

## THE GENERAL ASSEMBLY OF PENNSYLVANIA

## HOUSE BILL

No. 101 Session of  
2001

INTRODUCED BY S. MILLER, ARGALL, ARMSTRONG, BARD, BASTIAN, BUNT,  
CALTAGIRONE, CLYMER, COY, DeWEESE, FEESE, GEIST, GEORGE,  
GRUCELA, HENNESSEY, HERSHEY, HESS, JOSEPHS, KREBS, LEH,  
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VANCE, WANSACZ, C. WILLIAMS, WILT, ZUG, EACHUS, FREEMAN,  
SEMMELE, YOUNGBLOOD, STEELMAN, HORSEY, SAYLOR AND McCALL,  
JANUARY 23, 2001

AS RE-REPORTED FROM COMMITTEE ON APPROPRIATIONS, HOUSE OF  
REPRESENTATIVES, AS AMENDED, FEBRUARY 5, 2001

## 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 defining "agricultural conservation easement"; defining  
4 "parcel"; and further providing for purchase of agricultural  
5 conservation easements.

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

8 Section 1. The definition of "agricultural conservation  
9 easement" in section 3 of the act of June 30, 1981 (P.L.128,  
10 No.43), known as the Agricultural Area Security Law, amended  
11 November 23, 1994 (P.L.621, No.96), is amended and the section  
12 is amended by adding a definition to read:

13 Section 3. Definitions.

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

1       \* \* \*

2       "Agricultural conservation easement." An interest in land,  
3 less than fee simple, which interest represents the right to  
4 prevent the development or improvement of [the land] a parcel  
5 for any purpose other than agricultural production. The easement  
6 may be granted by the owner of the fee simple to any third party  
7 or to the Commonwealth, to a county governing body or to a unit  
8 of local government. It shall be granted in perpetuity as the  
9 equivalent of covenants running with the land. The exercise or  
10 failure to exercise any right granted by the easement shall not  
11 be deemed to be management or control of activities at the site  
12 for purposes of enforcement of the act of October 18, 1988  
13 (P.L.756, No.108), known as the "Hazardous Sites Cleanup Act."

14       \* \* \*

15       "Parcel." A tract of land in its entirety which is assessed  
16 for tax purposes by one county, including any portion of that  
17 tract that may be located in a neighboring county. The county  
18 responsible for assessing an entire tract, on its own or in  
19 conjunction with either the Commonwealth or a local government  
20 unit, or both, shall be eligible to purchase agricultural  
21 conservation easements covering the entire tract.

22       \* \* \*

23       Section 2. Sections 14.1(b) introductory paragraph and (2),  
24 (b.1)(4), (d)(1) ~~and (e)(1)~~, (E)(1) AND (G) of the act, amended <—  
25 or added November 23, 1994 (P.L.621, No.96), November 23, 1994  
26 (P.L.648, No.100) and December 21, 1998 (P.L.1056, No.138), are  
27 amended to read:

28       Section 14.1. Purchase of agricultural conservation easements.

29       \* \* \*

30       (b) County programs.--After the establishment of an

1 agricultural security area by the governing body, the county  
2 governing body may authorize a program to be administered by the  
3 county board for purchasing agricultural conservation easements  
4 from landowners whose land is either within an agricultural  
5 security area or in compliance with the criteria set forth in  
6 paragraph (2)(i).

7 \* \* \*

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

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

22 (B) To include in such rules and regulations,  
23 standards and procedures for the selection or  
24 purchase of agricultural conservation easements, by  
25 the county solely or jointly with either the  
26 Commonwealth or a local government unit, or both, on  
27 that portion of a parcel which is not within an  
28 agricultural security area if all of the following  
29 criteria are complied with:

30 (I) The land is part of a parcel of farm

1           land which is bisected by the dividing line  
2           between two local government units.

3           (II) The majority of the farm's viable  
4           agricultural land is located within an existing  
5           agricultural security area. Upon purchase of an  
6           easement covering the portion of the parcel which  
7           is not located within an agricultural security  
8           area, that portion of the parcel shall  
9           immediately become part of the previously  
10           established agricultural security area which  
11           contains a majority of the farm's viable  
12           agricultural land. The governing body which  
13           created the agricultural security area which  
14           contains a majority of the farm's viable  
15           agricultural land shall be responsible for the  
16           recording, filing and notification outlined in  
17           section 8(d) and (g) concerning land added to the  
18           agricultural security area pursuant to this  
19           clause.

20           (C) To include in such rules and regulations,  
21           standards and procedures for the selection or  
22           purchase of agricultural conservation easements, by  
23           the county solely or jointly with either the  
24           Commonwealth or a local government unit, or both, on  
25           that portion of a parcel located in an adjoining  
26           county if all of the following criteria are complied  
27           with:

28           (I) The land is part of a parcel of farm  
29           land which is bisected by the dividing line  
30           between the purchasing county and the adjoining

1           county.

