

AGRICULTURAL AREA SECURITY LAW - OMNIBUS AMENDMENTS

Act of Apr. 13, 1992, P.L. 100, No. 23

Cl. 03

Session of 1992

No. 1992-23

SB 1067

AN ACT

Amending the act of June 30, 1981 (P.L.128, No.43), entitled "An act authorizing the creation of agricultural areas," further defining "normal farming operations"; further providing for agricultural security areas, for decisions on proposed areas and for agricultural conservation easements; increasing limitation on debt obligations; and making an appropriation.

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

Section 1. The definition of "normal farming operations" in section 3 of the act of June 30, 1981 (P.L.128, No.43), known as the Agricultural Area Security Law, amended December 14, 1988 (P.L.1202, No.149), is amended to read:

Section 3. 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:

* * *

"Normal farming operations." The customary and generally accepted activities, practices, and procedures that farmers adopt, use, or engage in year after year in the production and preparation for market of crops, livestock, and livestock products and in the production and harvesting of agricultural, agronomic, horticultural, silvicultural, and aquacultural crops and commodities. **The term includes the storage and utilization of agricultural and food processing wastes for animal feed and the disposal of manure, other agricultural waste and food processing waste on land where the materials will improve the condition of the soil or the growth of crops or will aid in the restoration of the land for the same purposes.**

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Section 2. Section 5(a), (a.1) and (a.2) of the act, amended December 14, 1988 (P.L.1202, No.149), are amended and the section is amended by adding a subsection to read:

Section 5. Agricultural security areas.

(a) Proposals for creation.--Any owner or owners of land used for agricultural production may submit a proposal to the governing body for the creation of an agricultural security area within such local government unit, provided that such owner or owners own at least 500 acres of viable agricultural land proposed to be included in the area. The proposed area may also consist of two or more noncontiguous **tax** parcels or [areas] **accounts**: Provided, That each **tax** parcel or [area] **account** is at

least ten acres.

(a.1) Submitting the proposal.--Such proposal for creation of an agricultural security area shall be submitted in such manner and form as may be prescribed by the governing body of the local government unit wherein the proposed area is situated and shall include a description of the proposed area, including the boundaries thereof. **Such proposal to the governing body shall be submitted by certified mail with return receipt requested. The return receipt shall serve as notice of the official receipt of the proposal by the governing body and shall verify the official submission date.**

(a.2) Proposals for agricultural security areas in more than one local government unit.--If the land included in a proposal for an agricultural security area is situated in more than one local government unit, the proposal shall be submitted to, and approval of the proposal shall be sought from, the governing body of each such local government unit affected. **The governing bodies may cooperate in the review of a proposed agricultural security area and may provide joint public notices, a joint agricultural security area advisory committee and a joint public hearing on the security area.** A rejection by a governing body shall exclude that portion of the proposal which is situated within the local government unit. However, such rejection shall not preclude the approval of the remaining portion of the proposal as an agricultural security area by the governing body of the other affected local government units, provided that the total acreage approved is at least 500 acres and that such approved portion meets all other requirements imposed under this act for agricultural security areas.

(a.3) Fees.--A governing body shall not require landowners included in a proposed agricultural security area to pay any fees in connection with the application for or the review of agricultural security areas as required in this section and sections 6, 7, 8 and 9.

* * *

Section 3. Section 8 of the act, amended December 14, 1988 (P.L.1202, No.149), is amended to read:

Section 8. Decision on proposed area.

(a) Action by governing body.--The governing body, upon completion of the procedures and considerations prescribed in sections 5, 6 and 7, may adopt the proposal or any modification of the proposal the governing body deems appropriate, including the inclusion, to the extent feasible, of adjacent viable farm lands if the land owner has made application to be included, and, the exclusion, to the extent feasible, of nonviable farm land and nonfarm land. The existence of utility facilities on the proposed area shall not prevent the adoption of such area as an agricultural security area nor shall the rights of utilities with respect to the existing facilities be disturbed or affected by such adoption. The governing body shall act to adopt or reject the proposal, or any modification, no later than 180 days from the date the proposal was originally submitted. Failure by the governing body to act within this 180-day period shall be deemed adoption of the proposal without modification.

