
THE GENERAL ASSEMBLY OF PENNSYLVANIA

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STUBAN, SNYDER AND MOEHLMANN, JANUARY 19, 1981

REFERRED TO COMMITTEE ON AGRICULTURE AND RURAL AFFAIRS,
JANUARY 19, 1981

AN ACT

1 Authorizing the creation of agricultural areas.

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

7 Section 1. Short title.

8 This act shall be known and may be cited as the "Agricultural
9 Area Security Law."

10 Section 2. Statement of legislative findings.

11 It is the declared policy of the Commonwealth to conserve and
12 protect and to encourage the development and improvement of its
13 agricultural lands for the production of food and other
14 agricultural products. It is also the declared policy of the
15 Commonwealth to conserve and protect agricultural lands as
16 valued natural and ecological resources which provide needed
17 open spaces for clean air sheds, as well as for aesthetic
18 purposes. Article VIII, section 2 of the Constitution of
19 Pennsylvania provides that the General Assembly may, by law,
20 establish standards and qualifications for agricultural
21 reserves. Agriculture in many parts of the Commonwealth is under
22 urban pressure from expanding metropolitan areas. This urban
23 pressure takes the form of scattered development in wide belts
24 around urban areas, and brings conflicting land uses into
25 juxtaposition, creates high costs for public services, and
26 stimulates land speculation. When this scattered development
27 extends into good farm areas, ordinances inhibiting farming tend
28 to follow, farm taxes rise, and hopes for speculative gains
29 discourage investments in farm improvements. Many of the
30 agricultural lands in the Commonwealth are in jeopardy of being

1 lost for any agricultural purposes. Certain of these lands
2 constitute unique and irreplaceable land resources of Statewide
3 importance. It is the purpose of this act to provide a means by
4 which agricultural land may be protected and enhanced as a
5 viable segment of the Commonwealth's economy and as an economic
6 and environmental resource of major importance.

7 Section 3. Definitions.

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

11 "Advisory committee." An Agricultural Area Advisory
12 Committee.

13 "Agricultural area." A unit of 500 or more acres of land
14 used for the agricultural production of crops, livestock and
15 livestock products under the ownership of one or more persons.

16 "Agricultural production." The production for commercial
17 purposes of crops, livestock and livestock products, but not
18 land or portions thereof used for processing or retail
19 merchandising of such crops, livestock or livestock products.

20 "County governing body." The county board of commissioners
21 or other designated council of representatives under home rule
22 charters.

23 "Crops, livestock and livestock products." Include but are
24 not limited to:

25 (1) Field crops, including corn, wheat, oats, rye,
26 barley, hay, potatoes and dry beans.

27 (2) Fruits, including apples, peaches, grapes, cherries
28 and berries.

29 (3) Vegetables, including tomatoes, snap beans, cabbage,
30 carrots, beets, onions and mushrooms.

1 (4) Horticultural specialties, including nursery stock
2 ornamental shrubs, ornamental trees and flowers.

3 (5) Livestock and livestock products, including cattle,
4 sheep, hogs, goats, horses, poultry, furbearing animals,
5 milk, eggs and furs.

6 (6) Timber, wood and other wood products derived from
7 trees.

8 "Development easement." An interest in land, less than fee
9 simple title, which interest represents the right to develop
10 such lands for residential, commercial, recreational or
11 industrial uses.

12 "Governing body." The governing body of a local government
13 unit.

14 "Local government unit." Any city, borough, township or
15 town.

16 "Planning commission." A local government planning
17 commission.

18 "Viable agricultural land." Land suitable for agricultural
19 production and which will continue to be economically feasible
20 for such use if real estate taxes, farm use restrictions, and
21 speculative activities are limited to levels approximating those
22 in commercial agricultural areas not influenced by the proximity
23 of urban and related nonagricultural development.

