

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL**No. 2521** Session of
1994

INTRODUCED BY LLOYD, B. SMITH, COLAIZZO, SANTONI, PESCI, TRICH,
GORDNER, YEWIC, MILLER, HERSHEY AND MAITLAND,
FEBRUARY 2, 1994

AS RE-REPORTED FROM COMMITTEE ON APPROPRIATIONS, HOUSE OF
REPRESENTATIVES, AS AMENDED, APRIL 11, 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,"
3 providing standards, criteria and requirements for the
4 purchasing of agricultural conservation easements; providing
5 for review of county programs; imposing duties on the State
6 Agricultural Land Preservation Board and county boards; and
7 further providing for subdivision of land and change of
8 ownership.

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

11 Section 1. Section 14.1 of the act of June 30, 1981
12 (P.L.128, No.43), known as the Agricultural Area Security Law,
13 amended or added December 14, 1988 (P.L.1202, No.149), June 22,
14 1990 (P.L.242, No.57), April 13, 1992 (P.L.100, No.23) and
15 December 17, 1993 (P.L.522, No.75), is amended to read:

16 Section 14.1. Purchase of agricultural conservation easements.

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

1 by the Commonwealth.

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

6 (i) There shall be eight voting ex officio members
7 of the State board: the Secretary of Agriculture, who
8 shall serve as the board chairman; the Secretary of
9 Community Affairs, or his designee; the Secretary of
10 Environmental Resources, or his designee; the Chairman
11 and the Minority Chairman of the House Agriculture and
12 Rural Affairs Committee, or their designees; the Chairman
13 and the Minority Chairman of the Senate Agriculture and
14 Rural Affairs Committee, or their designees; and the Dean
15 of the College of Agriculture of The Pennsylvania State
16 University.

17 (ii) Five members shall be appointed by the
18 Governor. One member shall be a current member of the
19 governing body of a county, one member shall be a person
20 who is recognized as having significant knowledge in
21 agricultural fiscal and financial matters, one member
22 shall be an active resident farmer of this Commonwealth,
23 one member shall be a residential, commercial or
24 industrial building contractor, and one member shall be a
25 current member of a governing body. Initially, two
26 members shall be appointed for a term of four years, two
27 members shall be appointed for a term of three years and
28 one member shall be appointed for a term of two years.
29 Thereafter, the terms of all members appointed herein
30 shall be four years. The term of a person appointed to

1 replace another member whose term has not expired shall
2 be only the unexpired portion of that term. Members may
3 be reappointed to successive terms.

4 (iii) One member each shall be appointed by the
5 Speaker of the House of Representatives, the Minority
6 Leader of the House of Representatives, the President pro
7 tempore of the Senate and the Minority Leader of the
8 Senate, who shall, at the time of appointment, be
9 resident farm owners and operators of at least one
10 commercial farm in this Commonwealth. The initial term of
11 the appointee of the President pro tempore of the Senate
12 shall be four years, the initial term of the appointee of
13 the Speaker of the House of Representatives shall be
14 three years, the initial term of the appointee of the
15 Minority Leader of the Senate shall be two years and the
16 initial term of the appointee of the Minority Leader of
17 the House of Representatives shall be one year.

18 Thereafter, the terms of all appointees shall be four
19 years. An appointment made to fill an unexpired term
20 shall be only for the duration of the unexpired term.
21 Members may be reappointed to successive terms.

22 (2) Nine members shall constitute a quorum for purposes
23 of conducting meetings and official actions pursuant to
24 authority given to the State board under this act. Members
25 appointed pursuant to paragraph (1)(ii) and (iii) shall
26 receive per diem in the amount of \$100 for attendance at a
27 meeting of the State board. Such members shall also be
28 entitled to reimbursement in accordance with Commonwealth
29 regulations for reasonable traveling, lodging and other
30 necessary expenses incurred in the discharge of their duties.

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

3 (i) To adopt rules and regulations pursuant to this
4 act: Provided, That the board shall have the power and
5 authority to promulgate, adopt, publish and use
6 guidelines for the implementation of this act until
7 September 30, 1990, or the effective date of final rules
8 and regulations, whichever first occurs, pending adoption
9 of final rules and regulations. Guidelines proposed under
10 the authority of this section shall be subject to review
11 by the General Counsel and the Attorney General in the
12 manner provided for the review of proposed rules and
13 regulations pursuant to the act of October 15, 1980
14 (P.L.950, No.164), known as the "Commonwealth Attorneys
15 Act," but shall not be subject to review pursuant to the
16 act of June 25, 1982 (P.L.633, No.181), known as the
17 "Regulatory Review Act."

