

## THE GENERAL ASSEMBLY OF PENNSYLVANIA

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**SENATE BILL****No. 723** Session of  
2005

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INTRODUCED BY WENGER, WAUGH, VANCE, ERICKSON, MUSTO, RAFFERTY,  
GREENLEAF, EARLL, BROWNE, O'PAKE, LEMMOND, PILEGGI, PICCOLA,  
ORIE, ROBBINS, FERLO, WONDERLING, ARMSTRONG AND THOMPSON,  
JUNE 3, 2005

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AS AMENDED ON THIRD CONSIDERATION, JUNE 28, 2005

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## 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 statement of legislative findings, for  
4 definitions, for purchase of agricultural conservation  
5 easements and for legislative report.

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

8 Section 1. Section 2 of the act of June 30, 1981 (P.L.128,  
9 No.43), known as the Agricultural Area Security Law, is amended  
10 by adding a paragraph to read:

11 Section 2. Statement of legislative findings.

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

1 Article VIII, section 2 of the Constitution of Pennsylvania  
2 provides that the General Assembly may, by law, establish  
3 standards and qualifications for agricultural reserves.  
4 Agriculture in many parts of the Commonwealth is under urban  
5 pressure from expanding metropolitan areas. This urban pressure  
6 takes the form of scattered development in wide belts around  
7 urban areas, and brings conflicting land uses into  
8 juxtaposition, creates high costs for public services, and  
9 stimulates land speculation. When this scattered development  
10 extends into good farm areas, ordinances inhibiting farming tend  
11 to follow, farm taxes rise, and hopes for speculative gains  
12 discourage investments in farm improvements. Many of the  
13 agricultural lands in the Commonwealth are in jeopardy of being  
14 lost for any agricultural purposes. Certain of these lands  
15 constitute unique and irreplaceable land resources of Statewide  
16 importance. It is the purpose of this act to provide means by  
17 which agricultural land may be protected and enhanced as a  
18 viable segment of the Commonwealth's economy and as an economic  
19 and environmental resource of major importance.

20 It is further the purpose of this act to:

21 \* \* \*

22 (6) Encourage financial partnerships between State and  
23 local governments with nonprofit entities in order to  
24 increase the funds available for agricultural conservation  
25 easement purchases.

26 Section 2. Section 3 of the act is amended by adding a  
27 definition to read:

28 Section 3. Definitions.

29 The following words and phrases when used in this act shall  
30 have the meanings given to them in this section, unless the

1 context clearly indicates otherwise:

2 \* \* \*

3 "Eligible nonprofit entity." An entity that provides an  
4 eligible county ~~adequate proof of~~ SATISFACTORY PROOF OF ALL OF <—  
5 the following:

6 (1) That the entity is tax exempt under section  
7 501(c)(3) of the Internal Revenue Code of 1986 (Public Law  
8 99-514, 26 U.S.C. § 501(c)(3)).

9 (2) That the entity has as a primary purpose the  
10 preservation of agricultural land.

11 (3) That the entity's principal registered business  
12 address is located either within the eligible county or is  
13 located in a county that adjoins the eligible county.

14 (4) That the entity has acquired, whether through  
15 purchase, donation or other transfer, at least one  
16 agricultural conservation easement within the eligible county  
17 in the preceding or current calendar year.

18 \* \* \*

19 Section 3. Section 14.1(a)(3)(vi) and (viii), (b)(2)(i)(B)  
20 and (C), (xi) and (xii) and (b.1) introductory paragraph of the  
21 act, amended or added December 21, 1998 (P.L.1056, No.138) and  
22 May 30, 2001 (P.L.103, No.14), are amended, subsection (b)(2)(i)  
23 is amended by adding a clause and the section is amended by  
24 adding a subsection to read:

25 Section 14.1. Purchase of agricultural conservation easements.

26 (a) State Agricultural Land Preservation Board.--The  
27 Department of Agriculture and the State Agricultural Land  
28 Preservation Board shall administer pursuant to this section a  
29 program for the purchase of agricultural conservation easements  
30 by the Commonwealth.