24 Section 4. Agricultural Area Advisory Committee.

25 The governing body of any local government may establish an
26 Agricultural Area Advisory Committee which shall consist of two
27 active farmers and two agribusinessmen residing within the unit
28 of local government and one member of the governing body of such
29 local government, who shall serve as the chairman of the
30 committee. Such a committee shall be established when a petition

1 is received by the governing body for the creation of an
2 agricultural area. Pursuant to this act the members of such
3 committee shall be appointed by and shall serve at the pleasure
4 of the chairman of the governing body. The members shall serve
5 without salary, but the governing body may entitle each such
6 member to reimbursement for his actual and necessary expenses
7 incurred in the performance of his official duties. Such
8 committee shall advise the governing body and work with the
9 planning commission in relation to the proposed establishment,
10 modification, and termination of agricultural areas. In
11 particular, the committee shall render expert advice relating to
12 the desirability of such action, including advice as to the
13 nature of farming and farm resources within the proposed area
14 and the relation of farming in such area to the local government
15 unit as a whole.

16 Section 5. Agricultural areas.

17 (a) Proposals for creation.--Any owner or owners of land may
18 submit a proposal to the governing body for the creation of an
19 agricultural area within such local government unit, provided
20 that such owner or owners own at least 500 acres or at least 10%
21 of the land proposed to be included in the area, whichever is
22 greater. The proposed area may also consist of two or more
23 noncontiguous parcels or areas. Such proposal shall be submitted
24 in such manner and form as may be prescribed by the governing
25 body of the local government unit wherein the proposed area is
26 situated and shall include a description of the proposed area,
27 including the boundaries thereof. If the proposed area is
28 situated in more than one local government unit, the proposal
29 shall be submitted to the governing bodies of all local
30 government units affected.

1 (b) Notice.--Upon the receipt of such a proposal, the
2 governing body shall thereupon provide notice of such proposal
3 by publishing a notice in a newspaper having general circulation
4 within the proposed area and by posting such notice in five
5 conspicuous places within, adjacent or near to the proposed
6 area. The notice shall contain the following information:

7 (1) A statement that a proposal for an agricultural area
8 has been filed with the governing body pursuant to this act.

9 (2) A statement that the proposal will be on file open
10 to public inspection in the office of the local government
11 unit.

12 (3) A statement that any municipality whose territory
13 encompasses the proposed area, or any landowner who owns at
14 least 10% of the land proposed to be included within the
15 proposed area, or any landowner with lands adjacent or near
16 to the proposed area who wishes such lands to be included
17 therein, may propose modifications of the proposed area in
18 such form and manner as may be prescribed by the governing
19 body.

20 (4) A statement that any proposed modification must be
21 filed with the governing body and the planning commission
22 within 30 days after the publication of such notice.

23 (5) A statement that at the termination of the 30-day
24 period, the proposal and proposed modifications will be
25 submitted to the planning commission and the advisory
26 committee, and that thereafter a public hearing will be held
27 on the proposal, proposed modifications and recommendations
28 of the planning commission and advisory committee.

29 (c) Modification proposals.--The governing body shall
30 receive any proposals for modifications of such proposal which

1 may be submitted by such landowners or municipalities within 30
2 days after the publication of such notice.

3 (d) Report by planning commission.--The governing body
4 shall, upon the termination of such 30-day period, refer such
5 proposal and proposed modifications to the planning commission,
6 which shall, within 45 days, report to the governing body the
7 potential effect of such proposal and proposed modifications
8 upon the local government's planning policies and objectives.

9 (e) Referral to advisory committee.--The governing body
10 shall also, upon the termination of such 30-day period, refer
11 such proposal and proposed modifications to the Agricultural
12 Area Advisory Committee, which shall, within 45 days report to
13 the governing body its recommendations concerning the proposal
14 and proposed modifications.

15 Section 6. Public hearings.

16 (a) Hearings.--The governing body, shall upon receipt of the
17 reports from the advisory committee and the planning commission,
18 hold a public hearing relative to the proposed agricultural
19 area.