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

12          (III) The portion of the parcel located in  
13          the purchasing county is within an agricultural  
14          security area. Upon purchase of an easement by  
15          the purchasing county covering that portion of  
16          the parcel located in the adjoining county, the  
17          portion of the parcel located in the adjoining  
18          county shall immediately become part of the  
19          agricultural security area previously established  
20          in the purchasing county. The governing body  
21          which created the agricultural security area in  
22          the purchasing county shall be responsible for  
23          the recording, filing and notification outlined  
24          in section 8(d) and (g) concerning land added to  
25          the agricultural security area pursuant to this  
26          clause.

27               (ii) To adopt rules of procedure and bylaws  
28               governing the operation of the county board and the  
29               conduct of its meetings.

30               (iii) To execute agreements to purchase agricultural

1 conservation easements in the name of the county.

2 (iv) To purchase in the name of the county  
3 agricultural conservation easements either within  
4 agricultural security areas or pursuant to the criteria  
5 set forth in subparagraph (i).

6 (v) To use moneys appropriated by the county  
7 governing body from the county general fund to hire staff  
8 and administer the [countywide] county program.

9 (vi) To use moneys appropriated by the county  
10 governing body from the county general fund or the  
11 proceeds of indebtedness incurred by the county and  
12 approved by the county governing body for the purchase of  
13 agricultural conservation easements either within  
14 agricultural security areas or pursuant to the criteria  
15 set forth in subparagraph (i).

16 (vii) To establish and maintain a repository of  
17 records of farm lands which are subject to agricultural  
18 conservation easements purchased by the county [and which  
19 are located within the county].

20 (viii) To record agricultural conservation easements  
21 purchased by the county in the office of the recorder of  
22 deeds of the county wherein the agricultural conservation  
23 easements are located and to submit to the State board a  
24 certified copy of agricultural conservation easements  
25 within 30 days after recording. The county board shall  
26 attach to all certified copies of the agricultural  
27 conservation easements submitted to the State board a  
28 description of the farm land subject to the agricultural  
29 conservation easements.

30 (ix) To submit to the State board for review the

1 initial county program and any proposed revisions to  
2 approved county programs for purchasing agricultural  
3 conservation easements.

4 (x) To recommend to the State board for purchase by  
5 the Commonwealth agricultural conservation easements  
6 within agricultural security areas located within the  
7 county.

8 (xi) To recommend to the State board the purchase of  
9 agricultural conservation easements by the Commonwealth  
10 and the county jointly.

11 (xii) To purchase agricultural conservation  
12 easements jointly with the Commonwealth.

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

16 (xiv) To submit to the State board applications for  
17 agricultural conservation easements in accordance with  
18 the guidebook authorized under subsection (a)(3)(xv).

19 (XV) TO EXERCISE PRIMARY ENFORCEMENT AUTHORITY WITH <—  
20 RESPECT TO THE FOLLOWING:

21 (A) AGRICULTURAL CONSERVATION EASEMENTS WITHIN  
22 THE COUNTY.

23 (B) AGRICULTURAL CONSERVATION EASEMENTS ACQUIRED  
24 PURSUANT TO THE CRITERIA SET FORTH IN SUBPARAGRAPH  
25 (I), INCLUDING ANY PORTION OF SUCH AN AGRICULTURAL  
26 CONSERVATION EASEMENT EXTENDING INTO AN ADJOINING  
27 COUNTY.

28 \* \* \*

29 (b.1) Local government unit participation.--Any local  
30 government unit that has created an agricultural security area

1 may participate along with an eligible county and the  
2 Commonwealth in the preservation of farmland through the  
3 purchase of agricultural conservation easements.

4 \* \* \*

5 (4) The local government unit may purchase an  
6 agricultural conservation easement, provided that all of the  
7 following apply:

8 (i) The agricultural conservation easement is  
9 located within an agricultural security area of at least  
10 500 acres or the easement purchase is a joint purchase  
11 with either a county or both a county and the  
12 Commonwealth pursuant to the criteria set forth in  
13 subsection (b)(2)(i).

14 (ii) The deed of agricultural conservation easement  
15 is at least as restrictive as the deed of agricultural  
16 conservation easement prescribed by the State board for  
17 agricultural conservation easements purchased by the  
18 Commonwealth.

19 (iii) The local government unit shall participate  
20 with the county board in complying with paragraph (5) for  
21 recording any agricultural conservation easement  
22 purchased by the local government unit.

23 \* \* \*

24 (d) Program approval.--

25 (1) The standards, criteria and requirements established  
26 by the State board for State board approval of county  
27 programs for purchasing agricultural conservation easements  
28 shall include, but not be limited to, the extent to which the  
29 county programs consider and address the following:

30 (i) The quality of the farmlands subject to the



1 proposed easements, including soil classification and  
2 soil productivity ratings. Farmland considered should  
3 include soils which do not have the highest soil  
4 classifications and soil productivity ratings but which  
5 are conducive to producing crops unique to the area.

