

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 AMENDED ON THIRD CONSIDERATION, HOUSE OF REPRESENTATIVES,
APRIL 18, 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," FURTHER <—
3 PROVIDING FOR DEFINITIONS; providing standards, criteria and
4 requirements for the purchasing of agricultural conservation
5 easements; providing for review of county programs; imposing
6 duties on the State Agricultural Land Preservation Board and
7 county boards; and further providing for subdivision of land
8 and change of 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 SECTION 1. THE DEFINITION OF "AGRICULTURAL CONSERVATION <—
14 EASEMENT" IN SECTION 3 OF THE ACT OF JUNE 30, 1981 (P.L.128,
15 NO.43), KNOWN AS THE AGRICULTURAL AREA SECURITY LAW, AMENDED
16 JUNE 22, 1990 (P.L.242, NO.57), IS AMENDED AND THE SECTION IS
17 AMENDED BY ADDING A DEFINITION TO READ:

18 SECTION 3. DEFINITIONS.

19 THE FOLLOWING WORDS AND PHRASES WHEN USED IN THIS ACT SHALL
20 HAVE THE MEANINGS GIVEN TO THEM IN THIS SECTION, UNLESS THE

CONTEXT CLEARLY INDICATES OTHERWISE:

* * *

"AGRICULTURAL CONSERVATION EASEMENT." AN INTEREST IN LAND, LESS THAN FEE SIMPLE, WHICH INTEREST REPRESENTS THE RIGHT TO PREVENT THE DEVELOPMENT OR IMPROVEMENT OF THE LAND FOR ANY PURPOSE OTHER THAN AGRICULTURAL PRODUCTION. THE EASEMENT MAY BE GRANTED BY THE OWNER OF THE FEE SIMPLE TO ANY THIRD PARTY OR TO THE COMMONWEALTH, TO A COUNTY GOVERNING BODY OR TO A UNIT OF LOCAL GOVERNMENT. [IT MAY BE GRANTED FOR A TERM OF 25 YEARS OR IN PERPETUITY, AS THE EQUIVALENT OF COVENANTS RUNNING WITH THE LAND.] IT SHALL BE GRANTED IN PERPETUITY. THE EXERCISE OR FAILURE TO EXERCISE ANY RIGHT GRANTED BY THE EASEMENT SHALL NOT BE DEEMED TO BE MANAGEMENT OR CONTROL OF ACTIVITIES AT THE SITE FOR PURPOSES OF ENFORCEMENT OF THE ACT OF OCTOBER 18, 1988 (P.L.756, NO.108), KNOWN AS THE "HAZARDOUS SITES CLEANUP ACT."

* * *

"CROPS UNIQUE TO THE REGION." INCLUDE, BUT ARE NOT LIMITED TO, CROPS WHICH HISTORICALLY HAVE BEEN GROWN OR HAVE BEEN GROWN WITHIN THE LAST FIVE YEARS IN THE REGION AND WHICH ARE USED FOR AGRICULTURAL PRODUCTION IN THE REGION.

* * *

SECTION 2. SECTION 14.1 OF THE ACT, amended or added December 14, 1988 (P.L.1202, No.149), 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), is amended to read:

Section 14.1. Purchase of agricultural conservation easements.

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

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 by December 31, 1996, and every seventh year
11 thereafter.

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

19 (4) The State board is authorized to:

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

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

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

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

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

1 borough shall be two years and the initial term of all other
2 members shall be one year. Thereafter, the term of all
3 members shall be three years.

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

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

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

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

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

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

28 (vi) To use moneys appropriated by the county
29 governing body from the county general fund or the
30 proceeds of indebtedness incurred by the county and

1 approved by the county governing body for the purchase of
2 agricultural conservation easements within agricultural
3 security areas.

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

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

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

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

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

29 (xii) To purchase agricultural conservation
30 easements jointly with the Commonwealth.

