

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 1629 Session of
1994INTRODUCED BY WENGER, MADIGAN, HELFRICK, AFFLERBACH, ROBBINS,
SHUMAKER, BRIGHTBILL, O'PAKE AND MOWERY, MARCH 22, 1994SENATOR TILGHMAN, APPROPRIATIONS, RE-REPORTED AS AMENDED,
MAY 23, 1994

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," defining
3 "eligible counties"; and further providing for the purchase
4 of 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 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 "Eligible counties." Counties whose easement purchase
16 programs have been approved by the State Agricultural Land
17 Preservation Board. For the purpose of annual allocations, an
18 eligible county must have its easement purchase program approved

by the State board by January 1 of the year in which the annual allocation is made. Counties of the first class are not eligible under any circumstances.

* * *

Section 2. Section 14.1(c), (g) and (h) of the act, amended June 22, 1990 (P.L.242, No.57), April 13, 1992 (P.L.100, No.23), and December 17, 1993 (P.L.522, No.75), are amended to read:

Section 14.1. Purchase of agricultural conservation easements.

* * *

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

(1) The term of an agricultural conservation easement shall be perpetual or for a term of 25 years.

(2) An agricultural conservation easement shall not be sold, conveyed, extinguished, leased, encumbered or restricted in whole or in part for a period of 25 years beginning on the date of purchase of the easement.

(3) If the land subject to the agricultural conservation easement is no longer viable agricultural land, the Commonwealth, subject to the approval of the State board, and the county, subject to the approval of the county board, may sell, convey, extinguish, lease, encumber or restrict an agricultural conservation easement to the current owner of record of the farmland subject to the easement after the expiration of 25 years from the date of purchase of the easement for a purchase price equal to the value at the time of resale determined pursuant to subsection (f) at the time of conveyance. A conveyance by the Commonwealth pursuant to this subsection shall not be subject to the requirements of

1 Article XXIV-A of the act of April 9, 1929 (P.L.177, No.175),
2 known as "The Administrative Code of 1929." The purchase
3 price shall be payable to the Commonwealth and the county as
4 their respective legal interests in the agricultural
5 conservation easement appear, and a separate payment shall be
6 made to the Commonwealth and the county accordingly at the
7 time of settlement. Any payment received by the Commonwealth
8 pursuant to this provision shall be paid into the fund.

9 (4) Instruments and documents for the purchase, sale and
10 conveyance of agricultural conservation easements shall be
11 approved by the State board or the county board, as the case
12 may be, prior to execution and delivery. Proper releases from
13 mortgage holders and lienholders must be obtained and
14 executed to insure that all agricultural conservation
15 easements are purchased free and clear of all encumbrances.

16 (5) Whenever any public entity, authority or political
17 subdivision exercises the power of eminent domain and
18 condemns land subject to an agricultural conservation
19 easement, the condemnor shall provide just compensation to
20 the owner of the land in fee and to the owner of the easement
21 as follows:

22 (i) The owner of the land in fee shall be paid the
23 full value which would have been payable to the owner but
24 for the existence of an agricultural conservation
25 easement less the value of the agricultural conservation
26 easement at the time of condemnation.

27 (ii) The owner of the easement shall be paid the
28 value of the easement at the time of condemnation.

29 (6) An agricultural conservation easement shall not
30 prevent:

1 (i) The granting of leases, assignments or other
2 conveyances or the issuing of permits, licenses or other
3 authorization for the exploration, development, storage
4 or removal of coal by underground mining methods, oil and
5 gas by the owner of the subject land or the owner of the
6 underlying coal by underground mining methods, oil and
7 gas or the owner of the rights to develop the underlying
8 coal by underground mining methods, oil and gas, or the
9 development of appurtenant facilities related to the
10 removal of coal by underground mining methods, oil or gas
11 development or activities incident to the removal or
12 development of such minerals.

13 (ii) The granting of rights-of-way by the owner of
14 the subject land in and through the land for the
15 installation of, transportation of, or use of water,
16 sewage, electric, telephone, coal by underground mining
17 methods, gas, oil or oil products lines.

18 (iii) Construction and use of structures on the
19 subject land necessary for agricultural production.

20 (iv) Construction and use of structures on the
21 subject land for the landowner's principal residence or
22 for the purpose of providing necessary housing for
23 seasonal or full-time employees: Provided, That only one
24 such structure may be constructed on no more than two
25 acres of the subject land during the term of the
26 agricultural conservation easement.

27 (v) Customary part-time or off-season minor or rural
28 enterprises and activities which are provided for in the
29 county Agricultural Conservation Easement Purchase
30 Program approved by the State board under subsection (d).

