

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 101 Session of 2001

INTRODUCED BY S. MILLER, ARGALL, ARMSTRONG, BARD, BASTIAN, BUNT, CALTAGIRONE, CLYMER, COY, DeWEESE, FEESE, GEIST, GEORGE, GRUCELA, HENNESSEY, HERSHEY, HESS, JOSEPHS, KREBS, LEH, MAJOR, MARSICO, R. MILLER, NICKOL, PETRARCA, SCHRODER, SHANER, B. SMITH, SOLOBAY, STABACK, STERN, E. Z. TAYLOR, VANCE, WANSACZ, C. WILLIAMS, WILT AND ZUG, JANUARY 23, 2001

REFERRED TO COMMITTEE ON AGRICULTURE AND RURAL AFFAIRS, JANUARY 23, 2001

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," further
3 defining "agricultural conservation easement"; defining
4 "parcel"; and further providing for purchase of agricultural
5 conservation easements.

6 The General Assembly of the Commonwealth of Pennsylvania
7 hereby enacts as follows:

8 Section 1. The definition of "agricultural conservation
9 easement" in section 3 of the act of June 30, 1981 (P.L.128,
10 No.43), known as the Agricultural Area Security Law, amended
11 November 23, 1994 (P.L.621, No.96), is amended and the section
12 is amended by adding a definition to read:

13 Section 3. Definitions.

14 The following words and phrases when used in this act shall
15 have the meanings given to them in this section, unless the
16 context clearly indicates otherwise:

17 * * *

1 "Agricultural conservation easement." An interest in land,
2 less than fee simple, which interest represents the right to
3 prevent the development or improvement of [the land] a parcel
4 for any purpose other than agricultural production. The easement
5 may be granted by the owner of the fee simple to any third party
6 or to the Commonwealth, to a county governing body or to a unit
7 of local government. It shall be granted in perpetuity as the
8 equivalent of covenants running with the land. The exercise or
9 failure to exercise any right granted by the easement shall not
10 be deemed to be management or control of activities at the site
11 for purposes of enforcement of the act of October 18, 1988
12 (P.L.756, No.108), known as the "Hazardous Sites Cleanup Act."

13 * * *

14 "Parcel." A tract of land in its entirety which is assessed
15 for tax purposes by one county, including any portion of that
16 tract that may be located in a neighboring county. The county
17 responsible for assessing an entire tract, on its own or in
18 conjunction with either the Commonwealth or a local government
19 unit, or both, shall be eligible to purchase agricultural
20 conservation easements covering the entire tract.

21 * * *

22 Section 2. Sections 14.1(b) introductory paragraph and (2),
23 (b.1)(4), (d)(1) and (e)(1) of the act, amended or added
24 November 23, 1994 (P.L.621, No.96), November 23, 1994 (P.L.648,
25 No.100) and December 21, 1998 (P.L.1056, No.138), are amended to
26 read:

27 Section 14.1. Purchase of agricultural conservation easements.

28 * * *

29 (b) County programs.--After the establishment of an
30 agricultural security area by the governing body, the county

governing body may authorize a program to be administered by the county board for purchasing agricultural conservation easements from landowners whose land is either within an agricultural security area or in compliance with the criteria set forth in paragraph (2)(i).

* * *

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

(i) (A) To adopt rules and regulations for the administration of a [countywide] county program for the purchase of agricultural conservation easements [within agricultural security areas] in accordance with the provisions of this act, including, but not limited to, rules and regulations governing the submission of applications by landowners, establishing standards and procedures for the appraisal of property eligible for purchase as an agricultural conservation easement and establishing standards and procedures for the selection or purchase of agricultural conservation easements.

(B) To include in such rules and regulations, standards and procedures for the selection or purchase of agricultural conservation easements, by the county solely or jointly with either the Commonwealth or a local government unit, or both, on that portion of a parcel which is not within an agricultural security area if all of the following criteria are complied with:

(I) The land is part of a parcel of farm land which is bisected by the dividing line

1 between two local government units.