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

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

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

11 (4) County programs for the purchase of agricultural
12 conservation easements approved by the State board in
13 accordance with the provisions of this section shall be
14 reviewed by the State board and approved or disapproved for
15 recertification by December 31, 1996, and every seventh year
16 thereafter. On or before December 31, 1995, and the end of
17 each seven-year period thereafter, the county board may
18 submit to the State board a request for review and
19 recertification of the county program for the purchase of
20 agricultural conservation easements and shall submit any
21 proposed revisions to such program. County programs subject
22 to State board review and recertification under this
23 paragraph shall be approved or disapproved in accordance with
24 the requirements of subsection (d). After December 31, 1996,
25 and the end of each seven-year period, the State board shall
26 not approve a county board's recommendation to purchase until
27 the county program has been approved for recertification.

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

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

<—

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

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

27 (4) Instruments and documents for the purchase, sale and
28 conveyance of agricultural conservation easements shall be
29 approved by the State board or the county board, as the case
30 may be, prior to execution and delivery. Proper releases from

1 mortgage holders and lienholders must be obtained and
2 executed to insure that all agricultural conservation
3 easements are purchased free and clear of all encumbrances.

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

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

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

17 (6) An agricultural conservation easement shall not
18 prevent:

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

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

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

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

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

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

25 (8) Nothing in this act shall prohibit a member of the
26 State board or county board or his or her family from selling
27 a conservation easement under this program, provided that all
28 decisions made regarding easement purchases be subject to the
29 provisions of section 3(j) of the act of October 4, 1978

30 (P.L.883, No.170), referred to as the Public Official and

1 Employee Ethics Law.

2 (d) Program approval.--

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

8 (i) The quality of the farmlands subject to the
9 proposed easements, including soil classifications and
10 [productivity.] soil productivity ratings.

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

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

25 (iv) Fair, equitable, objective and
26 nondiscriminatory procedures for determining purchase
27 priorities. The highest priority for the purchase of an
28 agricultural conservation easement shall be given to
29 farmlands with the highest soil classifications and soil
30 productivity ratings and to farmlands most likely to be

converted to nonagricultural use. PRIORITY MAY BE GIVEN
TO FARMLANDS WHICH CONTAIN SOILS WHICH DO NOT HAVE THE
HIGHEST SOIL CLASSIFICATIONS AND SOIL PRODUCTIVITY
RATINGS WHEN THEY ARE CONDUCIVE TO PRODUCING CROPS UNIQUE
TO THE REGION.

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

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

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

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

(e) Easement purchase.--

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

(i) The recommendation does not comply with a county
program certified and approved by the State board for

1 purchasing agricultural conservation easements. In
2 determining the adherence of the recommendation to the
3 county program, the State board may consider:

4 (A) agricultural value of the easement;

5 (B) purchase price of the easement;

6 (C) agricultural viability of the farmland;

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

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

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

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

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

18 (ii) Clear title cannot be conveyed.

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

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

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

29 (2) The State board shall act to approve or disapprove
30 the recommendation by a county for purchase of an

1 agricultural conservation easement within 60 days of its
2 [receipt.] receipt, unless the following conditions delay
3 approval:

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

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

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

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

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

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

29 (5) Failure of the State board to act on a
30 recommendation by a county for purchase of an agricultural

1 conservation easement within 60 days of its receipt shall be
2 deemed to constitute approval by the State board, unless one
3 or more of the conditions under section 14.1(e)(2) exist.

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

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

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

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

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

(i) the market value determined by the State or county board's appraiser; and

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

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

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

~~(i) On the first \$3,000 per acre 100%.~~

~~(ii) On the next \$2,000 per acre 70%.~~

~~(iii) On the next \$5,000 per acre 50%.~~

~~(iv) On the next \$5,000 per acre 25%.~~

~~(v) On the next \$5,000 per acre 10%.~~

~~(vi) On any cost above \$20,000 per acre 0%.~~

(4) THE MAXIMUM PRICE PER ACRE WHICH THE COMMONWEALTH MAY CONTRIBUTE FOR THE PURCHASE OF AN AGRICULTURAL CONSERVATION EASEMENT SHALL BE AS FOLLOWS:

(I) ON THE FIRST \$6,000 PER ACRE, 100%.