1 (7) Nothing in this act shall prohibit a member of the
2 State board or county board or his or her family from selling
3 a conservation easement under this program, provided that all
4 decisions made regarding easement purchases be subject to the
5 provisions of section 3(j) of the act of October 4, 1978
6 (P.L.883, No.170), referred to as the Public Official and
7 Employee Ethics Law.

8 * * *

9 (g) Purchase price.--The price paid for purchase of an
10 agricultural conservation easement in perpetuity shall not
11 exceed the difference between the nonagricultural value and the
12 agricultural value determined pursuant to subsection (f) at the
13 time of purchase, unless the difference is less than the State
14 or county boards' original appraised value in which case the
15 State or county boards' original easement value may be offered.
16 However, under no circumstances shall the price paid for
17 purchase of an agricultural conservation easement in perpetuity
18 exceed \$10,000 per acre and no more than \$1,000,000 per easement
19 purchase of State funds. The price paid for purchase of an
20 easement for a term of 25 years shall not exceed one-tenth of
21 the difference between the nonagricultural value and the
22 agricultural value determined pursuant to subsection (f) at the
23 time of purchase. The purchase price may be paid in a lump sum,
24 in installments over a period of years, or in any other lawful
25 manner of payment. If payment is to be made in installments or
26 another deferred method, the person selling the easement may
27 receive, in addition to the selling price, interest in an amount
28 or at a rate set forth in the agreement of purchase, and final
29 payment shall be made within, and no later than, five years from
30 the date the agricultural conservation easement purchase

1 agreement was executed.

2 (h) Allocation of State moneys.--[The] BY MARCH 1 OF EACH <—
3 YEAR, THE State board shall make an annual allocation among
4 counties, except counties of the first class, for the purchase
5 of agricultural conservation easements, AND except for counties <—
6 that do not have an easement purchase program approved by the
7 State board by January 1 of the year in which the annual
8 allocation is made.

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

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

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

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

25 (iv) "Average realty transfer tax revenues." The
26 total annual realty transfer tax revenues collected in
27 [all counties, except counties of the first class,
28 divided by 66] those counties with an easement purchase
29 program approved by the State board by January 1 of the
30 year in which the annual allocation is made, divided by

1 the number of counties with approved easement programs by
2 January 1.

3 (v) "Realty transfer tax revenues." The tax imposed
4 and collected under section 1102-C of the act of March 4,
5 1971 (P.L.6, No.2), known as the "Tax Reform Code of
6 1971."

7 (vi) "Weighted transfer tax revenues." An amount
8 equal to the total annual realty transfer tax revenues
9 collected in [a] an eligible county divided by the sum of
10 the total annual realty transfer tax revenues collected
11 in all eligible counties except counties of the first
12 class which does not exceed three times the average
13 realty transfer tax revenues.

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

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

30 (i) The annual appropriation of local moneys by a

1 county for the purchase of agricultural conservation
2 easements which does not exceed the average annual
3 allocation under paragraph (2) multiplied by four.

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

11 (4) If the aggregate annual allocation under paragraph
12 (3) to all eligible counties would exceed 50% of the annual
13 easement purchase threshold, paragraph (3) shall not apply,
14 and an additional annual allocation shall be made under this
15 paragraph at the beginning of the county fiscal year for the
16 joint purchase of agricultural conservation easements by the
17 Commonwealth and a county, except a county of the first
18 class. The additional annual allocation to a county under
19 this paragraph shall equal 50% of the annual easement
20 purchase threshold multiplied by a percentage equal to the
21 annual appropriation of local moneys appropriated by the
22 county for the purchase of agricultural conservation
23 easements divided by the aggregate of local moneys
24 appropriated by all eligible counties for the purchase of
25 agricultural conservation easements and in all cases shall
26 not exceed the average annual allocation under paragraph (2)
27 multiplied by four.

28 (5) An additional annual allocation shall be made to a
29 county, except a county of the first class, from the amount
30 by which 50% of the annual easement purchase threshold

1 exceeds the total allocations made under paragraph (3) or
2 (4), as the case may be, as follows:

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

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

23 (6) The allocation of a county shall be adjusted for
24 purchases of agricultural conservation easements made with
25 moneys from the county's allocation, for all costs, except
26 administrative costs, incurred by the Commonwealth or a
27 county incident to the purchase of agricultural conservation
28 easements and for the costs of reimbursing nonprofit land
29 conservation organizations for expenses incurred in acquiring
30 and transferring agricultural conservation easements to the

1 Commonwealth or county. No purchase of an agricultural
2 conservation easement shall be made with State moneys
3 allocated to a county unless the amount of the purchase price
4 is equal to or less than the adjusted allocation or the
5 county pays the portion of the purchase price which
6 represents the difference between the purchase price and the
7 adjusted allocation.

