

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1394 Session of 2009

INTRODUCED BY HOUGHTON, HANNA, GEORGE, GERGELY, CALTAGIRONE,  
CARROLL, DALEY, GODSHALL, KESSLER, KORTZ, MILLARD, SIPTROTH,  
SOLOBAY, WHITE AND ROAE, APRIL 30, 2009

REFERRED TO COMMITTEE ON AGRICULTURE AND RURAL AFFAIRS, APRIL  
30, 2009

AN ACT

1 Amending the act of December 19, 1974 (P.L.973, No.319),  
2 entitled "An act prescribing the procedure under which an  
3 owner may have land devoted to agricultural use, agricultural  
4 reserve use, or forest reserve use, valued for tax purposes  
5 at the value it has for such uses, and providing for  
6 reassessment and certain interest payments when such land is  
7 applied to other uses and making editorial changes," further  
8 providing for split-off, separation or transfer of land.

9 The General Assembly of the Commonwealth of Pennsylvania

10 hereby enacts as follows:

11 Section 1. Section 6 of the act of December 19, 1974  
12 (P.L.973, No.319), known as the Pennsylvania Farmland and Forest  
13 Land Assessment Act of 1974, amended December 21, 1998  
14 (P.L.1225, No.156), is amended to read:

15 Section 6. Split-off, Separation or Transfer.--(a.1) (1)  
16 The split-off of a part of land which is subject to preferential  
17 assessment under this act shall subject the land so split off  
18 and the entire tract from which the land was split off to roll-  
19 back taxes as set forth in section 5.1. The landowner changing  
20 the use of the land to one inconsistent with this act shall be

1 liable for payment of roll-back taxes. The landowner of land  
2 which continues to be eligible for preferential assessment shall  
3 not be liable for any roll-back taxes triggered as a result of a  
4 change to an ineligible use by the owner of the split-off tract.  
5 Roll-back taxes under section 5.1 shall not be due if one of the  
6 following provisions applies:

7 (i) The tract split off does not exceed two acres annually,  
8 except that a maximum of the minimum residential lot size  
9 requirement annually may be split off if the property is  
10 situated in a local government unit which requires a minimum  
11 residential lot size of two to three acres; the tract split off  
12 is used only for agricultural use, agricultural reserve or  
13 forest reserve or for the construction of a residential dwelling  
14 to be occupied by the person to whom the land is conveyed; and  
15 the total tract or tracts so split off do not exceed the lesser  
16 of ten acres or ten percent (10%) of the entire tract subject to  
17 preferential assessment.

18 (ii) The split-off occurs through a condemnation.

19 (2) Each tract which has been split off under paragraph (1)  
20 (i) shall be subject to roll-back taxes for such a period of  
21 time as provided in section 5.1. The landowner changing the use  
22 of the land shall be liable for payment of roll-back taxes.

23 (3) The split-off of a tract of land which meets the  
24 provisions of paragraph (1) shall not invalidate the  
25 preferential assessment on any land retained by the landowner  
26 which continues to meet the provisions of section 3.

27 (4) Payment of roll-back taxes by the liable landowner shall  
28 not invalidate the preferential assessment on any land which  
29 continues to meet the provisions of section 3.

30 (5) Any person may bring an action in equity to enjoin use

1 of the land inconsistent with the use provided in this  
2 subsection.

3 (6) Land which has been split off shall be deemed to be used  
4 for residential use, agricultural use, agricultural reserve or  
5 forest reserve unless it is demonstrated that the owner of the  
6 split-off parcel is actively using the tract in a manner which  
7 is inconsistent with residential use, agricultural use,  
8 agricultural reserve or forest reserve.

9 (a.2) The owner of land subject to preferential assessment  
10 may separate land. If a separation occurs, all tracts formed by  
11 the separation shall continue to receive preferential assessment  
12 unless, within seven years of the separation, there is a  
13 subsequent change of use to one inconsistent with the provisions  
14 of section 3. Such subsequent change in use shall subject the  
15 entire tract so separated to roll-back taxes as set forth in  
16 section 5.1. The landowner changing the use of the land to one  
17 inconsistent with the provisions of section 3 shall be liable  
18 for payment of roll-back taxes. After seven years from the date  
19 of the separation, only that portion of land which has had its  
20 use changed to one which is inconsistent with the provisions of  
21 section 3 shall be subject to roll-back taxes as set forth in  
22 section 5.1. Payment of roll-back taxes shall not invalidate the  
23 preferential assessment on any land which continues to meet the  
24 provisions of section 3.

25 (a.3) If ownership of land subject to a single application  
26 for preferential assessment is transferred to another landowner,  
27 the land shall continue to receive preferential assessment, and  
28 no roll-back taxes shall be due unless there is a subsequent  
29 change of use to one inconsistent with the provisions of section  
30 3. The landowner changing the use of the land to one

1 inconsistent with the provisions of section 3 shall be liable  
2 for payment of roll-back taxes. Payment of roll-back taxes shall  
3 not invalidate the preferential assessment on any land which  
4 continues to meet the provisions of section 3.

