29     recommendation by a county for purchase of an agricultural  
30     conservation easement within 60 days of its receipt shall be

1       deemed to constitute approval by the State board, unless one  
2       or more of the conditions under section 14.1(e)(2) exist.

3       (f) Valuation.--The State board or the county board, as the  
4 case may be, shall select and retain an independent [licensed]  
5 State certified general real estate appraiser to determine  
6 market value and farmland value. If the seller disagrees with  
7 the appraisal made by the State or county board's appraiser, the  
8 seller shall have the right to select and retain a separate  
9 independent [licensed] State certified general real estate  
10 appraiser within 30 days of receipt of the appraisal of the  
11 State or county board's appraiser to determine market value and  
12 farmland value. The State board or the county board shall  
13 establish the agricultural value and the nonagricultural value  
14 of the property subject to the agricultural conservation  
15 easement. The State board may provide for a periodic review by a  
16 State certified general real estate appraiser of appraisals  
17 submitted by counties in order to assure that the appraisals  
18 were performed in accordance with the standards of appraisal  
19 practice.

20           (1) The agricultural value shall equal the sum of:

21               (i) the farmland value determined by the seller's  
22           appraiser; and

23               (ii) one-half of the difference between the farmland  
24 value determined by the State or county board's appraiser  
25 and the farmland value determined by the seller's  
26 appraiser if the farmland value determined by the State  
27 or county board's appraiser exceeds the farmland value  
28 determined by the seller's appraiser.

29           (2) The nonagricultural value shall equal the sum of:

30               (i) the market value determined by the State or

county board's appraiser; and

(ii) one-half of the difference between the market value determined by the seller's appraiser and the market value determined by the State or county board's appraiser, if the market value determined by the seller's appraiser exceeds the market value determined by the State or county board's appraiser.

(3) The entire acreage of the farmland shall be included in the determination of the value of an agricultural conservation easement, less the value of any acreage which was subdivided prior to the granting of such easement. The appraiser shall take into account the potential increase in the value of the subdivided acreage because of the placement of the easement on the remaining farmland.

(4) The maximum price per acre which the Commonwealth may contribute for the purchase of an agricultural conservation easement shall be as follows:

(i) On the first \$2,000 \$3,000 per acre 100%. <—

~~(ii) On the next \$1,000 per acre 80%. <—~~

~~(iii)~~ (II) On the next \$2,000 per acre 60% 70%. <—

~~(iv)~~ (III) On the next \$5,000 per acre 50%. <—

~~(v)~~ (IV) On the next \$5,000 per acre 25%. <—

~~(vi)~~ (V) On the next \$5,000 per acre 10%. <—

~~(vii)~~ (VI) On any cost above \$20,000 per acre 0%. <—

(g) Purchase price.--The price paid for purchase of an agricultural conservation easement in perpetuity shall not exceed the difference between the nonagricultural value and the agricultural value determined pursuant to subsection (f) at the time of purchase, unless the difference is less than the State or county boards' original appraised value in which case the

1 State or county boards' original easement value may be offered.  
2 The price paid for purchase of an easement for a term of 25  
3 years shall not exceed one-tenth of the difference between the  
4 nonagricultural value and the agricultural value determined  
5 pursuant to subsection (f) at the time of purchase. The purchase  
6 price may be paid in a lump sum, in installments over a period  
7 of years, or in any other lawful manner of payment. If payment  
8 is to be made in installments or another deferred method, the  
9 person selling the easement may receive, in addition to the  
10 selling price, interest in an amount or at a rate set forth in  
11 the agreement of purchase, and final payment shall be made  
12 within, and no later than, five years from the date the  
13 agricultural conservation easement purchase agreement was  
14 executed.

15 (h) Allocation of State moneys.--The State board shall make  
16 an annual allocation among counties, except counties of the  
17 first class, for the purchase of agricultural conservation  
18 easements.