20 (b) Place of hearing.--The hearing shall be held at a place
21 within the proposed area or otherwise readily accessible to the
22 proposed area.

23 (c) Notice of hearing.--A hearing notice shall be published
24 in a newspaper having a general circulation within the proposed
25 area and shall be given in writing to those municipalities whose
26 territory encompasses the proposed area and any proposed
27 modifications, and by posting such notice in five conspicuous
28 places within, adjacent or near to the proposed area. Such
29 notice shall contain the following information:

30 (1) A statement of the time, date and place of the

1 public hearing.

2 (2) A description of the proposed area, any proposed
3 additions or deletions and any recommendations of the
4 planning commission or advisory committee.

5 (3) A statement that the public hearing will be held
6 concerning:

7 (i) The original proposal.

8 (ii) Any written amendments proposed during the 30-
9 day review period.

10 (iii) Any recommendations proposed by the
11 Agricultural Area Advisory Committee and the planning
12 commission.

13 Section 7. Evaluation criteria.

14 (a) Factors to be considered.--The following factors shall
15 be considered by the planning commission, advisory committee,
16 and at any public hearing:

17 (1) The viability of active farming within the proposed
18 area and in areas near or adjacent thereto.

19 (2) The presence of any viable farm lands within the
20 proposed area and adjacent thereto that are not now in active
21 farming.

22 (3) The nature and extent of land uses other than active
23 farming within the proposed area and near or adjacent
24 thereto.

25 (4) Local government unit developmental patterns and
26 needs.

27 (5) The county's comprehensive plan.

28 (6) Any other matter which may be relevant.

29 (b) Other factors.--In judging viability the following
30 factors shall be considered:

- 1 (1) Soil.
- 2 (2) Climate.
- 3 (3) Topography.
- 4 (4) Markets for farm products.
- 5 (5) The extent and nature of farm improvements.
- 6 (6) The present status of farming.
- 7 (7) Anticipated trends in agricultural economic
- 8 conditions and technology.
- 9 (8) Any other natural or economic factors as may be
- 10 relevant.

11 (c) Resource materials.--In considering the viability
12 factors as set forth in this section, various resource materials
13 shall be used, including, but not limited to, the following:

- 14 (1) Soil surveys of the Pennsylvania State University.
- 15 (2) Soil surveys and other information provided by the
- 16 National Cooperative Soil Survey.
- 17 (3) Soil survey maps prepared by the United States Soil
- 18 Conservation Service.
- 19 (4) The United States census of agricultural categories
- 20 of land use classes.
- 21 (5) Agricultural viability maps prepared by the
- 22 Department of Agriculture.
- 23 (6) Any other relevant published data, maps, charts, or
- 24 results of soil or land use surveys made by any State or
- 25 Federal agency.

26 Section 8. Decision on proposed area.

27 (a) Action by governing body.--The governing body, after
28 receiving the reports of the planning commission and the
29 advisory committee, and after such public hearing, may adopt as
30 a plan the proposal or any modification of the proposal they

1 deem appropriate, including the inclusion, to the extent
2 feasible, of adjacent viable farm lands, and, the exclusion, to
3 the extent feasible, of nonviable farm land and nonfarm land.
4 The existence of utility facilities on the proposed area shall
5 not prevent the designation of the area as "agricultural" nor
6 shall the rights of utilities with respect to the existing
7 facilities be disturbed or affected by such designation. The
8 governing body shall act to adopt or reject the proposal, or any
9 modification of it, no later than 180 days from the date the
10 proposal was originally submitted.

11 (b) Effective date of creation of area.--The proposed area,
12 shall become effective upon the adoption of same by the
13 governing body.

14 (c) Filing of area description.--Upon the creation of an
15 agricultural area, a description thereof shall be filed by the
16 governing body with the recorder of deeds and with the planning
17 commission.

