

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 298 Session of 2009

INTRODUCED BY YAW, BAKER, WAUGH, KITCHEN, SCARNATI, M. WHITE, ORIE, D. WHITE, WONDERLING, RAFFERTY, GORDNER, BROWNE, FOLMER, ALLOWAY AND VANCE, MARCH 5, 2009

SENATOR BRUBAKER, AGRICULTURE AND RURAL AFFAIRS, AS AMENDED, JUNE 9, 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 DEFINITIONS, for split-off, separation or
9 transfer AND FOR ROLL-BACK TAXES AND SPECIAL CIRCUMSTANCES.



10 The General Assembly of the Commonwealth of Pennsylvania
11 hereby enacts as follows:

12 Section 1. Section 6 of the act of December 19, 1974
13 (P.L.973, No.319), known as the Pennsylvania Farmland and Forest
14 Land Assessment Act of 1974, is amended by adding subsections to
15 read:



16 SECTION 1. THE DEFINITION OF "AGRICULTURAL USE" IN SECTION 2
17 OF THE ACT OF DECEMBER 19, 1974 (P.L.973, NO.319), KNOWN AS THE
18 PENNSYLVANIA FARMLAND AND FOREST LAND ASSESSMENT ACT OF 1974,
19 AMENDED DECEMBER 21, 1998 (P.L.1225, NO.156), IS AMENDED AND THE
20 SECTION IS AMENDED BY ADDING DEFINITIONS TO READ:



1 SECTION 2. DEFINITIONS.--AS USED IN THIS ACT, THE FOLLOWING
2 WORDS AND PHRASES SHALL HAVE THE MEANINGS ASCRIBED TO THEM IN
3 THIS SECTION UNLESS THE CONTEXT OBVIOUSLY OTHERWISE REQUIRES:

4 * * *

5 "AGRICULTURAL USE." LAND WHICH IS USED FOR THE PURPOSE OF
6 PRODUCING AN AGRICULTURAL COMMODITY OR IS DEVOTED TO AND MEETS
7 THE REQUIREMENTS AND QUALIFICATIONS FOR PAYMENTS OR OTHER
8 COMPENSATION PURSUANT TO A SOIL CONSERVATION PROGRAM UNDER AN
9 AGREEMENT WITH AN AGENCY OF THE FEDERAL GOVERNMENT. THE TERM
10 INCLUDES:

11 (1) ANY FARMSTEAD LAND ON THE TRACT[. THE TERM INCLUDES];

12 (2) A WOODLOT [AND];

13 (3) ANY LAND WHICH IS RENTED TO ANOTHER PERSON AND USED FOR
14 THE PURPOSE OF PRODUCING AN AGRICULTURAL COMMODITY; AND

15 (4) ANY LAND DEVOTED TO THE DEVELOPMENT AND OPERATION OF AN
16 ALTERNATIVE ENERGY SYSTEM, IF A MAJORITY OF THE ENERGY GENERATED
17 IS UTILIZED ON THE TRACT IN THE PRODUCTION OF AN AGRICULTURAL
18 COMMODITY OR IN ACTIVITIES PERFORMED ON THE FARMSTEAD LAND.

19 * * *

20 "ALTERNATIVE ENERGY." ELECTRICITY, HEAT OR OTHER USABLE FORM
21 OF ENERGY GENERATED FROM A TIER I ENERGY SOURCE.

22 "ALTERNATIVE ENERGY SYSTEM." A FACILITY OR ENERGY SYSTEM
23 THAT UTILIZES A TIER I ENERGY SOURCE TO GENERATE ALTERNATIVE
24 ENERGY. THE TERM INCLUDES A FACILITY OR SYSTEM THAT GENERATES
25 ALTERNATIVE ENERGY FOR UTILIZATION ONSITE OR FOR DELIVERY OF THE
26 ENERGY GENERATED TO AN ENERGY DISTRIBUTION COMPANY OR TO AN
27 ENERGY TRANSMISSION SYSTEM OPERATED BY A REGIONAL TRANSMISSION
28 ORGANIZATION.

29 * * *

30 "TIER I ENERGY SOURCE." A TIER I ALTERNATIVE ENERGY SOURCE,

1 AS DEFINED IN SECTION 2 OF THE ACT OF NOVEMBER 30, 2004 (P.L.
2 1672, NO.213), KNOWN AS THE "ALTERNATIVE ENERGY PORTFOLIO
3 STANDARDS ACT."