19 (1) As used in this subsection, the following words and  
20 phrases shall have the meanings given to them in this  
21 paragraph unless the context clearly indicates otherwise:

22 (i) "Adjusted weighted transfer tax revenues." An  
23 amount equal to the weighted transfer tax revenues of a  
24 county divided by the sum of the weighted transfer tax  
25 revenues of all counties except counties of the first  
26 class.

27 (ii) "Annual agricultural production." The total  
28 dollar volume of sales of livestock, crops and  
29 agricultural products according to the most recent Annual  
30 Crop and Livestock Summary published by the Pennsylvania

Agricultural Statistics Service.

(iii) "Annual easement purchase threshold." An amount annually determined by the State board which equals at least \$10,000,000.

(iv) "Average realty transfer tax revenues." The total annual realty transfer tax revenues collected in all counties, except counties of the first class, divided by 66.

(v) "Realty transfer tax revenues." The tax imposed and collected under section 1102-C of the act of March 4, 1971 (P.L.6, No.2), known as the "Tax Reform Code of 1971."

(vi) "Weighted transfer tax revenues." An amount equal to the total annual realty transfer tax revenues collected in a county divided by the sum of the total annual realty transfer tax revenues collected in all counties except counties of the first class which does not exceed three times the average realty transfer tax revenues.

(2) An annual allocation shall be made to each county, except counties of the first class, for the purchase of agricultural conservation easements by the Commonwealth at the beginning of the county fiscal year which equals 50% of the annual easement purchase threshold multiplied by the adjusted weighted transfer tax revenues of the county for the preceding calendar year.

(3) If the aggregate annual allocation under this paragraph to all eligible counties does not exceed 50% of the annual easement purchase threshold, an additional annual allocation from 50% of the annual easement purchase threshold

1 shall be made to a county, except a county of the first  
2 class, at the beginning of the county fiscal year for the  
3 joint purchase of agricultural conservation easements by the  
4 Commonwealth and a county. The additional annual allocation  
5 under this paragraph shall equal the sum of:

6 (i) The annual appropriation of local moneys by a  
7 county for the purchase of agricultural conservation  
8 easements which does not exceed the average annual  
9 allocation under paragraph (2) multiplied by four.

10 (ii) The annual appropriation of local moneys by a  
11 county for the purchase of agricultural conservation  
12 easements which does not exceed the average annual  
13 allocation under paragraph (2) multiplied by four, if the  
14 county has an annual agricultural production which equals  
15 at least 2% of the total annual agricultural production  
16 of the Commonwealth for the same year.

17 (4) If the aggregate annual allocation under paragraph  
18 (3) to all eligible counties would exceed 50% of the annual  
19 easement purchase threshold, paragraph (3) shall not apply,  
20 and an additional annual allocation shall be made under this  
21 paragraph at the beginning of the county fiscal year for the  
22 joint purchase of agricultural conservation easements by the  
23 Commonwealth and a county, except a county of the first  
24 class. The additional annual allocation to a county under  
25 this paragraph shall equal 50% of the annual easement  
26 purchase threshold multiplied by a percentage equal to the  
27 annual appropriation of local moneys appropriated by the  
28 county for the purchase of agricultural conservation  
29 easements divided by the aggregate of local moneys  
30 appropriated by all eligible counties for the purchase of

1 agricultural conservation easements and in all cases shall  
2 not exceed the average annual allocation under paragraph (2)  
3 multiplied by four.

4 (5) An additional annual allocation shall be made to a  
5 county, except a county of the first class, from the amount  
6 by which 50% of the annual easement purchase threshold  
7 exceeds the total allocations made under paragraph (3) or  
8 (4), as the case may be, as follows:

9 (i) An additional annual allocation shall be made  
10 for the joint purchase of agricultural conservation  
11 easements by the Commonwealth and a county which equals  
12 six-tenths of the amount by which 50% of the annual  
13 easement purchase threshold exceeds the total allocations  
14 made under paragraph (3) or (4), as the case may be,  
15 multiplied by a percentage equal to the annual  
16 appropriation of local moneys appropriated by the county  
17 for the purchase of agricultural conservation easements  
18 divided by the aggregate of local moneys appropriated by  
19 all eligible counties for the purchase of agricultural  
20 conservation easements.

