

AGRICULTURAL AREA SECURITY LAW - CREATION OF AGRICULTURAL AREAS AND
PURCHASE OF AGRICULTURAL CONSERVATION EASEMENTS

Act of Nov. 1, 2005, No. 61

Cl. 03

Session of 2005

No. 2005-61

HB 619

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 definitions, for agricultural security areas and for purchase of agricultural conservation easements.

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

Section 1. Section 3 of the act of June 30, 1981 (P.L.128, No.43), known as the Agricultural Area Security Law, is amended by adding a definition 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:

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"Commercial equine activity." The term includes the following activities where a fee is collected:

- (1) The boarding of equines.
- (2) The training of equines.
- (3) The instruction of people in handling, driving or riding equines.
- (4) The use of equines for riding or driving purposes.
- (5) The pasturing of equines.

The term does not include activity licensed under the act of December 17, 1981 (P.L.435, No.135), known as the "Race Horse Industry Reform Act."

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Section 2. Section 5(a) of the act, amended October 16, 1996 (P.L.703, No.121), is amended to read:

Section 5. Agricultural security areas.

(a) Proposals for creation.--Any owner or owners of land used for agricultural production **or of viable agricultural land a portion of which is used for commercial equine activity** may submit a proposal to the governing body for the creation of an agricultural security area within such local government unit, provided that such owner or owners own at least 250 acres of viable agricultural land proposed to be included in the area. The proposed area may also consist of any number of noncontiguous tax parcels or accounts: Provided, That each tax parcel or account is at least ten acres or has an anticipated yearly gross income of at least \$2,000 from the agricultural production of crops, livestock and livestock products on such

parcel or account.

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Section 3. Section 14.1(b)(2)(i) and (c)(6) of the act, amended November 23, 1994 (P.L.621, No.96) and May 30, 2001 (P.L.103, No.14), are amended to read:

Section 14.1. Purchase of agricultural conservation easements.

* * *

(b) County programs.--After the establishment of an 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 county program for the purchase of agricultural conservation easements 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 , **establishing minimum criteria for eligibility of viable agricultural land a portion of which is used for commercial equine activity** 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 between two local government units.

(II) The majority of the farm's viable agricultural land is located within an existing agricultural security area. Upon purchase of an easement covering the portion of the parcel which is not located within an agricultural security area, that portion of the parcel shall immediately become part of the previously established agricultural security area which contains a majority of the farm's viable agricultural land. The governing body which created the agricultural security area which contains a majority of the farm's viable agricultural land shall be responsible for the

recording, filing and notification outlined in section 8(d) and (g) concerning land added to the agricultural security area pursuant to this clause.

(C) 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 located in an adjoining county 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 between the purchasing county and the adjoining county.

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

(III) The portion of the parcel located in the purchasing county is within an agricultural security area. Upon purchase of an easement by the purchasing county covering that portion of the parcel located in the adjoining county, the portion of the parcel located in the adjoining county shall immediately become part of the agricultural security area previously established in the purchasing county. The governing body which created the agricultural security area in the purchasing county shall be responsible for the recording, filing and notification outlined in section 8(d) and (g) concerning land added to the agricultural security area pursuant to this clause.

* * *

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

* * *

(6) An agricultural conservation easement shall not prevent:

(i) The granting of leases, assignments or other conveyances or the issuing of permits, licenses or other authorization for the exploration, development, storage or removal of coal by underground mining methods, oil and gas by the owner of the subject land or the owner of the underlying coal by underground mining methods, oil and gas or the owner of the rights to develop the underlying

coal by underground mining methods, oil and gas, or the development of appurtenant facilities related to the removal of coal by underground mining methods, oil or gas development or activities incident to the removal or development of such minerals.

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

(iii) Construction and use of structures on the subject land necessary for agricultural production **or a commercial equine activity** .

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

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

(vi) Commercial equine activity on the subject land.

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Section 4. The amendment or addition of section 14.1(c)(6)(iii) and (vi) of the act shall apply to easements executed after June 29, 1981.

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

APPROVED--The 1st day of November, A. D. 2005.

EDWARD G. RENDELL