4 * * *

5 SECTION 2. SECTION 6 HEADING OF THE ACT IS AMENDED AND THE
6 SECTION IS AMENDED BY ADDING SUBSECTIONS TO READ:

7 Section 6. Split-off, Separation or Transfer; LEASING FOR ←
8 WIRELESS SERVICE; UTILIZATION OF LAND OR CONVEYANCE OF RIGHTS
9 FOR EXPLORATION OR EXTRACTION OF GAS, OIL OR COAL BED METHANE;
10 UTILIZATION OF LAND FOR COMMERCIAL ALTERNATIVE ENERGY
11 GENERATION; DEATH OF LANDOWNER; TEMPORARY LEASES.--* * *

12 ~~(b.4) (1) The owner of property subject to preferential~~ ←
13 ~~assessment may lease land covered by the preferential assessment~~
14 ~~for gas and oil exploration.~~

15 ~~(2) (i) The owner of property subject to preferential~~
16 ~~assessment may utilize portions of the land covered by the~~

17 (C.1) PREFERENTIAL ASSESSMENT IS SUBJECT TO THE FOLLOWING: ←

18 (1) LAND SUBJECT TO PREFERENTIAL ASSESSMENT MAY BE LEASED OR
19 OTHERWISE DEVOTED TO THE EXPLORATION OF GAS AND OIL.

20 (2) THE FOLLOWING APPLY:

21 (I) PORTIONS OF LAND SUBJECT TO preferential assessment MAY ←
22 BE USED for gas and oil drilling and extraction if the following ←
23 conditions are satisfied:

24 ~~(A) Each tract of land so utilized is accessible.~~

25 ~~(B) Each tract or tracts of land are not sold or subdivided.~~

26 ~~(ii) Roll back taxes shall be imposed upon the tract or~~
27 ~~tracts of land utilized by the landowner for gas and oil~~
28 ~~drilling and the fair market value of that tract or tracts of~~
29 ~~land shall be adjusted accordingly. The utilization of a tract~~
30 ~~or tracts~~ AND THE DEVELOPMENT OF APPURTENANT FACILITIES RELATED ←

1 TO THOSE ACTIVITIES.

2 (II) ROLL-BACK TAXES SHALL BE IMPOSED UPON THOSE PORTIONS OF
3 LAND UTILIZED BY THE LANDOWNER FOR GAS AND OIL DRILLING AND
4 EXTRACTION, EXCLUDING LAND DEVOTED TO SUBSURFACE TRANSMISSION OR
5 GATHERING LINES, WHICH SHALL NOT BE SUBJECT TO ROLL-BACK TAXES.
6 THE PORTION OF LAND SUBJECT TO ROLL-BACK TAX SHALL BE THE
7 RESTORED WELL SITE AND ANY LAND WHICH DOES NOT MEET THE
8 REQUIREMENTS OF SECTION 3, AS MEASURED UPON THE FILING OF A WELL
9 SITE RESTORATION REPORT WITH THE DEPARTMENT OF ENVIRONMENTAL
10 PROTECTION AS REQUIRED BY 25 PA. CODE 78.65 (RELATING TO SITE
11 RESTORATION) OR ITS SUBSEQUENT VERSION. A COPY OF THIS REPORT
12 SHALL BE SUBMITTED TO THE COUNTY ASSESSOR AT THE SAME TIME IT IS
13 SUBMITTED TO THE DEPARTMENT OF ENVIRONMENTAL PROTECTION. THE
14 FAIR MARKET VALUE OF THE RESTORED WELL SITE SHALL BE ADJUSTED
15 RETROACTIVELY TO THE DATE OF THE PERMIT ISSUED UNDER SECTION 201
16 OF THE ACT OF DECEMBER 19, 1984 (P.L.1140, NO.223), KNOWN AS THE
17 "OIL AND GAS ACT." THE UTILIZATION OF A PORTION of land for gas
18 and oil drilling and extraction shall not invalidate the
19 preferential assessment of the land which is not so utilized and
20 the land shall continue to ~~be eligible for~~ RECEIVE preferential ←
21 assessment if it continues to meet the requirements of section
22 3.

23 (III) NOTWITHSTANDING SUBPARAGRAPH (II), NO ROLL-BACK TAX ←
24 SHALL BE IMPOSED UPON A LANDOWNER FOR ACTIVITIES RELATED TO THE
25 EXPLORATION FOR OR REMOVAL OF OIL OR GAS, INCLUDING THE
26 EXTRACTION OF COAL BED METHANE, CONDUCTED BY PARTIES OTHER THAN
27 THE LANDOWNER THAT HOLD THE RIGHTS TO CONDUCT SUCH ACTIVITIES
28 PURSUANT TO AN INSTRUMENT, CONVEYANCE OR OTHER VESTING OF THE
29 RIGHTS IF THE TRANSFER OF THE RIGHTS OCCURRED:

30 (A) BEFORE THE LAND WAS ENROLLED FOR PREFERENTIAL ASSESSMENT

1 UNDER THIS ACT; AND

2 (B) BEFORE THE EFFECTIVE DATE OF THIS SECTION.

3 (3) A lease of land shall not be considered a subdivision
4 under this subsection.