(b) Notification by governing body of reasons for

rejection.--Within ten days of the governing body's decision to reject or modify the proposal, the governing body shall submit to the owner or owners of the land a written decision stating why the proposal was not adopted or was modified. The written decision shall include a finding of fact, review of the evaluation criteria prescribed in section 7 and a discussion of reasons for rejection or modification of the proposal.

[(b)] (c) Effective date of creation of area.--An agricultural security area shall become effective upon the adoption of the proposal or its modification by the governing body or upon expiration of the 180-day period as provided in subsection (a). If the proposal has included land situated in more than one local government unit, the agricultural security area shall become effective upon adoption by the local government unit or units of such portion of the proposal or proposed modifications as will meet the minimum acreage and other requirements of an agricultural security area provided in this act. Subsequent adoption of the remaining portion shall immediately effectuate such portion as an agricultural security area.

[(c)] (d) Filing of area description.--Within ten days of the creation of an agricultural security area, a description thereof shall be filed by the governing body with the recorder of deeds, who shall record the [filing] **description**, and with the planning commissions of the county and of the local government unit. [Filing] **Recording** shall be done in a manner which is sufficient to give notice to all persons who have, may acquire or may seek to acquire an interest in land in or adjacent to the created agricultural security area. Upon the failure of the governing body **to file a description** or recorder of deeds to [file or] record the created agricultural security area in accordance with the time or manner requirements prescribed in this subsection, any person adversely affected may file a petition with the court of common pleas to compel immediate compliance with the provisions of this subsection.

[(d)] (e) Participation.--Participation in the agricultural security area shall be available on a voluntary basis to landowners within the jurisdiction of the governing body including those not among the original petitioners. The deletion of land in the agricultural security area shall only occur after seven years or whenever the agricultural security area is subject to review by the governing body. The addition of land to the agricultural security area may occur at any time during the seven-year period provided for in section 9: Provided, That any proposal for such addition, and for approval or disapproval thereof, shall follow all the procedures and requirements of sections 5, 6 and 7 and this section for proposal, consideration and decision as to approval or disapproval of the original agricultural security area. If the land comprising the additional proposal could be added to more than one existing agricultural security area, or shall lie in more than one township, the proposal shall be considered as an addition to the agricultural security area which was first approved. **Land added to an existing agricultural security area during any seven-year period shall be reviewed at the same time as all other land in**

the agricultural security area.

(f) Notification to secretary.--Within ten days of the recording of the agricultural security area, the governing body shall notify the Secretary of Agriculture that the area has been approved and recorded, modified or terminated. Such notification shall be in writing and shall include the number of landowners, the total acreage of the area, the date of approval by the governing body and the date of recording. The notification shall include only one landowner when land is under multiple ownership or is comprised of multiple parcels or accounts.

Section 4. Section 14.1(g) and (h) of the act, amended December 14, 1988 (P.L.1202, No.149) and June 22, 1990 (P.L.242, No.57), are amended and subsection (a) is amended by adding a paragraph 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 by the Commonwealth.

* * *

(4) The State board is authorized to:

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

(ii) Segregate from the Agricultural Conservation Easement Purchase Fund, into a Farms for the Future Trust Fund, funds necessary to qualify for the maximum amount of funding made available under the Federal act. There shall be deposited in this trust fund, and are appropriated for the purposes of this act, any interest rate assistance subsidies provided by participation in the Federal program. The State board is authorized to deposit interest accruing on moneys in the trust fund, in excess of the amounts needed to satisfy interest payments, in the Agricultural Conservation Easement Purchase Fund.

* * *

(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** . The price paid for purchase of an easement for a term of 25 years shall not exceed one-tenth of the difference between the nonagricultural value and the agricultural value determined pursuant to subsection (f) at the time of purchase. 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 made in installments or another deferred method, the person selling the easement may receive, in addition to the

selling price, interest in an amount or at a rate set forth in the agreement of purchase, and final payment shall be made within, and no later than, five years from the date the agricultural conservation easement purchase agreement was executed.

