
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL
No. 1753 Session of
1981

INTRODUCED BY STEIGHNER, JULY 1, 1981

REFERRED TO COMMITTEE ON AGRICULTURE AND RURAL AFFAIRS,
JULY 1, 1981

AN ACT

1 Authorizing the creation of agricultural areas.

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

5 Section 1. Short title.

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

8 Section 2. Statement of legislative findings.

9 It is the declared policy of the Commonwealth to conserve and
10 protect and to encourage the development and improvement of its
11 agricultural lands for the production of food and other
12 agricultural products. It is also the declared policy of the
13 Commonwealth to conserve and protect agricultural lands as
14 valued natural and ecological resources which provide needed
15 open spaces for clean air, as well as for aesthetic purposes.

16 Article VIII, section 2 of the Constitution of Pennsylvania
17 provides that the General Assembly may, by law, establish
18 standards and qualifications for agricultural reserves.
19 Agriculture in many parts of the Commonwealth is under urban
20 pressure from expanding metropolitan areas. This urban pressure
21 takes the form of scattered development in wide belts around
22 urban areas, and brings conflicting land uses into
23 juxtaposition, creates high costs for public services, and
24 stimulates land speculation. When this scattered development
25 extends into good farm areas, ordinances inhibiting farming tend
26 to follow, farm taxes rise, and hopes for speculative gains
27 discourage investments in farm improvements. Many of the
28 agricultural lands in the Commonwealth are in jeopardy of being
29 lost for any agricultural purposes. Certain of these lands
30 constitute unique and irreplaceable land resources of Statewide

1 importance. It is the purpose of this act to provide a means by
2 which agricultural land may be protected and enhanced as a
3 viable segment of the Commonwealth's economy and as an economic
4 and environmental resource of major importance.

5 Section 3. Definitions.

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

9 "Advisory committee." An Agricultural Area Advisory
10 Committee.

11 "Agricultural area." A unit of land important to the economy
12 of its local government unit used in an agricultural enterprise
13 raising crops, livestock and livestock products under the
14 ownership of one or more persons.

15 "Agricultural enterprise." An enterprise for commercial
16 purposes of crops, livestock and livestock products including
17 the land thereof used for supportive services (home
18 occupations), accessory purposes (farm supply, repairs and
19 services) and institutional services (schools, churches) and
20 other compatible purposes.

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

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

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

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

30 (3) Vegetables, including tomatoes, snap beans, cabbage,

1 carrots, beets, onions and mushrooms.

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

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

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

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

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

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

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

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

25 Section 4. Agricultural Area Advisory Committee.

26 The governing body of any local government shall establish an
27 Agricultural Area Advisory Committee when a petition is received
28 by the governing body for the creation of an agricultural area.

29 The Agricultural Area Advisory Committee shall consist of four
30 persons residents of the area elected by the owner or owners of

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

14 Section 5. Agricultural areas.

15 (a) Proposals for creation.--Any owner or owners of land may
16 submit a proposal to the governing body for the creation of an
17 agricultural area within such local government unit, provided
18 that such owner or owners own viable agricultural land proposed
19 to be included in the area which is economically important to
20 its local governmental unit. The proposed area may also consist
21 of two or more noncontiguous parcels or areas. Such proposal
22 shall be submitted in such manner and form as may be prescribed
23 by the governing body of the local government unit wherein the
24 proposed area is situated and shall include a description of the
25 proposed area, including the boundaries thereof. The proposed
26 area shall be situated in only one local government unit.

27 (b) Notice.--Upon the receipt of such a proposal, the
28 governing body shall thereupon provide notice of such proposal
29 by publishing a notice in a newspaper having general circulation
30 within the proposed area and by posting such notice in five

1 conspicuous places within, adjacent or near to the proposed
2 area. The notice shall contain the following information:

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

5 (2) A statement that the proposal will be on file open
6 to public inspection in the office of the local government
7 unit.

8 (3) A statement that the municipality whose territory
9 encompasses the proposed area, or any landowner who owns land
10 proposed to be included within the proposed area, or any
11 landowner with lands adjacent or near to the proposed area
12 who wishes such lands to be included or not included therein,
13 may propose modifications of the proposed area in such form
14 and manner as may be prescribed by the governing body.

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

18 (5) A statement that at the termination of the 30-day
19 period, the proposal and proposed modifications will be
20 submitted to the planning commission and the advisory
21 committee, and that thereafter a public hearing will be held
22 on the proposal, proposed modifications and recommendations
23 of the planning commission and advisory committee.

24 (c) Modification proposals.--The governing body shall
25 receive any proposals for modifications of such proposal which
26 may be submitted by such landowners or municipalities within 30
27 days after the publication of such notice.

28 (d) Report by planning commission.--The governing body
29 shall, upon the termination of such 30-day period, refer such
30 proposal and proposed modifications to the planning commission,

1 which shall, within 45 days, report to the governing body the
2 potential effect of such proposal and proposed modifications
3 upon the local government's planning policies and objectives.