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

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

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

29 (v) To purchase in the name of the Commonwealth
30 agricultural conservation easements if recommended by a

1 county and approved by the State board as provided in
2 subparagraph (iii).

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

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

10 (viii) To establish and maintain a central
11 repository of records which shall contain records of
12 county programs for purchasing agricultural conservation
13 easements, records of agricultural conservation easements
14 purchased by counties, and records of agricultural
15 conservation easements purchased by the Commonwealth. All
16 records indicating the purchase of agricultural
17 conservation easements shall refer to and describe the
18 farm land subject to the agricultural conservation
19 easement.

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

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

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

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

5 (xiii) To determine an annual easement purchase
6 threshold.

7 (xiv) To review and approve or disapprove for
8 recertification each county program for the purchase of
9 agricultural conservation easements. Such review shall be
10 conducted ~~seven years following the date of State board~~ <—
11 approval of the initial county program BY DECEMBER 31, <—
12 1996, and every seventh year thereafter.

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

20 (4) The State board is authorized to:

21 (i) Take the actions necessary to qualify for
22 Federal guarantees and interest rate assistance for
23 agricultural easement purchase loans under Chapter 2 of
24 the Food, Agriculture, Conservation, and Trade Act of
25 1990 (Public Law 101-624, 104 Stat. 3616).

26 (ii) Segregate from the Agricultural Conservation
27 Easement Purchase Fund, into a Farms for the Future Trust
28 Fund, funds necessary to qualify for the maximum amount
29 of funding made available under the Federal act. There
30 shall be deposited in this trust fund, and are

1 appropriated for the purposes of this act, any interest
2 rate assistance subsidies provided by participation in
3 the Federal program. The State board is authorized to
4 deposit interest accruing on moneys in the trust fund, in
5 excess of the amounts needed to satisfy interest
6 payments, in the Agricultural Conservation Easement
7 Purchase Fund.

8 (b) County programs.--After the establishment of an
9 agricultural security area by the governing body, the county
10 governing body may authorize a program to be administered by the
11 county board for purchasing agricultural conservation easements
12 from landowners whose land is within an agricultural security
13 area.

14 (1) The county board shall be composed of five, seven or
15 nine members appointed by the county governing body. The
16 chairman of the county governing body shall designate
17 annually one member of the county board to serve as chairman
18 of the county board. County board members shall be appointed
19 from among the following groups: the number of farmers shall
20 constitute one less than a majority of the board; one member
21 shall be a current member of the governing body of a township
22 or borough located within the county; one member shall be a
23 commercial, industrial or residential building contractor;
24 and the other members shall be selected at the pleasure of
25 the county governing body. The county board membership of the
26 member of the governing body of a township or borough located
27 within the county shall be deemed vacant upon vacancy in, or
28 the expiration of the term of, the township or borough office
29 to which the member was elected. The term of the initial
30 farmer appointees shall be three years, the initial term of

1 the current member of the governing body of a township or
2 borough shall be two years and the initial term of all other
3 members shall be one year. Thereafter, the term of all
4 members shall be three years.

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

7 (i) To adopt rules and regulations for the
8 administration of a countywide program for the purchase
9 of agricultural conservation easements within
10 agricultural security areas in accordance with the
11 provisions of this act, including, but not limited to,
12 rules and regulations governing the submission of
13 applications by landowners, establishing standards and
14 procedures for the appraisal of property eligible for
15 purchase as an agricultural conservation easement and
16 establishing standards and procedures for the selection
17 or purchase of agricultural conservation easements.

18 (ii) To adopt rules of procedure and bylaws
19 governing the operation of the county board and the
20 conduct of its meetings.

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

23 (iv) To purchase in the name of the county
24 agricultural conservation easements within agricultural
25 security areas.

26 (v) To use moneys appropriated by the county
27 governing body from the county general fund to hire staff
28 and administer the countywide program.

