

PENNSYLVANIA FARMLAND AND FOREST LAND ASSESSMENT ACT OF 1974 -
SPLIT-OFF, SEPARATION OR TRANSFER OF LAND, PENALTY FOR INELIGIBLE
USE, REMOVAL OF LAND FROM PREFERENTIAL ASSESSMENT

Act of Nov. 23, 2010, P.L. 1095, No. 109

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No. 2010-109

HB 1394

AN ACT

Amending the act of December 19, 1974 (P.L.973, No.319), entitled "An act prescribing the procedure under which an owner may have land devoted to agricultural use, agricultural reserve use, or forest reserve use, valued for tax purposes at the value it has for such uses, and providing for reassessment and certain interest payments when such land is applied to other uses and making editorial changes," further providing for definitions, for split-off, separation or transfer of land and for penalty for ineligible use; and providing for removal of land from preferential assessment.

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

Section 1. The definitions of "agricultural reserve," "agricultural use" and "forest reserve" 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, amended December 21, 1998 (P.L.1225, No.156) and December 8, 2004 (P.L.1785, No.235), are amended and the section is amended by adding definitions to read:

Section 2. Definitions.--As used in this act, the following words and phrases shall have the meanings ascribed to them in this section unless the context obviously otherwise requires:

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"Agricultural reserve." Noncommercial open space lands used for outdoor recreation or the enjoyment of scenic or natural beauty and open to the public for such use, without charge or fee, on a nondiscriminatory basis. **The term includes any land devoted to the development and operation of an alternative energy system, if a majority of the energy annually generated is utilized on the tract**

"Agricultural use." Land which is used for the purpose of producing an agricultural commodity or is devoted to and meets the requirements and qualifications for payments or other compensation pursuant to a soil conservation program under an agreement with an agency of the Federal Government. The term includes:

- (1) any farmstead land on the tract[. The term includes] ;
- (2) a woodlot [and];
- (3) **any** land which is rented to another person and used for the purpose of producing an agricultural commodity; **and**
- (4) **any land devoted to the development and operation of an alternative energy system, if a majority of the energy annually generated is utilized on the tract.**

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"Alternative energy." Electricity, heat or other usable form of energy generated from a Tier I energy source.

"Alternative energy system." A facility or energy system that utilizes a Tier I energy source to generate alternative energy.

The term includes a facility or system that generates alternative energy for utilization onsite or for delivery of the energy generated to an energy distribution company or to an energy transmission system operated by a regional transmission organization.

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"Forest reserve." Land, ten acres or more, stocked by forest trees of any size and capable of producing timber or other wood products. The term includes any land devoted to the development and operation of an alternative energy system, if a majority of the energy annually generated is utilized on the tract .

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"Tier I energy source." A Tier I alternative energy source, as defined in section 2 of the act of November 30, 2004 (P.L.1672, No.213), known as the "Alternative Energy Portfolio Standards Act."

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Section 1.1. Section 5.1 of the act, added December 21, 1998 (P.L.1225, No.156), is amended to read:

Section 5.1. Penalty for Ineligible Use.--If a landowner removes land from a preferential assessment under section 8.1, if a landowner changes the use of any tract of land subject to preferential assessment under this act to one which is inconsistent with the provisions of section 3 or if for any other reason the land is removed from a land use category under section 3, except for a condemnation of the land, the land so removed and the entire tract of which it was a part shall be subject to roll-back taxes plus interest on each year's roll-back tax at the rate of six percent (6%) per annum. After the first seven years of preferential assessment, the roll-back tax shall apply to the seven most recent tax years.

Section 2. Section 6 of the act is amended by adding subsections to read:

Section 6. Split-off, Separation or Transfer; Leasing for Wireless Service; Utilization of Land or Conveyance of Rights for Exploration or Extraction of Gas, Oil or Coal Bed Methane; Utilization of Land for Commercial Alternative Energy Generation; Death of Landowner; Temporary Leases.--* * *

(c.4) (Reserved).