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

10 (f) Termination.--An agricultural area shall be terminated
11 only by eminent domain.

12 Section 6. Public hearings.

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

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

20 (c) Notice of hearing.--A hearing notice shall be published
21 in a newspaper having a general circulation within the proposed
22 area and shall be given in writing to the municipality whose
23 territory encompasses the proposed area and any proposed
24 modifications, and to those landowners who proposed
25 modifications pursuant to section 5(c) and by posting such
26 notice in five conspicuous places within, adjacent or near to
27 the proposed area. Such notice shall contain the following
28 information:

29 (1) A statement of the time, date and place of the
30 public hearing.

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

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

6 (i) The original proposal.

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

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

12 Section 7. Evaluation criteria.

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

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

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

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

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

26 (5) The county's comprehensive plan.

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

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

30 (1) Soil.

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

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

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

Section 8. Decision on proposed area.

(a) Action by governing body.--The governing body, after receiving the reports of the planning commission and the advisory committee, and after such public hearing, may adopt the proposal or any modification of the proposal they deem appropriate, including the inclusion, to the extent feasible, of

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

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

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

17 (d) Participation.--Participation in the agricultural area
18 shall be available at its creation to landowners within the
19 jurisdiction of the governing body including those not among the
20 original petitioners on a voluntary basis.

21 Section 9. Appeals.

22 Any party in the agricultural area who can prove he is
23 aggrieved by a decision or action of the governing body relating
24 to the creation, composition, modification, rejection or
25 termination of an agricultural area may take an appeal to the
26 court of common pleas, in the manner provided by law within 30
27 days after such decision or action.

28 Section 10. Limitation on local regulations.

29 (a) General rule.--Every municipality or political
30 subdivision creating an agricultural area shall encourage the

1 continuity, development and viability of agriculture within such
2 an area by not enacting local laws or ordinances within such an
3 area in a manner which would unreasonably restrict farm
4 structures or farm practices in contravention of the purposes of
5 this act unless such restrictions or regulations bear a direct
6 relationship to the public health or safety.

7 (b) Public nuisance.--Any municipal or political subdivision
8 law or ordinance defining or prohibiting a public nuisance shall
9 exclude from the definition of such nuisance any agricultural
10 activity or operation conducted using normal farming operations
11 within an agricultural area as permitted by this act if such
12 agricultural activity or operation does not bear a direct
13 relationship to the public health and safety.

14 Section 11. Policy of Commonwealth agencies.

15 It shall be the policy of all Commonwealth agencies to
16 encourage the maintenance of viable farming in agricultural
17 areas and their administrative regulations and procedures shall
18 be modified to this end insofar as is consistent with the
19 promotion of public health and safety, with the provisions of
20 any Federal statutes, standards, criteria, rules, regulations,
21 or policies, and any other requirements of Federal agencies,
22 including provisions applicable only to obtaining Federal
23 grants, loans, or other funding.

24 Section 12. Limitation on exercise of eminent domain.

25 (a) Approval required for condemnation by an agency of the
26 Commonwealth.--No agency of the Commonwealth having or
27 exercising powers of eminent domain shall condemn for any
28 purpose any land within any agricultural area which land is
29 being used for productive agricultural purposes (not including
30 the growing of timber) unless prior approval has been obtained

1 in accordance with the criteria and procedures established in
2 this section from the Agricultural Lands Condemnation Approval
3 Board as established in section 306 of the act of April 9, 1929
4 (P.L.177, No.175), known as "The Administrative Code of 1929."
5 The condemnation approval specified by this subsection shall not
6 be required for an underground public utility facility or for
7 any facility of an electric cooperative corporation or for any
8 public utility facility the necessity for and the propriety and
9 environmental effects of which has been reviewed and ratified or
10 approved by the Pennsylvania Public Utility Commission or the
11 Federal Energy Regulatory Commission.

12 (b) Approval required for condemnation by a political
13 subdivision, authority, public utility or other body.--No
14 political subdivision, authority, public utility or other body
15 having or exercising powers of eminent domain shall condemn any
16 land within any agricultural area for any purpose, unless prior
17 approval has been obtained from Agricultural Lands Condemnation
18 Approval Board and from each of the following bodies: the
19 governing bodies of the municipalities encompassing the
20 agricultural area, the county commissioners, and the
21 Agricultural Area Advisory Committee. Review by the board and
22 the other indicated bodies shall be in accordance with the
23 criteria and procedures established in this section. The
24 condemnation approvals specified by this subsection shall not be
25 required for an underground public utility facility or for any
26 facility of an electric cooperative corporation or for any
27 public utility facility the necessity for and the propriety and
28 environmental effects of which has been reviewed and ratified or
29 approved by the Pennsylvania Public Utility Commission or the
30 Federal Energy Regulatory Commission, regardless of whether the

1 right to establish and maintain such underground or other public
2 utility facility is obtained by condemnation, or by agreement
3 with the owner.

