

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1707 Session of
1993

INTRODUCED BY B. SMITH, LLOYD, HERSHEY, BARLEY, STETLER, CAWLEY,
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SCHEETZ AND GODSHALL, MAY 28, 1993

REFERRED TO COMMITTEE ON AGRICULTURE AND RURAL AFFAIRS,
MAY 28, 1993

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," defining
3 "eligible counties"; and further providing for the purchase
4 of agricultural conservation easements.

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

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

10 Section 3. Definitions.

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

14 * * *

15 "Eligible counties." Counties whose easement purchase
16 programs have been approved by the State Agricultural Land
17 Preservation Board. For the purpose of annual allocations, an

1 eligible county must have its easement purchase program approved
2 by the State board by January 1 of the year in which the annual
3 allocation is made. Counties of the first class are not eligible
4 under any circumstances.

5 * * *

6 Section 2. Section 14.1(c) and (h) of the act, amended June
7 22, 1990 (P.L.242, No.57) and April 13, 1992 (P.L.100, No.23),
8 are amended to read:

9 Section 14.1. Purchase of agricultural conservation easements.

10 * * *

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

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

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

20 (3) If the land subject to the agricultural conservation
21 easement is no longer viable agricultural land, the
22 Commonwealth, subject to the approval of the State board, and
23 the county, subject to the approval of the county board, may
24 sell, convey, extinguish, lease, encumber or restrict an
25 agricultural conservation easement to the current owner of
26 record of the farmland subject to the easement after the
27 expiration of 25 years from the date of purchase of the
28 easement for a purchase price equal to the value at the time
29 of resale determined pursuant to subsection (f) at the time
30 of conveyance. A conveyance by the Commonwealth pursuant to

1 this subsection shall not be subject to the requirements of
2 Article XXIV-A of the act of April 9, 1929 (P.L.177, No.175),
3 known as "The Administrative Code of 1929." The purchase
4 price shall be payable to the Commonwealth and the county as
5 their respective legal interests in the agricultural
6 conservation easement appear, and a separate payment shall be
7 made to the Commonwealth and the county accordingly at the
8 time of settlement. Any payment received by the Commonwealth
9 pursuant to this provision shall be paid into the fund.

10 (4) Instruments and documents for the purchase, sale and
11 conveyance of agricultural conservation easements shall be
12 approved by the State board or the county board, as the case
13 may be, prior to execution and delivery. Proper releases from
14 mortgage holders and lienholders must be obtained and
15 executed to insure that all agricultural conservation
16 easements are purchased free and clear of all encumbrances.

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

23 (i) The owner of the land in fee shall be paid the
24 full value which would have been payable to the owner but
25 for the existence of an agricultural conservation
26 easement less the value of the agricultural conservation
27 easement at the time of condemnation.

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

30 (6) An agricultural conservation easement shall not

1 prevent:

2 (i) The granting of leases, assignments or other
3 conveyances or the issuing of permits, licenses or other
4 authorization for the exploration, development, storage
5 or removal of coal by underground mining methods, oil and
6 gas by the owner of the subject land or the owner of the
7 underlying coal by underground mining methods, oil and
8 gas or the owner of the rights to develop the underlying
9 coal by underground mining methods, oil and gas, or the
10 development of appurtenant facilities related to the
11 removal of coal by underground mining methods, oil or gas
12 development or activities incident to the removal or
13 development of such minerals.

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

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

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

28 (v) Customary part-time or off-season minor or rural
29 enterprises and activities which are provided for in the
30 county Agricultural Conservation Easement Purchase

1 Program approved by the State board under subsection (d).

2 (7) Nothing in this act shall prohibit a member of the
3 State board or county board or his or her family from selling
4 a conservation easement under this program, provided that all
5 decisions made regarding easement purchases be subject to the
6 provisions of section 3(j) of the act of October 4, 1978
7 (P.L.883, No.170), referred to as the Public Official and
8 Employee Ethics Law.

9 * * *

10 (h) Allocation of State moneys.--The State board shall make
11 an annual allocation among counties, except counties of the
12 first class, for the purchase of agricultural conservation
13 easements, except for counties that do not have an easement
14 purchase program approved by the State board by January 1 of the
15 year in which the annual allocation is made.

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

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

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

29 (iii) "Annual easement purchase threshold." An
30 amount annually determined by the State board which

1 equals at least \$10,000,000.

