
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1707

Session of
1993

INTRODUCED BY B. SMITH, LLOYD, HERSHEY, BARLEY, STETLER, CAWLEY,
ARGALL, GORDNER, STAIRS, STISH, BAKER, OLASZ, GERLACH, BUSH,
SAYLOR, ARMSTRONG, PITTS, WAUGH, HENNESSEY, GEIST, STEIL,
D. W. SNYDER, HECKLER, PETRONE, VANCE, PLATTS, TRELLO,
SCHEETZ, GODSHALL, MAITLAND AND NAILOR, MAY 28, 1993

SENATOR MADIGAN, AGRICULTURE AND RURAL AFFAIRS, IN SENATE, AS
AMENDED, APRIL 26, 1994

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

Preservation Board. For the purpose of annual allocations, an eligible county must have its easement purchase program approved by the State board by January 1 of the year in which the annual allocation is made. Counties of the first class are not eligible under any circumstances.

* * *

Section 2. Section 14.1(c) and (h) of the act, amended June 22, 1990 (P.L.242, No.57), April 13, 1992 (P.L.100, No.23) and December 17, 1993 (P.L.522, No.75), are amended to read:

Section 14.1. Purchase of agricultural conservation easements.

* * *

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

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

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

(3) If the land subject to the agricultural conservation easement is no longer viable agricultural land, the Commonwealth, subject to the approval of the State board, and the county, subject to the approval of the county board, may sell, convey, extinguish, lease, encumber or restrict an agricultural conservation easement to the current owner of record of the farmland subject to the easement after the expiration of 25 years from the date of purchase of the easement for a purchase price equal to the value at the time of resale determined pursuant to subsection (f) at the time

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

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

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

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

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

1 (6) An agricultural conservation easement shall not
2 prevent:

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

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

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

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

29 (v) Customary part-time or off-season minor or rural
30 enterprises and activities which are provided for in the

1 county Agricultural Conservation Easement Purchase

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

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

10 * * *

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

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

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

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

30 (iii) "Annual easement purchase threshold." An

1 amount annually determined by the State board which
2 equals at least \$10,000,000.

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

11 (v) "Realty transfer tax revenues." The tax imposed
12 and collected under section 1102-C of the act of March 4,
13 1971 (P.L.6, No.2), known as the "Tax Reform Code of
14 1971."

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

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

29 (3) If the aggregate annual allocation under this
30 paragraph to all eligible counties does not exceed 50% of the

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

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

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

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

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

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

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

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

1 for the preceding calendar year.

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

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

1 allocation 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. The reallocation to a county under this paragraph
6 shall be the total amount of the annual allocation available
7 for reallocation under this paragraph multiplied by a
8 percentage equal to the annual appropriation of local moneys
9 appropriated by the county for the purchase of agricultural
10 conservation easements at the start of the county fiscal year
11 in which the annual allocation was made divided by the
12 aggregate of local moneys appropriated by all eligible
13 counties for the purchase of agricultural conservation
14 easements at the start of the county fiscal year in which the
15 annual allocation was made. Money reallocated to a county
16 under this paragraph shall be available for one county fiscal
17 year. Money reallocated to a county under this paragraph that
18 has not been spent or encumbered at the conclusion of one
19 county fiscal year shall be restored to the fund. Such money
20 shall be considered to be encumbered and shall not be
21 restored to the fund if, by December 31 of the year in which
22 a reallocation was made to the county, the department has
23 received an agreement executed by the landowner and the
24 county to purchase a specific agricultural conservation
25 easement as part of the county board's recommendation for
26 purchase. No money shall be reallocated to a county for the
27 purchase of agricultural conservation easements under this
28 paragraph on or after January 1, 1995.

29 (8) Initial allocations to counties under paragraphs (2)
30 and (5)(ii) shall continue until the end of the fourth county

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

1 Money reallocated to a county under this paragraph that has
2 not been spent or encumbered at the conclusion of one county
3 fiscal year shall be restored to the fund. Such money shall
4 be considered to be encumbered and shall not be restored to
5 the fund if, by December 31 of the year in which a
6 reallocation was made to the county, the department has
7 received an agreement executed by the landowner and the
8 county to purchase a specific agricultural conservation
9 easement as part of the county board's recommendation for
10 purchase. No money shall be reallocated to a county for the
11 purchase of agricultural conservation easements under this
12 paragraph on or after January 1, 1995.

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

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

28 (ii) Nothing in this paragraph shall affect any
29 reallocation made prior to the effective date of this
30 paragraph.

1 (11) A county may annually use up to the lesser of
2 \$15,000 or 5% of its total annual allocation to pay the costs
3 incurred by such county in administering its agricultural
4 conservation easement purchase program.

5 (12) The total annual allocation made to an eligible
6 county at the beginning of the county's fiscal year for the
7 purchase of agricultural conservation easements may be spent
8 over a period of three consecutive county fiscal years. Money
9 allocated to a county under this subsection which has not
10 been expended or encumbered by such county at the conclusion
11 of the third county fiscal year shall be restored to the
12 fund. Such money shall not be restored to the fund if, by
13 December 31 of the third fiscal year, the department has
14 received an agreement executed by the landowner and the
15 county to purchase a specific agricultural conservation
16 easement as part of the county board's recommendation for
17 purchase.

18 Section 3. Section 14.2(a) of the act, added December 14,
19 1988 (P.L.1202, No.149), is amended to read:

20 Section 14.2. Agricultural Conservation Easement Purchase Fund.

21 (a) Purpose of fund.--The Agricultural Conservation Easement
22 Purchase Fund shall be the source from which all moneys are
23 authorized with the approval of the Governor to carry out the
24 purpose of this act. The moneys appropriated to the fund shall
25 be utilized in accordance with the expenditures and distribution
26 authorized, required or otherwise provided in the program for
27 purchase of agricultural conservation easements contained in
28 section 14.1, for the purpose of paying all costs, [except]
29 including a portion of a county's administrative costs, incurred
30 by the Commonwealth or a county incident to the purchase of

1 agricultural conservation easements, and for the purpose of
2 reimbursing nonprofit land conservation organizations for
3 expenses incurred in acquiring and transferring agricultural
4 conservation easements to the Commonwealth or a county.

5 * * *

6 Section 4. Section 14.3(e) of the act is repealed.

7 SECTION 5. THE AMENDMENT OF SECTION 14.1(C)(6)(IV) SHALL BE <—
8 RETROACTIVE TO JUNE 30, 1981.

9 Section ~~5~~ 6. This act shall take effect January 1, 1995. <—