

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 570 Session of
2015

INTRODUCED BY McILHINNEY, YAW, GREENLEAF, MENSCH, ALLOWAY,
FOLMER, AUMENT AND RAFFERTY, MARCH 2, 2015

REFERRED TO AGRICULTURE AND RURAL AFFAIRS, MARCH 2, 2015

AN ACT

1 Providing for authorization of development and operation of
2 facilities to improve cost-efficiency in agricultural
3 production or support agricultural marketing or agritourism
4 enterprises on farms and for the establishment of minimum
5 standards for land development and for construction of
6 buildings that support agricultural cost-improvement
7 activities and are used in agricultural marketing and
8 agritourism enterprises; establishing the Farm Enterprise
9 Standards Board and providing for its powers and duties;
10 imposing limitations in local governmental authority;
11 providing for State preemption; and making inconsistent
12 repeals.

13 The General Assembly of the Commonwealth of Pennsylvania
14 hereby enacts as follows:

15 CHAPTER 1

16 PRELIMINARY PROVISIONS

17 Section 101. Short title.

18 This act shall be known and may be cited as the Family Farm
19 Initiative and Enterprise Land Development Act.

20 Section 102. Declaration of policy.

21 The General Assembly finds and declares that the purpose of
22 this act is to:

23 (1) Facilitate and encourage the engagement of on-farm

activities and enterprises that increase the cost-efficiency of agricultural production, increase the value and profitability of the farm's agricultural products and provide additional and supplemental income to farm operations.

(2) Identify enterprises and related land improvement activities and facilities that will likely improve cost-efficiency in agricultural production and facilitate agricultural marketing and agritourism on farms.

(3) Identify and develop uniform standards that will especially apply to land improvement activities and the construction and use of buildings and structures supporting agricultural production and supporting agricultural marketing and agritourism enterprises authorized and encouraged under this act.

(4) Relieve farm families who meet the standards established for land improvement and construction and use of buildings and structures supporting agricultural production, agricultural marketing and agritourism enterprises and activities from zoning, land development and construction standards, requirements and restrictions that would otherwise be imposed by local governments.

Section 103. Definitions.

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

"Agricultural marketing enterprise." An enterprise engaged in by a farmer for the purpose of directly marketing agricultural products produced by the farmer in their natural or manufactured state. The term shall include any on-farm processing, packaging or other activity performed in the course

1 of direct marketing of the farmer's agricultural products. An
2 enterprise that directly markets 30% of the total value of
3 agricultural products grown on a farm for commercial sale shall
4 be considered an agricultural marketing enterprise,
5 notwithstanding that items other than the farmer's agricultural
6 products are marketed or that the enterprise is operated during
7 periods other than periods where the farmer's agricultural
8 products are normally produced.

9 "Agritourism enterprise." Any of the following:

10 (1) An enterprise that provides entertainment or
11 education on a farm to tourists and other patrons in the
12 promotion of farming or rural lifestyle or the promotion of
13 agricultural products, including farm enterprises that:

14 (i) Provide for participation of patrons in farming
15 or harvesting activities.

16 (ii) Allow patrons to interact with farm or rural
17 animals or allow patrons to interact with agricultural
18 products normally produced on the farm.

19 (iii) Promote the farm or products produced on the
20 farm through tours, sampling and tasting of products or
21 souvenir sales.

22 (iv) Provide bed and breakfast accommodations or
23 similar farm lodging to patrons as part of the engagement
24 in farming or harvesting activities or to acquaint
25 patrons with the farm's agricultural character or
26 aesthetic nature.

27 (v) Provide pastoral or family dining.

28 (vi) Provide games, rides and other entertainment
29 activities normally engaged in by farm families or rural
30 communities.

(vii) Engage in activities in conjunction with local seasonal festivals to promote the local availability of agricultural products.

(2) An enterprise in equine activity.

(3) An enterprise in agritainment, as defined in section 2 of the act of December 19, 1974 (P.L.973, No.319), known as the Pennsylvania Farmland and Forest Land Assessment Act of 1974.

(4) Any other enterprise determined to be an agritourism enterprise by the board.

"Board." The Farm Enterprise Standards Board.

"Department." The Department of Agriculture of the Commonwealth.

"Equine activity." Any commercial equine activity, as defined in section 3 of the act of June 30, 1981 (P.L.128, No.43), known as the Agricultural Area Security Law.