(II) ON THE NEXT \$15,000 PER ACRE, 30%.

(III) ON ANY COST ABOVE \$20,000 PER ACRE, 0%.

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

21 (h) Allocation of State moneys.--The State board shall make
22 an annual allocation among counties, except counties of the
23 first class, for the purchase of agricultural conservation
24 easements.

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

28 (i) "Adjusted weighted transfer tax revenues." An
29 amount equal to the weighted transfer tax revenues of a
30 county divided by the sum of the weighted transfer tax

1 revenues of all counties except counties of the first
2 class.

3 (ii) "Annual agricultural production." The total
4 dollar volume of sales of livestock, crops and
5 agricultural products according to the most recent Annual
6 Crop and Livestock Summary published by the Pennsylvania
7 Agricultural Statistics Service.

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

11 (iv) "Average realty transfer tax revenues." The
12 total annual realty transfer tax revenues collected in
13 all counties, except counties of the first class, divided
14 by 66.

15 (v) "Realty transfer tax revenues." The tax imposed
16 and collected under section 1102-C of the act of March 4,
17 1971 (P.L.6, No.2), known as the "Tax Reform Code of
18 1971."

19 (vi) "Weighted transfer tax revenues." An amount
20 equal to the total annual realty transfer tax revenues
21 collected in a county divided by the sum of the total
22 annual realty transfer tax revenues collected in all
23 counties except counties of the first class which does
24 not exceed three times the average realty transfer tax
25 revenues.

26 (2) An annual allocation shall be made to each county,
27 except counties of the first class, for the purchase of
28 agricultural conservation easements by the Commonwealth at
29 the beginning of the county fiscal year which equals 50% of
30 the annual easement purchase threshold multiplied by the

1 adjusted weighted transfer tax revenues of the county for the
2 preceding calendar year.

3 (3) If the aggregate annual allocation under this
4 paragraph to all eligible counties does not exceed 50% of the
5 annual easement purchase threshold, an additional annual
6 allocation from 50% of the annual easement purchase threshold
7 shall be made to a county, except a county of the first
8 class, at the beginning of the county fiscal year for the
9 joint purchase of agricultural conservation easements by the
10 Commonwealth and a county. The additional annual allocation
11 under this paragraph shall equal the sum of:

12 (i) The annual appropriation of local moneys by a
13 county for the purchase of agricultural conservation
14 easements which does not exceed the average annual
15 allocation under paragraph (2) multiplied by four.

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

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

1 this paragraph shall equal 50% of the annual easement
2 purchase threshold multiplied by a percentage equal to the
3 annual appropriation of local moneys appropriated by the
4 county for the purchase of agricultural conservation
5 easements divided by the aggregate of local moneys
6 appropriated by all eligible counties for the purchase of
7 agricultural conservation easements and in all cases shall
8 not exceed the average annual allocation under paragraph (2)
9 multiplied by four.

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

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

27 (ii) An additional annual allocation shall be made
28 for the purchase of agricultural conservation easements
29 by the Commonwealth which equals four-tenths of the
30 amount by which 50% of the annual easement purchase

1 threshold exceeds the total allocations made under
2 paragraph (3) or (4), as the case may be, multiplied by
3 the adjusted weighted transfer tax revenues of the county
4 for the preceding calendar year.