21 (ii) An additional annual allocation shall be made  
22 for the purchase of agricultural conservation easements  
23 by the Commonwealth which equals four-tenths of the  
24 amount by which 50% of the annual easement purchase  
25 threshold exceeds the total allocations made under  
26 paragraph (3) or (4), as the case may be, multiplied by  
27 the adjusted weighted transfer tax revenues of the county  
28 for the preceding calendar year.

29 (6) The allocation of a county shall be adjusted for  
30 purchases of agricultural conservation easements made with

1 moneys from the county's allocation, for all costs, except  
2 administrative costs, incurred by the Commonwealth or a  
3 county incident to the purchase of agricultural conservation  
4 easements and for the costs of reimbursing nonprofit land  
5 conservation organizations for expenses incurred in acquiring  
6 and transferring agricultural conservation easements to the  
7 Commonwealth or county. No purchase of an agricultural  
8 conservation easement shall be made with State moneys  
9 allocated to a county unless the amount of the purchase price  
10 is equal to or less than the adjusted allocation or the  
11 county pays the portion of the purchase price which  
12 represents the difference between the purchase price and the  
13 adjusted allocation.

14 (7) The first annual allocation to a county under  
15 paragraphs (3), (4) and (5)(i) shall continue for three  
16 county fiscal years occurring after the effective date of  
17 this act, and the second and third such annual allocations  
18 shall each continue for two county fiscal years occurring  
19 after the effective date of this act. Thereafter each such  
20 annual allocation shall be for one county fiscal year. Such  
21 annual allocations which have not been expended or encumbered  
22 at the end of the period for which they were allocated shall  
23 be reallocated in the subsequent county fiscal year to a  
24 county which used at least 90% of the allocation made to the  
25 county at the start of the period. An annual allocation shall  
26 be considered to be encumbered and shall not be reallocated  
27 if, by December 31 of the year in which that annual  
28 allocation was made to the county, the department has  
29 received an agreement executed by the landowner and the  
30 county to purchase a specific agricultural conservation



1        easement as part of the county board's recommendation for  
2        purchase. The reallocation to a county under this paragraph  
3        shall be the total amount of the annual allocation available  
4        for reallocation under this paragraph multiplied by a  
5        percentage equal to the annual appropriation of local moneys  
6        appropriated by the county for the purchase of agricultural  
7        conservation easements at the start of the county fiscal year  
8        in which the annual allocation was made divided by the  
9        aggregate of local moneys appropriated by all eligible  
10       counties for the purchase of agricultural conservation  
11       easements at the start of the county fiscal year in which the  
12       annual allocation was made. Money reallocated to a county  
13       under this paragraph shall be available for one county fiscal  
14       year. Money reallocated to a county under this paragraph that  
15       has not been spent or encumbered at the conclusion of one  
16       county fiscal year shall be restored to the fund. Such money  
17       shall be considered to be encumbered and shall not be  
18       restored to the fund if, by December 31 of the year in which  
19       a reallocation was made to the county, the department has  
20       received an agreement executed by the landowner and the  
21       county to purchase a specific agricultural conservation  
22       easement as part of the county board's recommendation for  
23       purchase.