"Land development." As defined in section 107 of the act of July 31, 1968 (P.L.805, No.247), known as the Pennsylvania Municipalities Planning Code.

"Municipality." Any county, borough, township or town created under home rule or other means authorized by statute.

"Secretary." The Secretary of Agriculture of the Commonwealth.

"Structure." As defined in section 107 of the act of July 31, 1968 (P.L.805, No.247), known as the Pennsylvania Municipalities Planning Code.

"Supporting agricultural structure." A structure constructed for the purpose of storing farm implements or machinery, farm supplies or agricultural products. The term includes any structure constructed for the purpose of production of mushrooms

1 or other horticultural products.

2 CHAPTER 3

3 BOARD

4 Section 301. Farm Enterprise Standards Board.

5 (a) Establishment.--The Farm Enterprise Standards Board is
6 established within the department.

7 (b) Membership.--The board shall consist of the following
8 members:

9 (1) The secretary or a designee, who shall serve as
10 board chairman.

11 (2) Two active farmers appointed by the Governor who are
12 engaged or who have experience in operation of an
13 agricultural marketing or agritourism enterprise. Each
14 appointee shall be made from a list of persons nominated by
15 all of the following:

16 (i) The Pennsylvania Farm Bureau.

17 (ii) The Pennsylvania Association for Sustainable
18 Agriculture.

19 (3) Two architects or building contractors, each
20 appointed by the President pro tempore of the Senate and the
21 Speaker of the House of Representatives, who have experience
22 in the design or construction of supporting agricultural
23 buildings or buildings commonly used in agricultural
24 marketing and agritourism enterprises.

25 (4) One municipal official appointed by the Minority
26 Leader of the Senate who is responsible for enforcement of
27 building or land development standards.

28 (5) One member of the public appointed by the Minority
29 Leader of the House of Representatives.

30 (c) Term.--Members of the board shall be appointed to four-

1 year terms, except that the initial terms for the legislative
2 appointees shall be two years.

3 (d) Meetings.--At least four members of the board shall
4 constitute a quorum for the purpose of conducting business. A
5 majority of those present and voting shall have authority to act
6 upon any matter. Each member of the board may participate in
7 meetings and shall be considered to be present at meetings as
8 authorized by law. The board is authorized to establish rules
9 governing the operation of meetings and procedures for
10 administration of this act. A board member who is absent without
11 reasonable justification for three consecutive meetings may be
12 removed by action of the board.

13 (e) Compensation and expenses.--Persons appointed to the
14 board shall serve without compensation, but shall be reimbursed
15 for reasonable expenses incurred in the performance of their
16 duties.

17 (f) Vacancies.--A vacancy occurring during the term of any
18 board member shall be filled for the unexpired term by a
19 successor appointed in the same manner as the member.

20 (g) Powers and duties.--

21 (1) General.--The board shall have the following powers
22 and duties:

23 (i) To identify supporting agricultural structures
24 and agricultural marketing and agritourism enterprises
25 that will be authorized to be constructed or performed on
26 farms.

27 (ii) To establish minimum standards for land
28 development, construction of buildings and structures and
29 operation that will apply to supporting agricultural
30 structures and to agricultural marketing or agritourism

enterprises on farms identified under subparagraph (i).

(iii) Upon a request for review in accordance with section 501, to determine whether the design, land development or construction of supporting agricultural production facilities or facilities related to an agricultural marketing or agritourism enterprise meets the minimum standards established by the board.

(2) In establishing the minimum standards under paragraph (1)(i), the board shall consider the following:

(i) Minimum standards and requirements of construction or operation that may be applicable to supporting agricultural structures or agricultural marketing or agritourism enterprises under Federal law.

(ii) Measures for effective control of adverse environmental impacts likely to occur from land development, construction or operation of supporting agricultural structures or agricultural marketing or agritourism enterprise facilities.

(iii) Measures for effective control and management of erosion and sedimentation, sewage and storm water runoff from land development, construction and operation of supporting agricultural structures or agricultural marketing or agritourism enterprise facilities.

(iv) Measures to ensure effective health and safety protection of agricultural marketing or agritourism enterprise areas and facilities that patrons will likely come into contact with or occupy.

(v) Principles for management of agricultural marketing and agritourism enterprises on farms in a manner and scale that will not seriously diminish the

1 farm's principal character and use as a farm.