(c.5) The following shall apply:

(1) Portions of land subject to preferential assessment may be leased or otherwise devoted to a wind power generation system.

(2) Roll-back taxes shall be imposed upon those portions of the land actually devoted by the landowner for wind power generation system purposes, and the fair market value of those portions of the land shall be adjusted accordingly. The wind power generation system shall include the foundation of the wind turbine and the area of the surface covered by appurtenant structures, including, but not limited to, new roads and bridges, transmission lines, substations and other buildings or structures related to the wind power generation system.

The utilization of a portion of the land for a wind power generation system shall not invalidate the preferential assessment of land which is not so utilized, and such land shall continue to receive preferential assessment if it continues to meet the requirements of section 3. An owner who is subject to roll-back taxes under this subsection shall submit a notice of installation of a wind power generation system to the county assessor no later than thirty days following the commencement of electricity generation at the wind power generation system.

Section 3. Section 8(b) of the act, amended December 21, 1998 (P.L.1225, No.156), is amended to read:

Section 8. Roll-Back Taxes; Special Circumstances.--

(b) Unpaid roll-back taxes shall be a lien upon the property collectible in the manner provided by law for the collection of delinquent taxes. Roll-back taxes shall become due on the date of change of use or on the date a well site restoration report is filed with the county assessor under section 6(c.1)(3), **or with regard to a wind power generation system under section 6(c.2), on the date the notice of the installation of the system is received by the county assessor,** or any other termination of preferential assessment and shall be paid by the owner of the land at the time of change in use, or any other termination of preferential assessment, to the county treasurer or to the tax claim bureau, as the case may be, whose responsibility it shall be to make proper distribution of the taxes to the taxing bodies wherein the property is located. Nothing in this section shall be construed to require the taxing body of a taxing district in which land enrolled in preferential use is situated to accept the roll-back taxes due and payable to that taxing district if the use of the land is changed for the purpose of granting or donating such land to:

- (1) a school district;
- (2) a municipality;
- (3) a county;
- (4) a volunteer fire company;
- (5) a volunteer ambulance service;
- (6) a not-for-profit corporation, tax exempt under section 501(c)(3) of the Internal Revenue Code of 1954 (68A Stat. 3, 26 U.S.C. § 501(c)(3)), provided that, prior to accepting ownership of the land, such corporation enters into an agreement with the municipality wherein the subject land is located guaranteeing that it will be used exclusively for recreational purposes, all of which shall be available to the general public free of charge. In the event the corporation changes the use of all or a portion of the land or charges admission or any other fee for the use or enjoyment of the facilities, the corporation shall immediately become liable for all roll-back taxes and accrued interest previously forgiven pursuant hereto; or

- (7) a religious organization for construction or regular use as a church, synagogue or other place of worship, including meeting facilities, parking facilities, housing facilities and other facilities which further the religious purposes of the organization.

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Section 4. The act is amended by adding a section to read:

Section 8.1. Removal of Land From Preferential Assessment.--(a) A landowner receiving preferential assessment under this act may remove land from preferential assessment if:

- (1) the landowner notifies in writing the county assessor by June 1 of the year immediately preceding the tax year for which the removal is requested;**
- (2) the entire tract or tracts enrolled on a single application for preferential assessment is removed from preferential assessment; and**
- (3) the landowner pays rollback taxes on the entire tract or tracts as provided for in section 5.1.**

(b) Land removed from preferential assessment under this section shall not be eligible to be subsequently reenrolled in preferential assessment by the same landowner.

(c) Nothing in this section shall be construed to prohibit a landowner whose land was terminated from preferential assessment under other sections of this act from reenrolling the land in preferential assessment.

Section 5. This act shall take effect immediately.

APPROVED--The 23rd day of November, A.D. 2010.

EDWARD G. RENDELL