6 (ii) The likelihood that the farmlands would be  
7 converted to nonagricultural use unless subject to an  
8 agricultural conservation easement. Areas in the county  
9 devoted primarily to agricultural use where development  
10 is occurring or is likely to occur in the next 20 years  
11 should be identified. For purposes of considering the  
12 likelihood of conversion, the existence of a zoning  
13 classification of the land shall not be relevant, but the  
14 market for nonfarm use or development of farmlands shall  
15 be relevant.

16 (ii.1) Proximity of the farmlands subject to  
17 proposed easements to other agricultural [lands] parcels  
18 in the county which are subject to agricultural  
19 conservation easements.

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

24 (iv) Fair, equitable, objective and  
25 nondiscriminatory procedures for determining purchase  
26 priorities.

27 \* \* \*

28 (e) Easement purchase.--

29 (1) The State board may reject the recommendation made  
30 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 purchasing agricultural conservation easements.

(ii) Clear title cannot be conveyed.

(iii) The farmland which would be subject to the agricultural conservation easement is either not located within a duly established agricultural security area of 500 or more acres established or recognized under this act or not in compliance with the criteria set forth in subsection (b)(2)(i).

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

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

\* \* \*

(G) PURCHASE PRICE.--THE PRICE PAID FOR PURCHASE OF AN AGRICULTURAL CONSERVATION EASEMENT IN PERPETUITY SHALL NOT EXCEED THE DIFFERENCE BETWEEN THE NONAGRICULTURAL VALUE AND THE AGRICULTURAL VALUE DETERMINED PURSUANT TO SUBSECTION (F) AT THE TIME OF PURCHASE, UNLESS THE DIFFERENCE IS LESS THAN THE STATE OR COUNTY BOARDS' ORIGINAL APPRAISED VALUE IN WHICH CASE THE STATE OR COUNTY BOARDS' ORIGINAL EASEMENT VALUE MAY BE OFFERED. [HOWEVER, UNDER NO CIRCUMSTANCES SHALL THE PRICE PAID FOR PURCHASE OF AN AGRICULTURAL CONSERVATION EASEMENT IN PERPETUITY EXCEED \$10,000 PER ACRE OF STATE FUNDS.] THE PURCHASE PRICE MAY BE PAID IN A LUMP SUM, IN INSTALLMENTS OVER A PERIOD OF YEARS, OR IN ANY OTHER LAWFUL MANNER OF PAYMENT. IF PAYMENT IS TO BE

<—

1 MADE IN INSTALLMENTS OR ANOTHER DEFERRED METHOD, THE PERSON  
2 SELLING THE EASEMENT MAY RECEIVE, IN ADDITION TO THE SELLING  
3 PRICE, INTEREST IN AN AMOUNT OR AT A RATE SET FORTH IN THE  
4 AGREEMENT OF PURCHASE, AND FINAL PAYMENT OF ALL STATE MONEY  
5 SHALL BE MADE WITHIN, AND NO LATER THAN, FIVE YEARS FROM THE  
6 DATE THE AGRICULTURAL CONSERVATION EASEMENT PURCHASE AGREEMENT  
7 WAS FULLY EXECUTED. THE COUNTY MAY PROVIDE FOR PAYMENTS ON AN  
8 INSTALLMENT OR OTHER DEFERRED BASIS AND FOR INTEREST PAYMENTS BY  
9 INVESTING ITS ALLOCATION OF STATE MONEY FOR PURCHASES APPROVED  
10 BY THE STATE BOARD UNDER SUBSECTION (H)(11) IN SECURITIES  
11 DEPOSITED INTO AN IRREVOCABLE ESCROW ACCOUNT OR IN ANOTHER  
12 MANNER PROVIDED BY LAW.

13 \* \* \*

14 Section 3. Notwithstanding any provisions of law to the  
15 contrary, any agricultural conservation easement purchased  
16 solely by a county prior to the effective date of this section,  
17 which easement covered that portion of a farm parcel bisected by  
18 a county border located within the purchasing county, shall be  
19 considered eligible for repurchase by the Commonwealth or by the  
20 Commonwealth in conjunction with county or local programs. The  
21 value of such an easement, for the purposes of repurchase by the  
22 Commonwealth or repurchase by the combined moneys of the  
23 Commonwealth and a county or municipality, or both, shall be  
24 calculated as the sum of the original easement purchase price  
25 plus both administrative costs incurred by the county to  
26 purchase the original easement and administrative costs incurred  
27 by the county and associated with the repurchase. Any moneys  
28 contributed by the Commonwealth for repurchase of such an  
29 easement shall be paid to the county as the current easement  
30 holder and applied to the purchase of other agricultural

1 conservation easements.

2 Section 4. Within 90 days of the effective date of this  
3 section, the Department of Agriculture shall propose regulations  
4 implementing the provisions of this act.

5 Section 5. This act shall take effect in 30 days.