1           \* \* \*

2           (3) It shall be the duty and responsibility of the State  
3 board to exercise the following powers:

4           \* \* \*

5           (vi) To purchase agricultural conservation easements  
6 jointly with a county, or ~~or~~ jointly with a county and a <—  
7 local government unit, or jointly with a county and an  
8 eligible nonprofit entity, or jointly with a county, a  
9 local government unit and an eligible nonprofit entity,  
10 if recommended by a county and approved by the State  
11 board as provided in subparagraph (iii).

12          \* \* \*

13          (viii) To establish and maintain a central  
14 repository of records which shall contain records of  
15 county programs for purchasing agricultural conservation  
16 easements, records of agricultural conservation easements  
17 purchased by local government units, by local government  
18 units and counties [and], by local government units and  
19 the Commonwealth, by eligible nonprofit entities in  
20 accordance with subsection (b.2), and records of  
21 agricultural conservation easements purchased by the  
22 Commonwealth. All records indicating the purchase of  
23 agricultural conservation easements shall refer to and  
24 describe the farm land subject to the agricultural  
25 conservation easement.

26          \* \* \*

27          (b) County programs.--After the establishment of an  
28 agricultural security area by the governing body, the county  
29 governing body may authorize a program to be administered by the  
30 county board for purchasing agricultural conservation easements

1 from landowners whose land is either within an agricultural  
2 security area or in compliance with the criteria set forth in  
3 paragraph (2)(i).

4 \* \* \*

5 (2) It shall be the duty and responsibility of the  
6 county board to exercise the following powers:

7 (i) \* \* \*

8 (A.1) To opt to include in such rules and  
9 regulations, standards and procedures to permit  
10 participation with eligible nonprofit entities in the  
11 purchase of agricultural conservation easements as  
12 described in subsection (b.2).

13 (B) To include in such rules and regulations,  
14 standards and procedures for the selection or  
15 purchase of agricultural conservation easements by  
16 the county solely [or jointly with either the  
17 Commonwealth or a local government unit, or both], or  
18 jointly with the Commonwealth, a local government  
19 unit, an eligible nonprofit entity, or any  
20 combination of these, on that portion of a parcel  
21 which is not within an agricultural security area if  
22 all of the following criteria are complied with:

23 (I) The land is part of a parcel of farm  
24 land which is bisected by the dividing line  
25 between two local government units.

26 (II) The majority of the farm's viable  
27 agricultural land is located within an existing  
28 agricultural security area. Upon purchase of an  
29 easement covering the portion of the parcel which  
30 is not located within an agricultural security

1 area, that portion of the parcel shall  
2 immediately become part of the previously  
3 established agricultural security area which  
4 contains a majority of the farm's viable  
5 agricultural land. The governing body which  
6 created the agricultural security area which  
7 contains a majority of the farm's viable  
8 agricultural land shall be responsible for the  
9 recording, filing and notification outlined in  
10 section 8(d) and (g) concerning land added to the  
11 agricultural security area pursuant to this  
12 clause.

13 (C) To include in such rules and regulations,  
14 standards and procedures for the selection or  
15 purchase of agricultural conservation easements by  
16 the county solely or jointly with either the  
17 Commonwealth or a local government unit, or both, on  
18 that portion of a parcel located in an adjoining  
19 county if all of the following criteria are complied  
20 with:

21 (I) The land is part of a parcel of farm  
22 land which is bisected by the dividing line  
23 between the purchasing county and the adjoining  
24 county.

25 (II) Either a mansion house is located on  
26 that portion of the parcel which is within the  
27 purchasing county or the dividing line between  
28 the counties bisects the mansion house and the  
29 owner of the parcel has chosen the purchasing  
30 county as the situs of assessment for tax

1 purposes or, if there is no mansion house on the  
2 parcel, the majority of the farm's viable  
3 agricultural land is located in the purchasing  
4 county.