29 (vi) To use moneys appropriated by the county
30 governing body from the county general fund or the

1 proceeds of indebtedness incurred by the county and
2 approved by the county governing body for the purchase of
3 agricultural conservation easements within agricultural
4 security areas.

5 (vii) To establish and maintain a repository of
6 records of farm lands which are subject to agricultural
7 conservation easements purchased by the county and which
8 are located within the county.

9 (viii) To record agricultural conservation easements
10 purchased by the county in the office of the recorder of
11 deeds of the county wherein the agricultural conservation
12 easements are located and to submit to the State board a
13 certified copy of agricultural conservation easements
14 within 30 days after recording. The county board shall
15 attach to all certified copies of the agricultural
16 conservation easements submitted to the State board a
17 description of the farm land subject to the agricultural
18 conservation easements.

19 (ix) To submit to the State board for review the
20 initial county program and any proposed revisions to
21 approved county programs for purchasing agricultural
22 conservation easements.

23 (x) To recommend to the State board for purchase by
24 the Commonwealth agricultural conservation easements
25 within agricultural security areas located within the
26 county.

27 (xi) To recommend to the State board the purchase of
28 agricultural conservation easements by the Commonwealth
29 and the county jointly.

30 (xii) To purchase agricultural conservation

1 easements jointly with the Commonwealth.

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

5 (xiv) To submit to the State board applications for
6 agricultural conservation easements in accordance with
7 the guidebook authorized under section 14.1(a)(3)(xv).

8 (3) The county may incur debt pursuant to the act of
9 July 12, 1972 (P.L.781, No.185), known as the "Local
10 Government Unit Debt Act," for the purchase of agricultural
11 conservation easements.

12 (4) County programs for the purchase of agricultural
13 conservation easements approved by the State board in
14 accordance with the provisions of this section shall be
15 reviewed by the State board and approved or disapproved for
16 recertification seven years from the date of State board <—
17 approval of the initial county program BY DECEMBER 31, 1996, <—
18 and every seventh year thereafter. On or before DECEMBER 31, <—
19 1995, AND the end of each seven-year period THEREAFTER, the <—
20 county board may submit to the State board A REQUEST for <—
21 review and recertification OF the county program for the <—
22 purchase of agricultural conservation easements and SHALL <—
23 SUBMIT any proposed revisions to such program. County
24 programs submitted to the SUBJECT TO State board for review <—
25 and recertification under this paragraph shall be approved or
26 disapproved in accordance with the requirements of subsection
27 (d). After DECEMBER 31, 1996, AND the end of each seven-year <—
28 period THEREAFTER, the State board shall not approve a county <—
29 board's recommendation to purchase until the county program
30 has been approved for recertification.

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

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

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

10 (3) If the land subject to the agricultural conservation
11 easement is no longer viable agricultural land, the
12 Commonwealth, subject to the approval of the State board, and
13 the county, subject to the approval of the county board, may
14 sell, convey, extinguish, lease, encumber or restrict an
15 agricultural conservation easement to the current owner of
16 record of the farmland subject to the easement after the
17 expiration of 25 years from the date of purchase of the
18 easement for a purchase price equal to the value at the time
19 of resale determined pursuant to subsection (f) at the time
20 of conveyance. A conveyance by the Commonwealth pursuant to
21 this subsection shall not be subject to the requirements of
22 Article XXIV-A of the act of April 9, 1929 (P.L.177, No.175),
23 known as "The Administrative Code of 1929." The purchase
24 price shall be payable to the Commonwealth and the county as
25 their respective legal interests in the agricultural
26 conservation easement appear, and a separate payment shall be
27 made to the Commonwealth and the county accordingly at the
28 time of settlement. Any payment received by the Commonwealth
29 pursuant to this provision shall be paid into the fund.

30 (4) Instruments and documents for the purchase, sale and

1 conveyance of agricultural conservation easements shall be
2 approved by the State board or the county board, as the case
3 may be, prior to execution and delivery. Proper releases from
4 mortgage holders and lienholders must be obtained and
5 executed to insure that all agricultural conservation
6 easements are purchased free and clear of all encumbrances.

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

13 (i) The owner of the land in fee shall be paid the
14 full value which would have been payable to the owner but
15 for the existence of an agricultural conservation
16 easement less the value of the agricultural conservation
17 easement at the time of condemnation.