24        (8) Initial allocations to counties under paragraphs (2)  
25        and (5)(ii) shall continue until the end of the fourth county  
26        fiscal year occurring after the effective date of this act.  
27        The sum of the total annual allocations of all counties under  
28        paragraphs (2) and (5)(ii) which have not been expended or  
29        encumbered by the end of the fourth county fiscal year, and  
30        every county fiscal year thereafter, occurring after the

1 effective date of this act shall be reallocated in the  
2 subsequent county fiscal year to a county which used at least  
3 90% of the allocation made to the county at the start of the  
4 period. An annual allocation shall be considered to be  
5 encumbered and shall not be reallocated if, by December 31 of  
6 the year in which that annual allocation was made to the  
7 county, the department has received an agreement executed by  
8 the landowner and the county to purchase a specific  
9 agricultural conservation easement as part of the county  
10 board's recommendation for purchase. For purposes of  
11 determining eligibility for reallocation of funds and the  
12 amounts of reallocation, funds allocated to counties will be  
13 segregated and accounted for on a county fiscal year basis.  
14 Fifty percent of the amount available for allocation under  
15 this paragraph shall be reallocated in the manner set forth  
16 in paragraph (2), and 50% of the amount available for  
17 allocation under this paragraph shall be reallocated in the  
18 manner set forth in paragraphs (3), (4) and (5). For purposes  
19 of reallocating funds in the manner set forth in paragraph  
20 (2), realty transfer tax revenues used to calculate weighted  
21 transfer tax revenues shall correspond to the year for which  
22 funds are being reallocated and weighted transfer tax  
23 revenues shall be calculated only for counties eligible under  
24 this paragraph. Money reallocated to a county under this  
25 paragraph shall be available for one county fiscal year.  
26 Money reallocated to a county under this paragraph that has  
27 not been spent or encumbered at the conclusion of one county  
28 fiscal year shall be restored to the fund. Such money shall  
29 be considered to be encumbered and shall not be restored to  
30 the fund if, by December 31 of the year in which a

1 reallocation was made to the county, the department has  
2 received an agreement executed by the landowner and the  
3 county to purchase a specific agricultural conservation  
4 easement as part of the county board's recommendation for  
5 purchase.

6 (9) The allocation made to a county under this  
7 subsection shall be used for the purchase of agricultural  
8 conservation easements in perpetuity: Provided, That no more  
9 than 30% of such allocation may be used at the option of a  
10 county for the purchase of agricultural conservation  
11 easements for a term of 25 years in the manner provided for  
12 in this act.

13 (10) (i) Notwithstanding any other provision of this  
14 subsection or any provision of regulations promulgated  
15 pursuant to this act, the department shall not reallocate  
16 funds which were allocated prior to January 1, 1994, if,  
17 by December 31, 1993, the department has received an  
18 agreement signed by the landowner and the county board to  
19 purchase a specific agricultural conservation easement as  
20 part of the county board's recommendation for purchase.

21 (ii) Nothing in this paragraph shall affect any  
22 reallocation made prior to the effective date of this  
23 paragraph.

24 (i) Subdivision of land after easement purchase.--The State  
25 board may agree to permit a parcel of land subject to an  
26 agricultural conservation easement to be subdivided after the  
27 granting of such easement as follows:

28 (1) The landowner of record may submit an application,  
29 in such form and manner as the county board may prescribe, to  
30 the county board requesting that a parcel of the land subject

1 to an easement be subdivided. Upon receipt of the  
2 application, the county board shall cause to be forwarded  
3 written notification thereof to the county zoning office,  
4 county planning office and county farmland preservation  
5 office, herein referred to as the reviewing agencies. Each  
6 reviewing agency shall have 60 days from receipt of such  
7 notification to review, comment and make recommendations on  
8 the proposed application to the county board.