18 Section 9. Review of area.

19 The governing body shall review any area created under this
20 section eight years after the date of its creation and every
21 eight years thereafter. In conducting such review, the governing
22 body shall ask for the recommendations of the planning
23 commission, the county planning commission and the advisory
24 committee, and shall, at least 120 days prior to the end of the
25 eighth year and not more than 180 days prior to such date, hold
26 a public hearing at a place within the area or otherwise readily
27 accessible to the area upon notice in a newspaper having a
28 general circulation within the area by posting in five
29 conspicuous places within, adjacent or near the area and by
30 individual notice, in writing, to those municipalities whose

1 territories encompass the area and the person owning land within
2 the area. The governing body after receiving the reports of the
3 planning commission, the county planning commission and the
4 advisory committee and after the public hearing, may terminate
5 the area at the end of such eight-year period by filing a notice
6 of termination with the recorder of deeds and with the planning
7 commission or may modify the area in the same manner as is
8 provided in this act for the creation of areas. If the governing
9 body does not act, or if a modification of an area is rejected,
10 the area shall continue as originally constituted.

11 Section 10. Appeals.

12 Any party in interest aggrieved by a decision or action of
13 the governing body relating to the creation, composition,
14 modification, rejection or termination of an agricultural area
15 may take an appeal to the court of common pleas, in the manner
16 provided by law within 30 days after such decision or action.

17 Section 11. Limitation on local regulations.

18 No municipality or political subdivision shall exercise any
19 of its powers to enact local laws or ordinances within an
20 agricultural area in a manner which would unreasonably restrict
21 or regulate farm structures or farming practices in
22 contravention of the purposes of the act unless such
23 restrictions or regulations bear a direct relationship to the
24 public health or safety.

25 Section 12. Policy of Commonwealth agencies.

26 It shall be the policy of all Commonwealth agencies to
27 encourage the maintenance of viable farming in agricultural
28 areas and their administrative regulations and procedures shall
29 be modified to this end insofar as is consistent with the
30 promotion of public health and safety, with the provisions of

1 any Federal statutes, standards, criteria, rules, regulations,
2 or policies, and any other requirements of Federal agencies,
3 including provisions applicable only to obtaining Federal
4 grants, loans, or other funding.

5 Section 13. Limitation on exercise of eminent domain.

6 (a) Approval required for condemnation by an agency of the
7 Commonwealth.--No agency of the Commonwealth having or
8 exercising powers of eminent domain shall condemn any land
9 within any agricultural area for any purpose unless prior
10 approval has been obtained from the following committee: a
11 committee made up of six members, consisting of the Director of
12 the Office of State Planning and Development, or his designee,
13 the Secretary of Agriculture, or his designee, the Secretary of
14 Environmental Resources, or his designee, the Secretary of
15 Transportation, or his designee, and two active farmers
16 appointed by the Governor, with the advice and consent of a
17 majority of the Senate, for a term of four years. The chairman
18 of this committee shall be the Secretary of Agriculture, or his
19 designee. The condemnation approval specified by this subsection
20 shall not be required for an underground public utility facility
21 or for any public utility facility the necessity for and the
22 propriety and environmental effects of which has been reviewed
23 and ratified or approved by the Pennsylvania Public Utility
24 Commission or the Federal Energy Regulatory Commission.

25 (b) Approval required for condemnation by a political
26 subdivision, authority, public utility or other body.--No
27 political subdivision, authority, public utility or other body
28 having or exercising powers of eminent domain shall condemn any
29 land within any agricultural area for any purpose, unless prior
30 approval has been obtained from each of the following bodies:

1 the governing bodies of the municipalities encompassing the
2 agricultural area, the county commissioners, and the
3 Agricultural Area Advisory Committee. The condemnation approvals
4 specified by this subsection shall not be required for an
5 underground public utility facility or for any public utility
6 facility the necessity for and the propriety and environmental
7 effects of which has been reviewed and ratified or approved by
8 the Pennsylvania Public Utility Commission or the Federal Energy
9 Regulatory Commission, regardless of whether the right to
10 establish and maintain such underground or other public utility
11 facility is obtained by condemnation, or by agreement with the
12 owner.