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

20 (6) An agricultural conservation easement shall not
21 prevent:

22 (i) The granting of leases, assignments or other
23 conveyances or the issuing of permits, licenses or other
24 authorization for the exploration, development, storage
25 or removal of coal by underground mining methods, oil and
26 gas by the owner of the subject land or the owner of the
27 underlying coal by underground mining methods, oil and
28 gas or the owner of the rights to develop the underlying
29 coal by underground mining methods, oil and gas, or the
30 development of appurtenant facilities related to the

1 removal of coal by underground mining methods, oil or gas
2 development or activities incident to the removal or
3 development of such minerals.

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

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

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

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

21 (7) Land subject to an agricultural conservation
22 easement shall not be subdivided for any purpose which may
23 harm the economic viability of the farmland for agricultural
24 production. Land may be subdivided prior to the granting of
25 an agricultural conservation easement, provided that
26 subdividing will not harm the economic viability for
27 agricultural production of the land subject to the easement.

28 (8) Nothing in this act shall prohibit a member of the
29 State board or county board or his or her family from selling
30 a conservation easement under this program, provided that all

1 decisions made regarding easement purchases be subject to the
2 provisions of section 3(j) of the act of October 4, 1978
3 (P.L.883, No.170), referred to as the Public Official and
4 Employee Ethics Law.

5 (d) Program approval.--

6 (1) The standards, criteria and requirements established
7 by the State board for State board approval of county
8 programs for purchasing agricultural conservation easements
9 shall include, but not be limited to, the extent to which the
10 county programs consider and address the following:

11 (i) The quality of the farmlands subject to the
12 proposed easements, including soil classifications and
13 [productivity.] soil productivity ratings.

14 (ii) The likelihood that the farmlands would be
15 converted to nonagricultural use unless subject to an
16 agricultural conservation easement. [Priority for the
17 purchase of an agricultural conservation easement shall
18 be given to farmlands most likely to be converted to
19 nonagricultural use.] For purposes of considering the
20 likelihood of conversion, the existence of a zoning
21 classification of the land shall not be relevant, but the
22 market for nonfarm use or development of farmlands shall
23 be relevant.

24 (iii) The stewardship of the land and use of
25 conservation practices and best land management
26 practices, including, but not limited to, soil erosion
27 and sedimentation control and nutrient management.

28 (iv) Fair, equitable, objective and
29 nondiscriminatory procedures for determining purchase
30 priorities. The highest priority for the purchase of an

1 agricultural conservation easement shall be given to
2 farmlands with the highest soil classifications and soil
3 productivity ratings and to farmlands most likely to be
4 converted to nonagricultural use.

5 (v) Identification of areas in the county devoted
6 primarily to agricultural use in which development is
7 occurring or is likely to occur during the next 20 years.

8 (vi) Access of the farmlands subject to the proposed
9 easements to agricultural suppliers and markets for
10 agricultural goods.

11 (vii) Proximity of the farmlands subject to the
12 proposed easements to other agricultural lands in the
13 county which are subject to agricultural conservation
14 easements.

15 (2) The State board shall act on a county's program for
16 purchasing agricultural conservation easements within 60 days
17 of its receipt, and shall notify immediately the county in
18 writing of approval or disapproval of its program in
19 accordance with the criteria set forth in this subsection.
20 Failure of the State board to act on the submission of a
21 county program under this provision within 60 days of its
22 receipt shall be deemed to constitute approval of the county
23 program by the State board.

24 (e) Easement purchase.--

25 (1) The State board may reject the recommendation made
26 by a county for purchase of an agricultural conservation
27 easement whenever:

28 (i) The recommendation does not comply with a county
29 program certified and approved by the State board for
30 purchasing agricultural conservation easements. In

1 determining the adherence of the recommendation to the
2 county program, the State board may consider:

3 (A) agricultural value of the easement;

4 (B) purchase price of the easement;

5 (C) agricultural viability of the farmland;

6 (D) ranking of the farmland on the priority list
7 of the county;

8 (E) development pressure or potential for such
9 pressure;

10 (F) proximity of the farmland to other land in
11 the county under agricultural conservation easements;

12 (G) adequacy of the appraisal of the easement;
13 and

14 (H) whether residential and farm buildings are
15 part of the easement or are excluded from the
16 easement.

17 (ii) Clear title cannot be conveyed.