9 (2) When reviewing an application to subdivide land  
10 subject to an agricultural conservation easement, the county  
11 board shall consider all of the following:

12 (i) the agricultural productivity and viability of  
13 the land involved;

14 (ii) whether the subdivision will convert land which  
15 has been devoted primarily to agricultural use to another  
16 primary use;

17 (iii) whether the subdivision will conflict with  
18 agricultural operations on the land;

19 (iv) whether the subdivision will conflict with  
20 agricultural operations on surrounding lands;

21 (v) the extent to which subdivision of the land will  
22 conflict with the county program to preserve agricultural  
23 land;

24 (vi) the purpose of the landowner's request to  
25 subdivide;

26 (vii) whether the landowner reserved the right to  
27 subdivide the land at the time of purchase of the  
28 easement, whether such reservation was set forth in the  
29 easement agreement at the time such agreement was  
30 executed, and whether the easement purchase price was

1       lowered because of such reservation; and

2               (viii) any such other criteria specified in the  
3       approved county program.

4       (3) After reviewing the application and the comments and  
5       recommendations submitted by the reviewing agencies, the  
6       county board shall approve or reject the application to  
7       subdivide within 120 days after the date of its filing,  
8       unless the time is extended by mutual agreement of the  
9       landowner and reviewing agencies.

10       (4) If the application to subdivide land is approved by  
11       the county board, a copy of the application, along with the  
12       comments and recommendations of the reviewing agencies, shall  
13       be forwarded to the State board for review and approval. The <—  
14       State board shall, within 60 days of receipt of the  
15       application, approve or reject the application to subdivide  
16       the subject land OR DISAPPROVAL. The State board shall notify <—  
17       the county board of its decision regarding the application.

18       (5) If the application to subdivide is rejected by the  
19       county board, the application shall be returned to the  
20       landowner with a written statement of the reasons for such  
21       rejection. Within 30 days after the receipt of the statement  
22       of rejection, the landowner may appeal the rejection to the  
23       State board. The State board shall, within 60 days after <—  
24       receipt of the appeal, approve or reject the application to  
25       subdivide. The State board shall notify the county board and  
26       the landowner of its decision regarding the appeal.

27       (6) When reviewing an application to subdivide land  
28       subject to an agricultural conservation easement, the State  
29       board shall consider the factors listed in paragraph (2) and  
30       the recommendations of the county board and reviewing

1 agencies.

2 (7) When an application to subdivide land is approved by  
3 the State board and the purpose of the request to subdivide  
4 is to convey or transfer interest in such land to another  
5 person, the landowner may be liable to pay the Commonwealth  
6 or the county, as their respective legal interest in the  
7 agricultural conservation easement may appear, for any  
8 appreciation in the value of the subdivided land which may be <—

9 attributed TO BE CONVEYED OR TRANSFERRED TO ANOTHER PERSON. <—

10 THE LANDOWNER MAY BE REQUIRED TO MAKE SUCH PAYMENT ONLY WHEN  
11 SUCH APPRECIATION IN VALUE OF THE SUBDIVIDED LAND TO BE  
12 CONVEYED OR TRANSFERRED TO ANOTHER PERSON IS ATTRIBUTABLE to  
13 the location of the subdivided land in an area where there is  
14 land subject to an agricultural conservation easement.

15 (j) Change of ownership.--

16 (1) Whenever interest in land subject to an agricultural  
17 conservation easement is conveyed or transferred to another  
18 person, the deed conveying or transferring such land shall  
19 recite in verbatim the language of the easement as set forth  
20 in the deed executed in connection with the purchase of the  
21 agricultural conservation easement.

22 (2) The person conveying or transferring land subject to  
23 an agricultural conservation easement shall, within 30 days  
24 of change in ownership, notify the county board and the  
25 department of the name and address of the person to whom the  
26 subject land was conveyed or transferred and the price per  
27 acre, or portion thereof, received by the landowner from such  
28 person.

29 (3) Notwithstanding any other provisions of law to the  
30 contrary, the restrictions set forth in a deed executed in

1 connection with the purchase of an agricultural conservation  
2 easement shall be binding on any person to whom subsequent  
3 ownership of the land subject to the easement is conveyed or  
4 transferred.

5 Section 2. This act shall take effect in 60 days.