4 (c) Notice.--Any condemnor wishing to condemn property the
5 approval for which is required under this section shall at least
6 30 days prior to taking such action notify each of the foregoing
7 bodies that such action is contemplated, and no such
8 condemnation shall be effective until 60 days following the
9 receipt of such notice.

10 (d) Review by Agricultural Lands Condemnation Approval Board
11 and other bodies.--

12 (1) Upon receipt of such notice the board provided for
13 in subsection (a) or the bodies provided for in subsection
14 (b) jointly or separately shall review the proposed
15 condemnation in accordance with the applicable criteria
16 established in paragraph (2).

17 (2) (i) In the case of condemnation for highway
18 purposes (but not including activities relating to
19 existing highways such as, but not limited to, widening
20 roadways, the elimination of curves or reconstruction,
21 for which no approval is required) and in the case of
22 condemnation for the disposal of solid or liquid waste
23 material, the board or other appropriate reviewing body
24 shall approve the proposed condemnation only if it
25 determines there is no reasonable and prudent alternative
26 to the utilization of the land within the agricultural
27 area for the project.

28 (ii) In all other cases not otherwise specifically
29 provided for, the board or other appropriate reviewing
30 body shall approve the proposed condemnation only if it

determines that:

(A) the proposed condemnation would not have an unreasonably adverse affect upon the preservation and enhancement of agriculture or municipal resources within the area or upon the environmental and comprehensive plans of the county, municipality and the Commonwealth, or upon the goals, resource plans, policies or objectives thereof; or

(B) there is no reasonable and prudent alternative to the utilization of the lands within the agricultural area for the project.

(e) Public hearings.--Within such 60-day period the Agricultural Lands Condemnation Board and other indicated bodies, as appropriate, shall hold a public hearing concerning the proposed condemnation at a place within or otherwise readily accessible to the area. Timely notice of such hearing shall be placed in a newspaper having a general circulation within the area and a written notice shall be posted at five conspicuous places within or adjacent to the area. Individual written notice shall also be given to all municipalities encompassing all or part of the area, to the proposed condemnor, and to the owners of the land proposed to be condemned.

(f) Findings and decisions.--The Agricultural Lands Condemnation Approval Board and other indicated bodies, as appropriate, shall render findings and decisions on or before the expiration of such 60-day period and likewise within such period shall report the same to the proposed condemnor, the municipalities affected and any party who shall file an appearance at such hearing. If the board or any other indicated body fails to act within the 60-day period, the condemnation

1 shall be deemed approved.

2 (g) Injunctions.--The Agricultural Lands Condemnation
3 Approval Board may request the Attorney General or the bodies
4 may request their solicitor to bring an action to enjoin any
5 such condemnor from violating any of the provisions of this
6 section.

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

10 Section 13. Purchase of development easement in agricultural
11 areas.

12 (a) Program to purchase easements.--After the establishment
13 of an agricultural area by the governing body, the county
14 governing body may as hereinafter provided authorize a program
15 to purchase the development easements for land within an
16 agricultural area. No such development easements shall be
17 purchased until after a county-wide referendum, preceded by a
18 local, county and State level educational program to advise the
19 votes of the county of the nature of the question of the
20 referendum, has first approved such purchases. The program shall
21 be administered by the county planning commission and a farmer
22 member from each Agricultural Area Advisory Committee within the
23 county.

24 (b) Funds for purchases.--The county governing body may use
25 moneys from its general fund or incur debt or use available
26 private funds to make available moneys to purchase the
27 development easements in agricultural areas. The incurring of
28 debt by the county governing body shall be consistent with all
29 present laws and procedures imposed on counties for such action.

30 (c) Offers.--Agents, employees or officials of the county

1 planning commission shall be responsible to make such offers and
2 to enter into such negotiations as are necessary with any owner
3 of lands in an agricultural area, in order to purchase any
4 development easements. Nothing in this act shall be construed as
5 to require any owner of land in an agricultural area to sell or
6 transfer any development easements thereto. An owner may reject
7 any offer by any official of the county planning commission to
8 purchase any development easements. The price for the purchase
9 of development easements shall be mutually agreed to by the
10 owner of the land affected and the county governing body. All
11 such contracts for purchase shall be in writing.

12 (d) Sale of easements.--A county governing body may sell any
13 development easements it has acquired under this act to the
14 highest bidder: Provided, That the local governing body, which
15 has jurisdiction over the effected land, approves the sale by a
16 majority vote of its members: And, further provided, That the
17 present owner of the land affected has first refused to purchase
18 such development easement at its purchase price.

19 Section 14. Rules and regulations.

20 The Secretary of the Department of Agriculture shall
21 promulgate rules and regulations necessary to promote the
22 efficient, uniform and Statewide administration of the act.

23 Section 15. Effective date.

24 This act shall take effect in 60 days.