2 (iv) "Average realty transfer tax revenues." The
3 total annual realty transfer tax revenues collected in
4 [all counties, except counties of the first class,
5 divided by 66] those counties with an easement purchase
6 program approved by the State board by January 1 of the
7 year in which the annual allocation is made, divided by
8 the number of counties with approved easement programs by
9 January 1.

10 (v) "Realty transfer tax revenues." The tax imposed
11 and collected under section 1102-C of the act of March 4,
12 1971 (P.L.6, No.2), known as the "Tax Reform Code of
13 1971."

14 (vi) "Weighted transfer tax revenues." An amount
15 equal to the total annual realty transfer tax revenues
16 collected in [a] an eligible county divided by the sum of
17 the total annual realty transfer tax revenues collected
18 in all eligible counties except counties of the first
19 class which does not exceed three times the average
20 realty transfer tax revenues.

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

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

1 allocation from 50% of the annual easement purchase threshold
2 shall be made to a county, except a county of the first
3 class, at the beginning of the county fiscal year for the
4 joint purchase of agricultural conservation easements by the
5 Commonwealth and a county. The additional annual allocation
6 under this paragraph shall equal the sum of:

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

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

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

1 appropriated by all eligible counties for the purchase of
2 agricultural conservation easements and in all cases shall
3 not exceed the average annual allocation under paragraph (2)
4 multiplied by four.

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

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

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

30 (6) The allocation of a county shall be adjusted for

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

15 (7) The first annual allocation to a county under
16 paragraphs (3), (4) and (5)(i) shall continue for three
17 county fiscal years occurring after the effective date of
18 this act, and the second and third such annual allocations
19 shall each continue for two county fiscal years occurring
20 after the effective date of this act. Thereafter each such
21 annual allocation shall be for one county fiscal year. Such
22 annual allocations which have not been expended or encumbered
23 at the end of the period for which they were allocated shall
24 be reallocated in the subsequent county fiscal year to a
25 county which used at least 90% of the allocation made to the
26 county at the start of the period. The reallocation to a
27 county under this paragraph shall be the total amount of the
28 annual allocation available for reallocation under this
29 paragraph multiplied by a percentage equal to the annual
30 appropriation of local moneys appropriated by the county for

1 the purchase of agricultural conservation easements at the
2 start of the county fiscal year in which the annual
3 allocation was made divided by the aggregate of local moneys
4 appropriated by all eligible counties for the purchase of
5 agricultural conservation easements at the start of the
6 county fiscal year in which the annual allocation was made.
7 Money reallocated to a county under this paragraph shall be
8 available for one county fiscal year. Money reallocated to a
9 county under this paragraph that has not been spent or
10 encumbered at the conclusion of one county fiscal year shall
11 be restored to the fund.

12 (8) Initial allocations to counties under paragraphs (2)
13 and (5)(ii) shall continue until the end of the fourth county
14 fiscal year occurring after the effective date of this act.
15 The sum of the total annual allocations of all counties under
16 paragraphs (2) and (5)(ii) which have not been expended or
17 encumbered by the end of the fourth county fiscal year, and
18 every county fiscal year thereafter, occurring after the
19 effective date of this act shall be reallocated in the
20 subsequent county fiscal year to a county which used at least
21 90% of the allocation made to the county at the start of the
22 period. For purposes of determining eligibility for
23 reallocation of funds and the amounts of reallocation, funds
24 allocated to counties will be segregated and accounted for on
25 a county fiscal year basis. Fifty percent of the amount
26 available for allocation under this paragraph shall be
27 reallocated in the manner set forth in paragraph (2), and 50%
28 of the amount available for allocation under this paragraph
29 shall be reallocated in the manner set forth in paragraphs
30 (3), (4) and (5). For purposes of reallocating funds in the

manner set forth in paragraph (2), realty transfer tax revenues used to calculate weighted transfer tax revenues shall correspond to the year for which funds are being reallocated and weighted transfer tax revenues shall be calculated only for counties eligible under this paragraph. Money reallocated to a county under this paragraph shall be available for one county fiscal year. Money reallocated to a county under this paragraph that has not been spent or encumbered at the conclusion of one county fiscal year shall be restored to the fund.

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

Section 3. This act shall take effect in 60 days.