2 (vi) The practical and economic feasibility of
3 typical farm families in this Commonwealth to attain the
4 standards established.

5 (h) Administrative and clerical support.--The department
6 shall provide the board with sufficient staff, office space,
7 equipment and other administrative and clerical support as will
8 allow the board to fully carry out the powers and duties
9 prescribed under this act.

10 CHAPTER 5

11 AUTHORIZATION PROCEDURES

12 Section 501. Review and determination of compliance with
13 minimum standards.

14 (a) Request for review.--A person owning or operating a farm
15 who constructs or plans to construct a supporting agricultural
16 structure or who engages or plans to engage in an agricultural
17 marketing or agritourism enterprise may submit to the board an
18 application for review to determine whether the structure or
19 enterprise meets the minimum standards established by the board.
20 The application shall be submitted in writing in a form and
21 manner prescribed by the board.

22 (b) Notice.--Within 30 days of receiving the application,
23 the board shall provide to the applicant, by regular mail, a
24 notice of receipt of the application and shall transmit for
25 publication a notice of receipt of the application in the
26 Pennsylvania Bulletin and in the appropriate newspaper of
27 general circulation.

28 (c) Procedures for review and determination.--Reviews and
29 determinations made by the board shall be subject to 2 Pa.C.S.
30 Ch. 5 Subch. A (relating to practice and procedure of

1 Commonwealth agencies).

2 (d) Notice of determination.--In addition to the
3 requirements for issuance and notice of determination prescribed
4 by law, the board shall, upon issuance of determination,
5 transmit for publication in the Pennsylvania Bulletin a notice
6 that sufficiently identifies the application for which the
7 determination is issued and the determination made.

8 (e) Appeals.--A person aggrieved by a determination made by
9 the board may appeal the determination by filing an appeal
10 within 30 days of the date the determination is published in the
11 Pennsylvania Bulletin. An appeal made under this subsection
12 shall be subject to the provisions of 2 Pa.C.S. Ch. 7 Subch. A
13 (relating to judicial review of Commonwealth agency action).

14 Section 502. Enterprises meeting minimum standards authorized.

15 Land development, construction or operation of a supporting
16 agricultural structure or a facility related to an agricultural
17 marketing or agritourism enterprise performed in accordance with
18 the minimum standards established under this act shall be
19 authorized absolutely, notwithstanding any municipal ordinance,
20 public nuisance or zoning prohibitions to the contrary.

21 CHAPTER 7

22 APPLICABILITY OF STATE AND LOCAL LAW

23 Section 701. Effect of establishment of minimum standards on
24 other laws.

25 This act may not be interpreted with other law in a manner
26 that will impose any additional requirement or restriction upon
27 supporting agricultural structures and facilities for which
28 standards have been established under this act.

29 Section 702. Effect of municipal ordinances and actions in
30 contravention of this act.

1 purposes.

2 Section 2102. Retroactivity.

3 This act shall apply retroactively to any municipal ordinance
4 or regulation in effect on the effective date of this section.

5 Section 2103. Repeals.

6 (a) Specified acts.--The following acts or parts of acts are
7 repealed to the extent they conflict with the provisions of this
8 act:

9 (1) The act of June 24, 1931 (P.L.1206, No.331), known
10 as The First Class Township Code.

11 (2) The act of May 1, 1933 (P.L.103, No.69), known as
12 The Second Class Township Code.

13 (3) The act of August 9, 1955 (P.L.323, No.130), known
14 as The County Code.

15 (4) The act of January 24, 1966 (1965 P.L.1535, No.537),
16 known as the Pennsylvania Sewage Facilities Act.

17 (5) The act of July 31, 1968 (P.L.805, No.247), known as
18 the Pennsylvania Municipalities Planning Code.

19 (6) The act of October 4, 1978 (P.L.864, No.167), known
20 as the Storm Water Management Act.

21 (7) The act of November 10, 1999 (P.L.491, No.45), known
22 as the Pennsylvania Construction Code Act.

23 (8) 8 Pa.C.S. Pt. I (relating to boroughs).

24 (b) Other acts.--All acts or parts of acts are repealed
25 insofar as they are inconsistent with the provisions of this
26 act.

27 Section 2104. Effective date.

28 This act shall take effect in 60 days.