18 (iii) The farmland which would be subject to the
19 agricultural conservation easement is not located within
20 a duly established agricultural security area established
21 or recognized under this act.

22 (iv) The allocation of a county established pursuant
23 to subsection (h) is exhausted or is insufficient to pay
24 the purchase price.

25 (v) Compensation is not provided to owners of
26 surface-mineable coal disturbed or affected by the
27 creation of such easement.

28 (2) The State board shall act to approve or disapprove
29 the recommendation by a county for purchase of an
30 agricultural conservation easement within 60 days of its

1 [receipt.] receipt, unless the following conditions delay
2 approval:

3 (i) The occurrence of a catastrophic event which
4 precludes the convening of the State board. Any natural
5 disaster, including, but not limited to, fire, flood,
6 excessive wind, snow or earthquake shall constitute a
7 catastrophic event.

8 (ii) The issue of a subdivision causes further
9 questions by the State board.

10 (iii) Legal actions or court decisions are pending
11 that would affect the recommendation in question.

12 The 60-day period shall be extended until all issues set
13 forth in this paragraph are resolved to the satisfaction of
14 the State board, whereby the State board shall act
15 immediately on the recommendation of the county board.
16 Decisions delayed due to catastrophic events shall be
17 determined in as reasonable an amount of time as possible.

18 (3) If the State board disapproves the recommendation by
19 a county for purchase of an agricultural conservation
20 easement, the county shall be given written notice of the
21 disapproval within ten days of the decision of the State
22 board. The written notice shall state the reason for the
23 State board's disapproval of the recommendation.

24 (4) A decision of the State board issued under the
25 authority of this subsection shall be an adjudication subject
26 to the provisions of 2 Pa.C.S. (relating to administrative
27 law and procedure).

28 (5) Failure of the State board to act on a
29 recommendation by a county for purchase of an agricultural
30 conservation easement within 60 days of its receipt shall be

1 deemed to constitute approval by the State board, unless one
2 or more of the conditions under section 14.1(e)(2) exist.

3 (f) Valuation.--The State board or the county board, as the
4 case may be, shall select and retain an independent [licensed]
5 State certified general real estate appraiser to determine
6 market value and farmland value. If the seller disagrees with
7 the appraisal made by the State or county board's appraiser, the
8 seller shall have the right to select and retain a separate
9 independent [licensed] State certified general real estate
10 appraiser within 30 days of receipt of the appraisal of the
11 State or county board's appraiser to determine market value and
12 farmland value. The State board or the county board shall
13 establish the agricultural value and the nonagricultural value
14 of the property subject to the agricultural conservation
15 easement. The State board may provide for a periodic review by a
16 State certified general real estate appraiser of appraisals
17 submitted by counties in order to assure that the appraisals
18 were performed in accordance with the standards of appraisal
19 practice.

20 (1) The agricultural value shall equal the sum of:

21 (i) the farmland value determined by the seller's
22 appraiser; and

23 (ii) one-half of the difference between the farmland
24 value determined by the State or county board's appraiser
25 and the farmland value determined by the seller's
26 appraiser if the farmland value determined by the State
27 or county board's appraiser exceeds the farmland value
28 determined by the seller's appraiser.

29 (2) The nonagricultural value shall equal the sum of:

30 (i) the market value determined by the State or

1 county board's appraiser; and

2 (ii) one-half of the difference between the market
3 value determined by the seller's appraiser and the market
4 value determined by the State or county board's
5 appraiser, if the market value determined by the seller's
6 appraiser exceeds the market value determined by the
7 State or county board's appraiser.

8 (3) The entire acreage of the farmland shall be included
9 in the determination of the value of an agricultural
10 conservation easement, less the value of any acreage which
11 was subdivided prior to the granting of such easement. The
12 appraiser shall take into account the potential increase in
13 the value of the subdivided acreage because of the placement
14 of the easement on the remaining farmland.

