

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 188 Session of 2015

INTRODUCED BY SONNEY, V. BROWN, COHEN, JAMES, MILLARD, MURT, O'BRIEN, PASHINSKI, ROSS, McCARTER, PEIFER, GIBBONS, SABATINA AND MOUL, JANUARY 23, 2015

AS AMENDED ON THIRD CONSIDERATION, IN SENATE, JUNE 9, 2015

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 and for the purchase of
4 agricultural conservation easements.

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

7 Section 1. Section 3 of the act of June 30, 1981 (P.L.128,
8 No.43), known as the Agricultural Area Security Law, is amended
9 by adding a definition DEFINITIONS to read: <--

10 Section 3. Definitions.

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

14 * * *

15 ~~"Wind power generation system." A system designed to collect <--~~
16 ~~and utilize wind power, including the foundation of a wind~~
17 ~~turbine and appurtenant structures, including new roads and~~
18 ~~bridges, transmission lines, substations and other related~~

1 buildings or structures.

2 "THREATENED OR ENDANGERED SPECIES." ANY OF THE FOLLOWING: <--

3 (1) ANIMALS OR PLANTS IDENTIFIED AS THREATENED OR
4 ENDANGERED UNDER ONE OF THE FOLLOWING:

5 (I) THE ENDANGERED SPECIES ACT OF 1973 (PUBLIC LAW
6 93-205, 16 U.S.C. § 1531 ET SEQ.).

7 (II) THE ACT OF JUNE 23, 1982 (P.L.597, NO.170),
8 KNOWN AS THE WILD RESOURCE CONSERVATION ACT.

9 (III) 30 PA.C.S. (RELATING TO FISH).

10 (IV) 34 PA.C.S. (RELATING TO GAME).

11 (2) AN ANIMAL OR PLANT SPECIES PROPOSED FOR LISTING AS
12 AN ENDANGERED OR THREATENED SPECIES UNDER THE ENDANGERED
13 SPECIES ACT OF 1973.

14 * * *

15 "WIND POWER GENERATION SYSTEM." A SYSTEM OF WIND TURBINES
16 LARGER THAN 100 KILOWATTS DESIGNED TO COLLECT AND UTILIZE WIND
17 POWER FOR THE PURPOSE OF DELIVERING ELECTRICITY TO THE POWER
18 GRID TO BE DISTRIBUTED TO AN END USER BY AN ELECTRIC UTILITY OR
19 POWER SYSTEM OPERATOR. THE TERM INCLUDES THE FOUNDATION OF A
20 WIND TURBINE AND APPURTENANT STRUCTURES, INCLUDING NEW ROADS AND
21 BRIDGES, TRANSMISSION LINES, SUBSTATIONS AND OTHER RELATED
22 BUILDINGS OR STRUCTURES.

23 Section 2. Section 14.1(c)(6) of the act is amended by
24 adding a subparagraph to read:

25 Section 14.1. Purchase of agricultural conservation easements.

26 * * *

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

30 * * *

1 (6) An agricultural conservation easement shall not
2 prevent:

3 * * *

4 (vii) The granting of rights-of-way by the owner of
5 the subject land in and through the land for the
6 installation of or use of a wind power generation system,
7 if all of the following apply:

8 (A) The subject land consists of 50 or more
9 acres.

10 (B) If the subject land consists of less than
11 100 acres, the wind power generation system may be
12 constructed on no more than two acres of the subject
13 land.

14 (C) If the subject land consists of 100 or more
15 acres, the wind power generation system may be
16 constructed on no more than two acres of the subject
17 land, plus two additional acres for every 50 acres by
18 which the subject land exceeds 100 acres.

19 (D) If the subject land upon which the wind
20 power generation system is constructed is
21 subsequently subdivided or conveyed or transferred in
22 whole or in part, the subject land upon which the
23 wind power generation system is located must continue
24 to consist of 50 or more acres.

25 ~~(E) THE COMMONWEALTH AGENCY WITH JURISDICTIONAL <--~~
26 ~~AUTHORITY FOR PROTECTING THREATENED AND ENDANGERED~~
27 ~~SPECIES SHALL CONDUCT A STUDY TO DETERMINE THE~~
28 ~~PRESENCE OF ENDANGERED OR THREATENED SPECIES AND THE~~
29 ~~SPECIES' CRITICAL HABITATS IN THE AREA LIKELY TO BE~~
30 ~~AFFECTED BY THE INSTALLATION AND USE OF THE WIND~~

1 ~~POWER GENERATION SYSTEM. THE STUDY SHALL FURTHER~~
2 ~~DETERMINE WHETHER THE INSTALLATION WILL ADVERSELY~~
3 ~~AFFECT A THREATENED OR ENDANGERED SPECIES OR A~~
4 ~~THREATENED OR ENDANGERED SPECIES' HABITAT.~~

5 (E) THE WIND POWER GENERATION COMPANY CONDUCTS <--
6 AN ASSESSMENT OR SURVEY TO DETERMINE THE PRESENCE OF
7 ENDANGERED OR THREATENED SPECIES AND THE SPECIES'
8 CRITICAL HABITATS IN THE AREA LIKELY TO BE AFFECTED
9 BY THE INSTALLATION AND USE OF THE WIND POWER
10 GENERATION SYSTEM. THE STUDY SHALL FURTHER DETERMINE
11 WHETHER THE INSTALLATION WILL ADVERSELY AFFECT A
12 THREATENED OR ENDANGERED SPECIES OR A THREATENED OR
13 ENDANGERED SPECIES' HABITAT. IF THERE IS A
14 DETERMINATION THAT THE INSTALLATION OR USE OF THE
15 WIND POWER GENERATION SYSTEM WILL ADVERSELY AFFECT A
16 THREATENED OR ENDANGERED SPECIES OR A THREATENED OR
17 ENDANGERED SPECIES' HABITAT, MEASURES SHALL BE
18 IMPLEMENTED TO AVOID, MINIMIZE OR MITIGATE THE
19 ADVERSE EFFECTS.

20 * * *

21 Section 3. The addition of section 14.1(c)(6)(vii) of the
22 act shall apply to agricultural conservation easements executed
23 after June 29, 1981.

24 Section 4. This act shall take effect in 60 days.