2 (II) The majority of the farm's viable
3 agricultural land is located within an existing
4 agricultural security area. Upon purchase of an
5 easement covering the portion of the parcel which
6 is not located within an agricultural security
7 area, that portion of the parcel shall
8 immediately become part of the previously
9 established agricultural security area which
10 contains a majority of the farm's viable
11 agricultural land. The governing body which
12 created the agricultural security area which
13 contains a majority of the farm's viable
14 agricultural land shall be responsible for the
15 recording, filing and notification outlined in
16 section 8(d) and (g) concerning land added to the
17 agricultural security area pursuant to this
18 clause.

19 (C) To include in such rules and regulations,
20 standards and procedures for the selection or
21 purchase of agricultural conservation easements, by
22 the county solely or jointly with either the
23 Commonwealth or a local government unit, or both, on
24 that portion of a parcel located in an adjoining
25 county if all of the following criteria are complied
26 with:

27 (I) The land is part of a parcel of farm
28 land which is bisected by the dividing line
29 between the purchasing county and the adjoining
30 county.

1 (II) Either a mansion house is located on
2 that portion of the parcel which is within the
3 purchasing county or the dividing line between
4 the counties bisects the mansion house and the
5 owner of the parcel has chosen the purchasing
6 county as the situs of assessment for tax
7 purposes, or, if there is no mansion house on the
8 parcel, the majority of the farm's viable
9 agricultural land is located in the purchasing
10 county.

11 (III) The portion of the parcel located in
12 the purchasing county is within an agricultural
13 security area. Upon purchase of an easement by
14 the purchasing county covering that portion of
15 the parcel located in the adjoining county, the
16 portion of the parcel located in the adjoining
17 county shall immediately become part of the
18 agricultural security area previously established
19 in the purchasing county. The governing body
20 which created the agricultural security area in
21 the purchasing county shall be responsible for
22 the recording, filing and notification outlined
23 in section 8(d) and (g) concerning land added to
24 the agricultural security area pursuant to this
25 clause.

26 (ii) To adopt rules of procedure and bylaws
27 governing the operation of the county board and the
28 conduct of its meetings.

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

1 (iv) To purchase in the name of the county
2 agricultural conservation easements either within
3 agricultural security areas or pursuant to the criteria
4 set forth in subparagraph (i).

5 (v) To use moneys appropriated by the county
6 governing body from the county general fund to hire staff
7 and administer the [countywide] county program.

8 (vi) To use moneys appropriated by the county
9 governing body from the county general fund or the
10 proceeds of indebtedness incurred by the county and
11 approved by the county governing body for the purchase of
12 agricultural conservation easements either within
13 agricultural security areas or pursuant to the criteria
14 set forth in subparagraph (i).

15 (vii) To establish and maintain a repository of
16 records of farm lands which are subject to agricultural
17 conservation easements purchased by the county [and which
18 are located within the county].

19 (viii) To record agricultural conservation easements
20 purchased by the county in the office of the recorder of
21 deeds of the county wherein the agricultural conservation
22 easements are located and to submit to the State board a
23 certified copy of agricultural conservation easements
24 within 30 days after recording. The county board shall
25 attach to all certified copies of the agricultural
26 conservation easements submitted to the State board a
27 description of the farm land subject to the agricultural
28 conservation easements.

29 (ix) To submit to the State board for review the
30 initial county program and any proposed revisions to

1 approved county programs for purchasing agricultural
2 conservation easements.

3 (x) To recommend to the State board for purchase by
4 the Commonwealth agricultural conservation easements
5 within agricultural security areas located within the
6 county.

7 (xi) To recommend to the State board the purchase of
8 agricultural conservation easements by the Commonwealth
9 and the county jointly.

10 (xii) To purchase agricultural conservation
11 easements jointly with the Commonwealth.

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

15 (xiv) To submit to the State board applications for
16 agricultural conservation easements in accordance with
17 the guidebook authorized under subsection (a)(3)(xv).