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

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

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

30 (8) Initial allocations to counties under paragraphs (2)

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

1 paragraph shall be available for one county fiscal year.
2 Money reallocated to a county under this paragraph that has
3 not been spent or encumbered at the conclusion of one county
4 fiscal year shall be restored to the fund. Such money shall
5 be considered to be encumbered and shall not be restored to
6 the fund if, by December 31 of the year in which a
7 reallocation was made to the county, the department has
8 received an agreement executed by the landowner and the
9 county to purchase a specific agricultural conservation
10 easement as part of the county board's recommendation for
11 purchase.

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

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

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

30 (i) Subdivision of land after easement purchase.--The State

1 board may agree to permit a parcel of land subject to an
2 agricultural conservation easement to be subdivided after the
3 granting of such easement as follows:

4 (1) The landowner of record may submit an application,
5 in such form and manner as the county board may prescribe, to
6 the county board requesting that a parcel of the land subject
7 to an easement be subdivided. Upon receipt of the
8 application, the county board shall cause to be forwarded
9 written notification thereof to the county zoning office,
10 county planning office and county farmland preservation
11 office, herein referred to as the reviewing agencies. Each
12 reviewing agency shall have 60 days from receipt of such
13 notification to review, comment and make recommendations on
14 the proposed application to the county board.

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

18 (i) the agricultural productivity and viability of
19 the land involved;

20 (ii) whether the subdivision will convert land which
21 has been devoted primarily to agricultural use to another
22 primary use;

23 (iii) whether the subdivision will conflict with
24 agricultural operations on the land;

25 (iv) whether the subdivision will conflict with
26 agricultural operations on surrounding lands;

27 (v) the extent to which subdivision of the land will
28 conflict with the county program to preserve agricultural
29 land;

30 (vi) the purpose of the landowner's request to

1 subdivide;

2 (vii) whether the landowner reserved the right to
3 subdivide the land at the time of purchase of the
4 easement, whether such reservation was set forth in the
5 easement agreement at the time such agreement was
6 executed, and whether the easement purchase price was
7 lowered because of such reservation; and

8 (viii) any such other criteria specified in the
9 approved county program.

10 (3) After reviewing the application and the comments and
11 recommendations submitted by the reviewing agencies, the
12 county board shall approve or reject the application to
13 subdivide within 120 days after the date of its filing,
14 unless the time is extended by mutual agreement of the
15 landowner and reviewing agencies.

16 (4) If the application to subdivide land is approved by
17 the county board, a copy of the application, along with the
18 comments and recommendations of the reviewing agencies, shall
19 be forwarded to the State board for review and approval or
20 disapproval. The State board shall notify the county board of
21 its decision regarding the application.

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

1 (6) When reviewing an application to subdivide land
2 subject to an agricultural conservation easement, the State
3 board shall consider the factors listed in paragraph (2) and
4 the recommendations of the county board and reviewing
5 agencies.

6 (7) When an application to subdivide land is approved by
7 the State board and the purpose of the request to subdivide
8 is to convey or transfer interest in such land to another
9 person, the landowner may be liable to pay the Commonwealth
10 or the county, as their respective legal interest in the
11 agricultural conservation easement may appear, for any
12 appreciation in the value of the subdivided land to be
13 conveyed or transferred to another person. The landowner may
14 be required to make such payment only when such appreciation
15 in value of the subdivided land to be conveyed or transferred
16 to another person is attributable to the location of the
17 subdivided land in an area where there is land subject to an
18 agricultural conservation easement.

19 (j) Change of ownership.--

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

26 (2) The person conveying or transferring land subject to
27 an agricultural conservation easement shall, within 30 days
28 of change in ownership, notify the county board and the
29 department of the name and address of the person to whom the
30 subject land was conveyed or transferred and the price per

1 acre, or portion thereof, received by the landowner from such
2 person.

3 (3) Notwithstanding any other provisions of law to the
4 contrary, the restrictions set forth in a deed executed in
5 connection with the purchase of an agricultural conservation
6 easement shall be binding on any person to whom subsequent
7 ownership of the land subject to the easement is conveyed or
8 transferred.

9 Section 2 3. This act shall take effect in 60 days.

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