5 (b.1) The owner of property subject to preferential  
6 assessment may lease land covered by the preferential assessment  
7 to be used for wireless or cellular telecommunication when the  
8 following conditions are satisfied:

9 (1) The tract of land so leased does not exceed one-half of  
10 an acre.

11 (2) The tract of land does not have more than one  
12 communication tower.

13 (3) The tract of land is accessible.

14 (4) The tract of land is not sold or subdivided. A lease of  
15 land shall not be considered a subdivision under this paragraph.

16 (b.2) Use of land under this section for wireless services  
17 other than wireless telecommunications may only qualify if such  
18 wireless services share a tower with a wireless  
19 telecommunications provider as provided for in subsection (b.1).  
20 Roll-back taxes shall be imposed upon the tract of land leased  
21 by the landowner for wireless or cellular telecommunications  
22 purposes and the fair market value of that tract of land shall  
23 be adjusted accordingly. The lease of such a tract of land shall  
24 not invalidate the preferential assessment of the land which is  
25 not so leased, and such land shall continue to be eligible for  
26 preferential assessment if it continues to meet the requirements  
27 of section 3.

28 (b.3) The wireless or cellular communications provider shall  
29 be solely responsible for obtaining required permits in  
30 connection with any construction on a tract of land which it

1 leases pursuant to the provisions of this section for  
2 telecommunications purposes. No permit requested pursuant to  
3 this section shall be denied by a municipality for any reason  
4 other than failure to strictly comply with permit application  
5 procedures.

6 (b.4) Property subject to preferential assessment may be  
7 leased or otherwise devoted to the exploration for and removal  
8 of oil and gas, including the extraction of coal bed methane,  
9 and the development of appurtenant facilities related to those  
10 activities.

11 (b.5) Roll-back taxes shall be imposed upon those portions  
12 of the land actually devoted to the activities set forth in  
13 subsection (b.4) after the effective date of this subsection,  
14 excluding land devoted solely to subsurface transmission or  
15 gathering lines which shall not be subject to rollback. The  
16 portions of the land subject to rollback shall be measured upon  
17 completion of drilling and after well site restoration and at  
18 the filing of a well site restoration report with the Department  
19 of Environmental Protection. The fair market value of only those  
20 portions of the land shall be adjusted accordingly. Roll-back  
21 taxes on those portions of the land shall not invalidate the  
22 preferential assessment of any other land covered by the  
23 preferential assessment and such land shall continue to be  
24 eligible for preferential assessment if it continues to meet the  
25 requirements of section 3. Notwithstanding the foregoing,  
26 nothing contained herein shall impose roll-back taxes upon a  
27 landowner for activities related to the exploration for and  
28 removal of oil and gas, including the extraction of coal bed  
29 methane, conducted exclusively by parties other than the  
30 landowner who hold rights to conduct such activities pursuant to

1 an instrument, conveyance or other vesting of such rights, but  
2 not by virtue of a lease agreement, occurring before the land  
3 received a preferential assessment under this act and occurring  
4 before the effective date of this section.

5 (b.6) The owner of property subject to preferential  
6 assessment may lease or devote land covered by the preferential  
7 assessment to be used for a wind power generation system.

8 (b.7) Roll-back taxes shall be imposed upon those portions  
9 of the land leased or devoted by the landowner for wind power  
10 generation system purposes and the fair market value of those  
11 portions of the land shall be adjusted accordingly. Roll-back  
12 taxes on those portions of the land shall not invalidate the  
13 preferential assessment of any other land covered by the  
14 preferential assessment and such land shall continue to be  
15 eligible for preferential assessment if it continues to meet the  
16 requirements of section 3.

17 (d) Upon the death of a landowner receiving preferential  
18 assessment under this act, if land subject to preferential  
19 assessment is divided among the beneficiaries designated as  
20 class A for inheritance tax purposes and, as a result of such  
21 division, one or more tracts no longer meet the provisions of  
22 section 3, no roll-back tax shall be due on any of the land  
23 which previously qualified for preferential assessment. A  
24 subsequent change in the use of one such beneficiary's portion  
25 of the divided land shall not subject any other beneficiary's  
26 portion of the divided land to roll-back taxes. Roll-back taxes  
27 shall be due only in accordance with the provisions of section  
28 5.1 on the tract held by the beneficiary who changes the use of  
29 any portion of his or her inheritance.

30 (e) Any change in use of land subject to preferential

1 assessment shall be in compliance with the zoning ordinances of  
2 the local municipality, if in effect.

3 Section 2. This act shall take effect immediately.