

AGRICULTURAL AREAS SECURITY LAW - OMNIBUS AMENDMENTS

Act of Dec. 21, 1998, P.L. 1056, No. 138

Cl. 03

Session of 1998

No. 1998-138

SB 930

AN ACT

Amending the act of June 30, 1981 (P.L.128, No.43), entitled "An act authorizing the creation of agricultural areas," further providing for the State Agricultural Land Preservation Board; providing for local government unit participation; further providing for Commonwealth indebtedness; and making editorial changes.

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

Section 1. The definition of "local government unit" in section 3 of the act of June 30, 1981 (P.L.128, No.43), known as the Agricultural Area Security Law, amended December 14, 1988 (P.L.1202, No.149), is amended to read:

Section 3. Definitions.

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

\* \* \*

"Local government unit." Any city, borough, township or town **or any home rule municipality, optional plan municipality, optional charter municipality or similar general purpose unit of government which may be created or authorized by statute** .

\* \* \*

Section 2. Section 14.1(a) of the act, amended November 23, 1994 (P.L.621, No.96), is amended, the section is amended by adding a subsection and subsection (c)(5) is amended by adding subparagraphs to read:

Section 14.1. Purchase of agricultural conservation easements.

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

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

(i) There shall be eight voting ex officio members of the State board: the Secretary of Agriculture, who shall serve as the board chairman; the [Secretary of Community Affairs] **Secretary of Community and Economic Development** , or his designee; the [Secretary of Environmental Resources] **Secretary of Environmental**

**Protection** , or his designee; the Chairman and the Minority Chairman of the House Agriculture and Rural Affairs Committee, or their designees; the Chairman and the Minority Chairman of the Senate Agriculture and Rural Affairs Committee, or their designees; and the Dean of the College of [Agriculture] **Agricultural Sciences** of The Pennsylvania State University , or his designee .

(ii) Five members shall be appointed by the Governor. One member shall be a current member of the governing body of a county, one member shall be a person who is recognized as having significant knowledge in agricultural fiscal and financial matters, one member shall be an active resident farmer of this Commonwealth, one member shall be a residential, commercial or industrial building contractor, and one member shall be a current member of a governing body. Initially, two members shall be appointed for a term of four years, two members shall be appointed for a term of three years and one member shall be appointed for a term of two years. Thereafter, the terms of all members appointed herein shall be four years. The term of a person appointed to replace another member whose term has not expired shall be only the unexpired portion of that term. Members may be reappointed to successive terms.

(iii) One member each shall be appointed by the Speaker of the House of Representatives, the Minority Leader of the House of Representatives, the President pro tempore of the Senate and the Minority Leader of the Senate, who shall, at the time of appointment, be resident farm owners and operators of at least one commercial farm in this Commonwealth. The initial term of the appointee of the President pro tempore of the Senate shall be four years, the initial term of the appointee of the Speaker of the House of Representatives shall be three years, the initial term of the appointee of the Minority Leader of the Senate shall be two years and the initial term of the appointee of the Minority Leader of the House of Representatives shall be one year. Thereafter, the terms of all appointees shall be four years. An appointment made to fill an unexpired term shall be only for the duration of the unexpired term. Members may be reappointed to successive terms.

(2) Nine members shall constitute a quorum for purposes of conducting meetings and official actions pursuant to authority given to the State board under this act.

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

(i) To adopt rules and regulations pursuant to this act: Provided, That the board shall have the power and authority to promulgate, adopt, publish and use guidelines for the implementation of this act until September 30, 1990, or the effective date of final rules and regulations, whichever first occurs, pending adoption of final rules and regulations. Guidelines proposed under the authority of this section shall be subject to review

by the General Counsel and the Attorney General in the manner provided for the review of proposed rules and regulations pursuant to the act of October 15, 1980 (P.L.950, No.164), known as the "Commonwealth Attorneys Act," but shall not be subject to review pursuant to the act of June 25, 1982 (P.L.633, No.181), known as the "Regulatory Review Act."