5 (III) The portion of the parcel located in  
6 the purchasing county is within an agricultural  
7 security area. Upon purchase of an easement by  
8 the purchasing county covering that portion of  
9 the parcel located in the adjoining county, the  
10 portion of the parcel located in the adjoining  
11 county shall immediately become part of the  
12 agricultural security area previously established  
13 in the purchasing county. The governing body  
14 which created the agricultural security area in  
15 the purchasing county shall be responsible for  
16 the recording, filing and notification outlined  
17 in section 8(d) and (g) concerning land added to  
18 the agricultural security area pursuant to this  
19 clause.

20 \* \* \*

21 (xi) To recommend to the State board the purchase of  
22 agricultural conservation easements by the Commonwealth  
23 and the county jointly[.], or jointly with the  
24 Commonwealth, the county and a local government unit, or  
25 jointly with the Commonwealth, the county and an eligible  
26 nonprofit entity, or jointly with the Commonwealth, the  
27 county, a local government unit and an eligible nonprofit  
28 entity.

29 (xii) To purchase agricultural conservation  
30 easements jointly with the Commonwealth[.], or jointly

1 with the Commonwealth, the county and a local government  
2 unit, or jointly with the Commonwealth, the county and an  
3 eligible nonprofit entity, or jointly with the  
4 Commonwealth, the county, a local government unit and an  
5 eligible nonprofit entity.

6 \* \* \*

7 (b.1) Local government unit participation.--Any local  
8 government unit that has created an agricultural security area  
9 may participate along with an eligible county and the  
10 Commonwealth, and an eligible nonprofit entity, in the  
11 preservation of farmland through the purchase of agricultural  
12 conservation easements.

13 \* \* \*

14 (b.2) Eligible nonprofit entity participation.--To the  
15 extent provided for in clause (A.1), an eligible nonprofit  
16 entity may participate along with an eligible county, the  
17 Commonwealth and a local government unit eligible to participate  
18 under subsection (b.1), in the preservation of farmland through  
19 the purchase of agricultural conservation easements.

20 (1) The eligible nonprofit entity may purchase an  
21 agricultural conservation easement if all of the following  
22 apply:

23 (i) The agricultural conservation easement is a  
24 joint purchase with the county, and may include the  
25 Commonwealth or a local government unit, or both.

26 (ii) The deed of agricultural conservation easement  
27 is as prescribed by the State board for agricultural  
28 conservation easements purchased by the Commonwealth.

29 (2) The county board shall be responsible to record  
30 agricultural conservation easements where an eligible



nonprofit entity is a party to the purchase of the easement.  
The easement shall be recorded by the county board in the  
office of the recorder of deeds of the county wherein the  
agricultural conservation easements are located. The county  
board shall submit to the State board a certified copy of  
agricultural conservation easements within 30 days after  
recording. The county board shall attach to all certified  
copies of the agricultural conservation easements submitted  
to the State board a description of the farmland subject to  
the agricultural conservation easements.

Section 4. Section 14.4(7) of the act, added December 14,  
1988 (P.L.1202, No.149), is amended to read:

Section 14.4. Legislative report.

The State board shall submit to the General Assembly an  
annual report no later than May 1. The report shall include, but  
not be limited to, the following information:

\* \* \*

(7) The number and value of agricultural conservation  
easements purchased jointly by the Commonwealth and the  
counties, including the number and value of purchases made  
during the preceding calendar and the preceding fiscal year  
of the Commonwealth, and the extent of local government unit  
or eligible nonprofit entity participation in the  
transaction.

\* \* \*

Section 5. The amendment or addition of the following  
provisions shall apply to an agricultural conservation easement  
jointly recorded with a recorder of deeds of this Commonwealth  
by an "eligible nonprofit entity," as defined in section 3 of  
the act, and a county or with the Commonwealth prior to or on or

1 after the effective date of this section:

2 (1) The addition of section 2(6) of the act.

3 (2) The addition of the definition of "eligible  
4 nonprofit entity" in section 3 of the act.

5 (3) The amendment of section 14.1(a)(3)(vi) and (viii),  
6 (b)(2)(i)(B) and (C) and (xi) of the act.

7 (4) The amendment of section 14.4(7) of the act.

8 Section 6. This act shall take effect immediately.