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

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

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

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

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

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

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

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

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

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

under this paragraph shall equal the sum of:

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

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

(4) If the aggregate annual allocation under paragraph (3) to all eligible counties would exceed 50% of the annual easement purchase threshold, paragraph (3) shall not apply, and an additional annual allocation shall be made under this paragraph at the beginning of the county fiscal year for the joint purchase of agricultural conservation easements by the Commonwealth and a county, except a county of the first class. The additional annual allocation to a county under this paragraph shall equal 50% of the annual easement purchase threshold multiplied by a percentage equal to the annual appropriation of local moneys appropriated by the county for the purchase of agricultural conservation easements divided by the aggregate of local moneys appropriated by all eligible counties for the purchase of agricultural conservation easements and in all cases shall not exceed the average annual allocation under paragraph (2) multiplied by four.

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

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

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

(6) The allocation of a county shall be adjusted for

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

(7) The first annual allocation to a county under paragraphs (3), (4) and (5)(i) shall continue for three county fiscal years **occurring after the effective date of this act**, and the second and third such annual allocations shall each continue for two county fiscal years **occurring after the effective date of this act**. Thereafter each such annual allocation shall be for one county fiscal year. Such annual allocations which have not been expended or encumbered at the end of the period for which they were [made] **allocated** shall be reallocated in the subsequent county fiscal year to a county which used at least 90% of [such total annual allocation] **the allocation made to the county at the start of the period**. The reallocation to a county under this paragraph shall be the total amount **of the annual allocation** available for reallocation under this paragraph multiplied by a percentage equal to the annual appropriation of local moneys appropriated by the county [for the previous county fiscal year] for the purchase of agricultural conservation easements **at the start of the county fiscal year in which the annual allocation was made** divided by the aggregate of local moneys appropriated by all eligible counties for [the previous county fiscal year for the purchase of agricultural conservation easements.] **the purchase of agricultural conservation easements at the start of the county fiscal year in which the annual allocation was made. Money reallocated to a county under this paragraph shall be available for one county fiscal year. Money reallocated to a county under this paragraph that has not been spent or encumbered at the conclusion of one county fiscal year shall be restored to the fund.**

(8) Initial allocations to counties under paragraphs (2) and (5)(ii) shall continue until the end of the fourth county fiscal year occurring after the effective date of this act. The sum of the total annual allocations of all counties under paragraphs (2) and (5)(ii) which have not been expended or encumbered by the end of the [third] **fourth** county fiscal year, and every county fiscal year thereafter, occurring after the effective date of this act shall be reallocated in the subsequent county fiscal year to a county which used at least 90% of [such total allocation.] **the allocation made to the county at the start of the period. For purposes of**

determining eligibility for reallocation of funds and the amounts of reallocation, funds allocated to counties will be segregated and accounted for on a county fiscal year basis.

Fifty percent of the amount available for allocation under this paragraph shall be reallocated in the manner set forth in paragraph (2), and 50% of the amount available for allocation under this paragraph shall be reallocated in the manner set forth in paragraphs (3), (4) and (5). **For purposes of reallocating funds in the manner set forth in paragraph (2), realty transfer tax revenues used to calculate weighted transfer tax revenues shall correspond to the year for which funds are being reallocated and weighted transfer tax revenues shall be calculated only for counties eligible under this paragraph. Money reallocated to a county under this paragraph shall be available for one county fiscal year. Money reallocated to a county under this paragraph that has not been spent or encumbered at the conclusion of one county fiscal year shall be restored to the fund.**

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

Section 5. Section 14.3(e) of the act, added December 14, 1988 (P.L.1202, No.149), is amended to read:

Section 14.3. Commonwealth indebtedness.

* * *

(e) Annual limitation on debt obligations issued.--Bonds and notes (not including refunding bonds or replacement notes), as authorized herein, shall not be issued in the aggregate principal amount of more than [\$20,000,000] **\$25,000,000** during any one State fiscal year. Any interfund transfers made or to be made pursuant to section 14.2(b)(1) during any State fiscal year may not be made, or cause to be outstanding at any time, in any amount greater than the difference between [\$20,000,000] **\$25,000,000** and the aggregate principal amount of bonds and notes (not including refunding bonds or replacement notes) issued under the authority of this act during such State fiscal year.

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Section 6. This act shall take effect immediately.

APPROVED--The 13th day of April, A. D. 1992.

ROBERT P. CASEY