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

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

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

(v) To purchase in the name of the Commonwealth agricultural conservation easements if recommended by a county and approved by the State board as provided in subparagraph (iii).

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

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

(viii) To establish and maintain a central repository of records which shall contain records of county programs for purchasing agricultural conservation easements, records of agricultural conservation easements purchased by **local government units, by local government units and counties[,] and by local government units and the Commonwealth** and records of agricultural conservation easements purchased by the Commonwealth. All records indicating the purchase of agricultural conservation easements shall refer to and describe the farm land subject to the agricultural conservation easement.

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

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

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

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

(xiii) To determine an annual easement purchase threshold.

(xiv) To review and approve or disapprove for recertification each county program for the purchase of agricultural conservation easements.

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

(4) The State board is authorized to:

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

(ii) Segregate from the Agricultural Conservation Easement Purchase Fund, into a Farms for the Future Trust Fund, funds necessary to qualify for the maximum amount of funding made available under the Federal act. There shall be deposited in this trust fund, and are appropriated for the purposes of this act, any interest rate assistance subsidies provided by participation in the Federal program. The State board is authorized to deposit interest accruing on moneys in the trust fund, in excess of the amounts needed to satisfy interest payments, in the Agricultural Conservation Easement Purchase Fund.

\* \* \*

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

(1) The local government unit, in conjunction with a county board, may participate with the State board in the purchase of agricultural conservation easements.

(2) The local government unit shall recommend to the county board the purchase of agricultural conservation easements by the eligible county and the local government unit as joint ownership.

(3) The local government unit shall recommend to the county board the purchase of agricultural conservation easements by the local government unit and the Commonwealth as joint ownership.

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

(i) The agricultural conservation easement is located within an agricultural security area of at least 500 acres.

(ii) The deed of agricultural conservation easement is at least as restrictive as the deed of agricultural

conservation easement prescribed by the State board for agricultural conservation easements purchased by the Commonwealth.

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

(5) The county board shall be responsible to record agricultural conservation easements where a local government unit is a party to the purchase of the easement. The easement shall be recorded by the county board in the office of the recorder of deeds of the county wherein the agricultural conservation easements are located. The county board shall submit to the State board a certified copy of agricultural conservation easements within 30 days after recording. The county board shall attach to all certified copies of the agricultural conservation easements submitted to the State board a description of the farmland subject to the agricultural conservation easements.

(6) The local government unit may incur debt pursuant to 53 Pa.C.S. Pt. VII Subpt. B (relating to indebtedness and borrowing) for the purchase of agricultural conservation easements.

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

\* \* \*

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

\* \* \*

(iii) For easements owned jointly by the Commonwealth and an eligible county, if the eligible county commits its share of funds received under this paragraph toward the purchase of agricultural conservation easements, the condemnor shall provide the Commonwealth's share of funds to the eligible county for use in purchasing agricultural conservation easements in accordance with this act.

(iv) For easements owned by the Commonwealth, the condemnor shall provide the Commonwealth's share of funds received under this paragraph to the eligible county for use in purchasing agricultural conservation easements in accordance with this act.

(v) Funds received by an eligible county under this paragraph shall not be considered matching funds under subsection (h).

(vi) If an eligible county which receives funds under this paragraph fails to spend the Commonwealth's share of funds within two years of receipt of the funds, the eligible county shall pay the Commonwealth the Commonwealth's share of funds received under this

**paragraph plus 6% simple interest. These funds shall be deposited into the Agricultural Conservation Easement Purchase Fund.**

\* \* \*

Section 3. Section 14.3(f) of the act, added December 14, 1988 (P.L.1202, No.149), is amended to read:

Section 14.3. Commonwealth indebtedness.

\* \* \*

(f) Expiration.--Authorization to issue bonds and notes [(] , not including refunding bonds and replacement notes[)] , for the purposes of this act shall expire [ten years from the effective date of this section] **February 13, 2004** .

Section 4. This act shall take effect in 60 days.

APPROVED--The 21st day of December, A. D. 1998.

THOMAS J. RIDGE