18 * * *

19 (b.1) Local government unit participation.--Any local
20 government unit that has created an agricultural security area
21 may participate along with an eligible county and the
22 Commonwealth in the preservation of farmland through the
23 purchase of agricultural conservation easements.

24 * * *

25 (4) The local government unit may purchase an
26 agricultural conservation easement, provided that all of the
27 following apply:

28 (i) The agricultural conservation easement is
29 located within an agricultural security area of at least
30 500 acres or the easement purchase is a joint purchase

1 with either a county or both a county and the
2 Commonwealth pursuant to the criteria set forth in
3 subsection (b)(2)(i).

4 (ii) The deed of agricultural conservation easement
5 is at least as restrictive as the deed of agricultural
6 conservation easement prescribed by the State board for
7 agricultural conservation easements purchased by the
8 Commonwealth.

9 (iii) The local government unit shall participate
10 with the county board in complying with paragraph (5) for
11 recording any agricultural conservation easement
12 purchased by the local government unit.

13 * * *

14 (d) Program approval.--

15 (1) The standards, criteria and requirements established
16 by the State board for State board approval of county
17 programs for purchasing agricultural conservation easements
18 shall include, but not be limited to, the extent to which the
19 county programs consider and address the following:

20 (i) The quality of the farmlands subject to the
21 proposed easements, including soil classification and
22 soil productivity ratings. Farmland considered should
23 include soils which do not have the highest soil
24 classifications and soil productivity ratings but which
25 are conducive to producing crops unique to the area.

26 (ii) The likelihood that the farmlands would be
27 converted to nonagricultural use unless subject to an
28 agricultural conservation easement. Areas in the county
29 devoted primarily to agricultural use where development
30 is occurring or is likely to occur in the next 20 years

1 should be identified. For purposes of considering the
2 likelihood of conversion, the existence of a zoning
3 classification of the land shall not be relevant, but the
4 market for nonfarm use or development of farmlands shall
5 be relevant.

6 (ii.1) Proximity of the farmlands subject to
7 proposed easements to other agricultural [lands] parcels
8 in the county which are subject to agricultural
9 conservation easements.

10 (iii) The stewardship of the land and use of
11 conservation practices and best land management
12 practices, including, but not limited to, soil erosion
13 and sedimentation control and nutrient management.

14 (iv) Fair, equitable, objective and
15 nondiscriminatory procedures for determining purchase
16 priorities.

17 * * *

18 (e) Easement purchase.--

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

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

25 (ii) Clear title cannot be conveyed.

26 (iii) The farmland which would be subject to the
27 agricultural conservation easement is either not located
28 within a duly established agricultural security area of
29 500 or more acres established or recognized under this
30 act or not in compliance with the criteria set forth in

1 subsection (b)(2)(i).

2 (iv) The allocation of a county established pursuant
3 to subsection (h) is exhausted or is insufficient to pay
4 the purchase price.

5 (v) Compensation is not provided to owners of
6 surface-mineable coal disturbed or affected by the
7 creation of such easement.

8 * * *

9 Section 3. Notwithstanding any provisions of law to the
10 contrary, any agricultural conservation easement purchased
11 solely by a county prior to the effective date of this section,
12 which easement covered that portion of a farm parcel bisected by
13 a county border located within the purchasing county, shall be
14 considered eligible for repurchase by the Commonwealth or by the
15 Commonwealth in conjunction with county or local programs. The
16 value of such an easement, for the purposes of repurchase by the
17 Commonwealth or repurchase by the combined moneys of the
18 Commonwealth and a county or municipality, or both, shall be
19 calculated as the sum of the original easement purchase price
20 plus both administrative costs incurred by the county to
21 purchase the original easement and administrative costs incurred
22 by the county and associated with the repurchase. Any moneys
23 contributed by the Commonwealth for repurchase of such an
24 easement shall be paid to the county as the current easement
25 holder and applied to the purchase of other agricultural
26 conservation easements.

27 Section 4. Within 90 days of the effective date of this
28 section, the Department of Agriculture shall propose regulations
29 implementing the provisions of this act.

30 Section 5. This act shall take effect in 30 days.