13 (c) Notice.--Any condemnor wishing to condemn property the
14 approval for which is required under this section shall at least
15 30 days prior to taking such action notify each of the foregoing
16 bodies that such action is contemplated, and no such
17 condemnation shall be effective until 90 days following the
18 receipt of such notice.

19 (d) Review by committee.--Upon receipt of such notice the
20 committee provided for in this section shall review the proposed
21 condemnation to determine its effect upon the preservation and
22 enhancement of agriculture and agricultural resources within the
23 area and upon Commonwealth, county and municipal environmental
24 and comprehensive plans, policies and objectives.

25 (e) Public hearings.--Within such 90-day period the
26 committee shall hold a public hearing concerning the proposed
27 condemnation at a place within or otherwise readily accessible
28 to the area. Timely notice of such hearing shall be placed in a
29 newspaper having a general circulation within the area and a
30 written notice shall be posted at five conspicuous places within

1 or adjacent to the area. Individual written notice shall also be
2 given to all municipalities encompassing all or part of the area
3 and to the proposed condemnor.

4 (f) Findings and decisions of the committee.--The committee
5 shall render its findings and decisions on or before the
6 expiration such 90-day period and likewise within such period
7 shall report the same to the proposed condemnor, the
8 municipalities affected and any party who shall file an
9 appearance at such hearing. If the committee finds that such
10 proposed condemnation might have an unreasonably adverse effect
11 upon the preservation and enhancement of agriculture or
12 municipal resources within the area or upon the environmental
13 and comprehensive plans of the county, municipality and the
14 Commonwealth or upon the goals, resources plans, policies or
15 objectives thereof, or that in any event there is a reasonable
16 or prudent alternative to such condemnation, the committee shall
17 refuse approval for such condemnation.

18 (g) Injunctions.--The committee may request the Attorney
19 General to bring an action to enjoin any such condemnor from
20 violating any of the provisions of this section.

21 (h) Emergencies excepted.--This section shall not apply to
22 any emergency project which is immediately necessary for the
23 protection of life or property.

24 Section 14. Purchase of development easement in agricultural
25 areas.

26 (a) Program to purchase easements.--After the establishment
27 of an agricultural area by the governing body, the county
28 governing body may authorize a program to purchase the
29 development easements for land within an agricultural area. The
30 program shall be administered by the county planning commission

1 and a farmer member from each Agricultural Area Advisory
2 Committee within the county.

3 (b) Funds for purchases.--The county governing body may use
4 moneys from its general fund and/or incur debt to make available
5 moneys to purchase the development easements in agricultural
6 areas. The incurring of debt by the county governing body shall
7 be consistent with all present laws and procedures imposed on
8 counties for such action.

9 (c) Offers.--Agents, employees or officials of the county
10 planning commission shall be responsible to make such offers and
11 to enter into such negotiations as are necessary with any owner
12 of lands in an agricultural area, in order to purchase any
13 development easements. Nothing in this act shall be construed as
14 to require any owner of land in an agricultural area to sell or
15 transfer any development easements thereto. An owner may reject
16 any offer by any official of the county planning commission to
17 purchase any development easements. The price for the purchase
18 of development easements shall be mutually agreed to by the
19 owner of the land affected and the county governing body. All
20 such contracts for purchase shall be in writing.

21 (d) Sale of land.--A county governing body may sell any
22 development easements it has acquired under this act: Provided,
23 That the local governing body, which has jurisdiction over the
24 effected land, approves the sale by a majority vote of its
25 members: And, further provided, That the present owner of the
26 land affected has refused to purchase such development easement.
27 Section 15. Rules and regulations.

28 The Secretary of the Department of Agriculture shall
29 promulgate rules and regulations necessary to promote the
30 efficient, uniform and Statewide administration of the act.

1 Section 16. Effective date.

2 This act shall take effect in 60 days.