15 (4) The maximum price per acre which the Commonwealth
16 may contribute for the purchase of an agricultural
17 conservation easement shall be as follows:

- 18 (i) On the first ~~\$2,000~~ \$3,000 per acre 100%. <—
19 ~~(ii) On the next \$1,000 per acre 80%. <—~~
20 ~~(iii)~~ (II) On the next \$2,000 per acre ~~60%~~ 70%. <—
21 ~~(iv)~~ (III) On the next \$5,000 per acre 50%. <—
22 ~~(v)~~ (IV) On the next \$5,000 per acre 25%. <—
23 ~~(vi)~~ (V) On the next \$5,000 per acre 10%. <—
24 ~~(vii)~~ (VI) On any cost above \$20,000 per acre 0%. <—

25 (g) Purchase price.--The price paid for purchase of an
26 agricultural conservation easement in perpetuity shall not
27 exceed the difference between the nonagricultural value and the
28 agricultural value determined pursuant to subsection (f) at the
29 time of purchase, unless the difference is less than the State
30 or county boards' original appraised value in which case the

1 State or county boards' original easement value may be offered.
2 The price paid for purchase of an easement for a term of 25
3 years shall not exceed one-tenth of the difference between the
4 nonagricultural value and the agricultural value determined
5 pursuant to subsection (f) at the time of purchase. The purchase
6 price may be paid in a lump sum, in installments over a period
7 of years, or in any other lawful manner of payment. If payment
8 is to be made in installments or another deferred method, the
9 person selling the easement may receive, in addition to the
10 selling price, interest in an amount or at a rate set forth in
11 the agreement of purchase, and final payment shall be made
12 within, and no later than, five years from the date the
13 agricultural conservation easement purchase agreement was
14 executed.

15 (h) Allocation of State moneys.--The State board shall make
16 an annual allocation among counties, except counties of the
17 first class, for the purchase of agricultural conservation
18 easements.

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

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

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

1 Agricultural Statistics Service.

2 (iii) "Annual easement purchase threshold." An
3 amount annually determined by the State board which
4 equals at least \$10,000,000.

5 (iv) "Average realty transfer tax revenues." The
6 total annual realty transfer tax revenues collected in
7 all counties, except counties of the first class, divided
8 by 66.

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

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

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

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

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

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

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

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

1 agricultural conservation easements and in all cases shall
2 not exceed the average annual allocation under paragraph (2)
3 multiplied by four.

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

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

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

29 (6) The allocation of a county shall be adjusted for
30 purchases of agricultural conservation easements made with

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

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

1 easement as part of the county board's recommendation for
2 purchase. The reallocation to a county under this paragraph
3 shall be the total amount of the annual allocation available
4 for reallocation under this paragraph multiplied by a
5 percentage equal to the annual appropriation of local moneys
6 appropriated by the county for the purchase of agricultural
7 conservation easements at the start of the county fiscal year
8 in which the annual allocation was made divided by the
9 aggregate of local moneys appropriated by all eligible
10 counties for the purchase of agricultural conservation
11 easements at the start of the county fiscal year in which the
12 annual allocation was made. Money reallocated to a county
13 under this paragraph shall be available for one county fiscal
14 year. Money reallocated to a county under this paragraph that
15 has not been spent or encumbered at the conclusion of one
16 county fiscal year shall be restored to the fund. Such money
17 shall be considered to be encumbered and shall not be
18 restored to the fund if, by December 31 of the year in which
19 a reallocation was made to the county, the department has
20 received an agreement executed by the landowner and the
21 county to purchase a specific agricultural conservation
22 easement as part of the county board's recommendation for
23 purchase.

24 (8) Initial allocations to counties under paragraphs (2)
25 and (5)(ii) shall continue until the end of the fourth county
26 fiscal year occurring after the effective date of this act.
27 The sum of the total annual allocations of all counties under
28 paragraphs (2) and (5)(ii) which have not been expended or
29 encumbered by the end of the fourth county fiscal year, and
30 every county fiscal year thereafter, occurring after the

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

1 reallocation 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.

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

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

21 (ii) Nothing in this paragraph shall affect any
22 reallocation made prior to the effective date of this
23 paragraph.

24 (i) Subdivision of land after easement purchase.--The State
25 board may agree to permit a parcel of land subject to an
26 agricultural conservation easement to be subdivided after the
27 granting of such easement as follows:

28 (1) The landowner of record may submit an application,
29 in such form and manner as the county board may prescribe, to
30 the county board requesting that a parcel of the land subject

1 to an easement be subdivided. Upon receipt of the
2 application, the county board shall cause to be forwarded
3 written notification thereof to the county zoning office,
4 county planning office and county farmland preservation
5 office, herein referred to as the reviewing agencies. Each
6 reviewing agency shall have 60 days from receipt of such
7 notification to review, comment and make recommendations on
8 the proposed application to the county board.