8 (7) The first annual allocation to a county under
9 paragraphs (3), (4) and (5)(i) shall continue for three
10 county fiscal years occurring after the effective date of
11 this act, and the second and third such annual allocations
12 shall each continue for two county fiscal years occurring
13 after the effective date of this act. Thereafter each such
14 annual allocation shall be for one county fiscal year. Such
15 annual allocations which have not been expended or encumbered
16 at the end of the period for which they were allocated shall
17 be reallocated in the subsequent county fiscal year to a
18 county which used at least 90% of the allocation made to the
19 county at the start of the period. An annual allocation shall
20 be considered to be encumbered and shall not be reallocated
21 if, by December 31 of the year in which that annual
22 allocation was made to the county, the department has
23 received an agreement executed by the landowner and the
24 county to purchase a specific agricultural conservation
25 easement as part of the county board's recommendation for
26 purchase. The reallocation to a county under this paragraph
27 shall be the total amount of the annual allocation available
28 for reallocation under this paragraph multiplied by a
29 percentage equal to the annual appropriation of local moneys
30 appropriated by the county for the purchase of agricultural

1 conservation easements at the start of the county fiscal year
2 in which the annual allocation was made divided by the
3 aggregate of local moneys appropriated by all eligible
4 counties for the purchase of agricultural conservation
5 easements at the start of the county fiscal year in which the
6 annual allocation was made. Money reallocated to a county
7 under this paragraph shall be available for one county fiscal
8 year. BY MARCH 1 OF EACH YEAR, THE STATE BOARD SHALL MAKE A <—
9 REALLOCATION OF MONEY TO ELIGIBLE COUNTIES. Money reallocated
10 to a county under this paragraph that has not been spent or
11 encumbered at the conclusion of one county fiscal year shall
12 be restored to the fund. Such money shall be considered to be
13 encumbered and shall not be restored to the fund if, by
14 December 31 of the year in which a reallocation was made to
15 the county, the department has received an agreement executed
16 by the landowner and the county to purchase a specific
17 agricultural conservation easement as part of the county
18 board's recommendation for purchase.

19 (8) Initial allocations to counties under paragraphs (2)
20 and (5)(ii) shall continue until the end of the fourth county
21 fiscal year occurring after the effective date of this act.
22 The sum of the total annual allocations of all counties under
23 paragraphs (2) and (5)(ii) which have not been expended or
24 encumbered by the end of the fourth county fiscal year, and
25 every county fiscal year thereafter, occurring after the
26 effective date of this act shall be reallocated in the
27 subsequent county fiscal year to a county which used at least
28 90% of the allocation made to the county at the start of the
29 period. An annual allocation shall be considered to be
30 encumbered and shall not be reallocated if, by December 31 of

1 the year in which that annual allocation was made to the
2 county, the department has received an agreement executed by
3 the landowner and the county to purchase a specific
4 agricultural conservation easement as part of the county
5 board's recommendation for purchase. For purposes of
6 determining eligibility for reallocation of funds and the
7 amounts of reallocation, funds allocated to counties will be
8 segregated and accounted for on a county fiscal year basis.
9 Fifty percent of the amount available for allocation under
10 this paragraph shall be reallocated in the manner set forth
11 in paragraph (2), and 50% of the amount available for
12 allocation under this paragraph shall be reallocated in the
13 manner set forth in paragraphs (3), (4) and (5). For purposes
14 of reallocating funds in the manner set forth in paragraph
15 (2), realty transfer tax revenues used to calculate weighted
16 transfer tax revenues shall correspond to the year for which
17 funds are being reallocated and weighted transfer tax
18 revenues shall be calculated only for counties eligible under
19 this paragraph. Money reallocated to a county under this
20 paragraph shall be available for one county fiscal year.
21 Money reallocated to a county under this paragraph that has
22 not been spent or encumbered at the conclusion of one county
23 fiscal year shall be restored to the fund. Such money shall
24 be considered to be encumbered and shall not be restored to
25 the fund if, by December 31 of the year in which a
26 reallocation was made to the county, the department has
27 received an agreement executed by the landowner and the
28 county to purchase a specific agricultural conservation
29 easement as part of the county board's recommendation for
30 purchase.

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

8 (10) (i) Notwithstanding any other provision of this
9 subsection or any provision of regulations promulgated
10 pursuant to this act, the department shall not reallocate
11 funds which were allocated prior to January 1, 1994, if,
12 by December 31, 1993, the department has received an
13 agreement signed by the landowner and the county board to
14 purchase a specific agricultural conservation easement as
15 part of the county board's recommendation for purchase.

16 (ii) Nothing in this paragraph shall affect any
17 reallocation made prior to the effective date of this
18 paragraph.

19 Section 3. This act shall take effect in 60 days.