9 (2) When reviewing an application to subdivide land
10 subject to an agricultural conservation easement, the county
11 board shall consider all of the following:

12 (i) the agricultural productivity and viability of
13 the land involved;

14 (ii) whether the subdivision will convert land which
15 has been devoted primarily to agricultural use to another
16 primary use;

17 (iii) whether the subdivision will conflict with
18 agricultural operations on the land;

19 (iv) whether the subdivision will conflict with
20 agricultural operations on surrounding lands;

21 (v) the extent to which subdivision of the land will
22 conflict with the county program to preserve agricultural
23 land;

24 (vi) the purpose of the landowner's request to
25 subdivide;

26 (vii) whether the landowner reserved the right to
27 subdivide the land at the time of purchase of the
28 easement, whether such reservation was set forth in the
29 easement agreement at the time such agreement was
30 executed, and whether the easement purchase price was

1 lowered because of such reservation; and
2 (viii) any such other criteria specified in the
3 approved county program.

4 (3) After reviewing the application and the comments and
5 recommendations submitted by the reviewing agencies, the
6 county board shall approve or reject the application to
7 subdivide within 120 days after the date of its filing,
8 unless the time is extended by mutual agreement of the
9 landowner and reviewing agencies.

10 (4) If the application to subdivide land is approved by
11 the county board, a copy of the application, along with the
12 comments and recommendations of the reviewing agencies, shall
13 be forwarded to the State board for review and approval. ←
14 State board shall, within 60 days of receipt of the
15 application, approve or reject the application to subdivide
16 the subject land OR DISAPPROVAL. The State board shall notify ←
17 the county board of its decision regarding the application.

18 (5) If the application to subdivide is rejected by the
19 county board, the application shall be returned to the
20 landowner with a written statement of the reasons for such
21 rejection. Within 30 days after the receipt of the statement
22 of rejection, the landowner may appeal the rejection to the
23 State board. The State board shall, within 60 days after ←
24 receipt of the appeal, approve or reject the application to
25 subdivide. The State board shall notify the county board and
26 the landowner of its decision regarding the appeal.

27 (6) When reviewing an application to subdivide land
28 subject to an agricultural conservation easement, the State
29 board shall consider the factors listed in paragraph (2) and
30 the recommendations of the county board and reviewing

1 agencies.

2 (7) When an application to subdivide land is approved by
3 the State board and the purpose of the request to subdivide
4 is to convey or transfer interest in such land to another
5 person, the landowner may be liable to pay the Commonwealth
6 or the county, as their respective legal interest in the
7 agricultural conservation easement may appear, for any
8 appreciation in the value of the subdivided land which may be ←
9 attributed TO BE CONVEYED OR TRANSFERRED TO ANOTHER PERSON. ←
10 THE LANDOWNER MAY BE REQUIRED TO MAKE SUCH PAYMENT ONLY WHEN
11 SUCH APPRECIATION IN VALUE OF THE SUBDIVIDED LAND TO BE
12 CONVEYED OR TRANSFERRED TO ANOTHER PERSON IS ATTRIBUTABLE to
13 the location of the subdivided land in an area where there is
14 land subject to an agricultural conservation easement.

15 (j) Change of ownership.--

16 (1) Whenever interest in land subject to an agricultural
17 conservation easement is conveyed or transferred to another
18 person, the deed conveying or transferring such land shall
19 recite in verbatim the language of the easement as set forth
20 in the deed executed in connection with the purchase of the
21 agricultural conservation easement.

22 (2) The person conveying or transferring land subject to
23 an agricultural conservation easement shall, within 30 days
24 of change in ownership, notify the county board and the
25 department of the name and address of the person to whom the
26 subject land was conveyed or transferred and the price per
27 acre, or portion thereof, received by the landowner from such
28 person.

29 (3) Notwithstanding any other provisions of law to the
30 contrary, the restrictions set forth in a deed executed in

1 connection with the purchase of an agricultural conservation
2 easement shall be binding on any person to whom subsequent
3 ownership of the land subject to the easement is conveyed or
4 transferred.

5 Section 2. This act shall take effect in 60 days.