5 ~~(b.5) The lessee of the tract or tracts of land used for gas~~ ←
6 ~~and oil exploration or gas and oil drilling and extraction shall~~
7 ~~be solely responsible for obtaining required permits in~~
8 ~~connection with any construction on a tract or tracts of land~~
9 ~~which it leases under this section for gas and oil exploration~~
10 ~~or gas and oil drilling and extraction. No permit requested~~
11 ~~under this section shall be denied by a municipality for any~~
12 ~~reason other than failure to strictly comply with permit~~
13 ~~application procedures.~~

14 (C.2) THE OWNER OF PROPERTY SUBJECT TO PREFERENTIAL ←
15 ASSESSMENT MAY UTILIZE PORTIONS OF LAND COVERED BY PREFERENTIAL
16 ASSESSMENT FOR DEVELOPMENT AND OPERATION OF A COMMERCIAL
17 ALTERNATIVE ENERGY SYSTEM. ROLL-BACK TAXES SHALL BE IMPOSED UPON
18 THE PORTION OF LAND ACTUALLY DEVOTED TO THE FACILITIES UTILIZED
19 FOR THE GENERATION OF ALTERNATIVE ENERGY. ROLL-BACK TAXES FOR A
20 WIND GENERATION SYSTEM SHALL BE IMPOSED UPON THE LAND WHERE THE
21 FOUNDATION OF THE WIND TURBINE IS LOCATED AND UPON THE AREA OF
22 SURFACE COVERED BY APPURTENANT STRUCTURES, INCLUDING NEW ROADS,
23 BRIDGES, TRANSMISSION LINES, SUBSTATIONS AND OTHER BUILDINGS AND
24 STRUCTURES RELATED TO THE SYSTEM. THE FAIR MARKET VALUE OF THE
25 AREA FOR WHICH ROLL-BACK TAXES HAVE BEEN ASSESSED UNDER THIS
26 SUBSECTION SHALL BE ADJUSTED ACCORDINGLY. THE UTILIZATION OF A
27 PORTION OF THE LAND FOR COMMERCIAL ALTERNATIVE ENERGY SYSTEMS
28 SHALL NOT INVALIDATE THE PREFERENTIAL ASSESSMENT OF LAND WHICH
29 IS NOT SO UTILIZED, AND SUCH LAND SHALL CONTINUE TO RECEIVE
30 PREFERENTIAL ASSESSMENT IF IT CONTINUES TO MEET THE REQUIREMENTS

1 OF SECTION 3. AN OWNER WHO IS SUBJECT TO ROLL-BACK TAXES UNDER
2 THIS SUBSECTION SHALL SUBMIT A NOTICE TO THE COUNTY ASSESSOR NO
3 LATER THAN 30 DAYS AFTER THE COMMERCIAL ALTERNATIVE ENERGY
4 SYSTEM IS COMPLETED.

5 (C.3) THE OWNER OF PROPERTY SUBJECT TO PREFERENTIAL
6 ASSESSMENT MAY TEMPORARILY LEASE A PORTION OF THE LAND FOR PIPE
7 STORAGE YARDS. ONLY ONE LEASE IS PERMITTED TO THE OWNER UNDER
8 THIS SUBSECTION. THE LEASE MAY NOT EXCEED TWO YEARS. FOLLOWING
9 THE EXPIRATION OF THE TWO YEARS, THE LAND SHALL BE RESTORED TO
10 THE ORIGINAL USE WHICH QUALIFIED IT FOR PREFERENTIAL ASSESSMENT.

11 (C.4) THE OWNER OF PROPERTY SUBJECT TO PREFERENTIAL
12 ASSESSMENT MAY LEASE OR DEVOTE LAND COVERED BY THE PREFERENTIAL
13 ASSESSMENT TO BE USED FOR SMALL NONCOAL SURFACE MINING, AS
14 PROVIDED FOR UNDER THE ACT OF DECEMBER 19, 1984 (P.L.1093,
15 NO.219), KNOWN AS THE "NONCOAL SURFACE MINING CONSERVATION AND
16 RECLAMATION ACT."

17 (C.5) ROLL-BACK TAXES SHALL BE IMPOSED UPON THOSE PORTIONS
18 OF LAND LEASED OR DEVOTED BY THE LANDOWNER FOR SMALL NONCOAL
19 SURFACE MINING, AND THE FAIR MARKET VALUE OF THOSE PORTIONS OF
20 THE LAND SHALL BE ADJUSTED ACCORDINGLY. ROLL-BACK TAXES ON THOSE
21 PORTIONS OF THE LAND SHALL NOT INVALIDATE THE PREFERENTIAL
22 ASSESSMENT OF THE LAND WHICH IS NOT SO LEASED OR DEVOTED, AND
23 THE LAND SHALL CONTINUE TO BE ELIGIBLE FOR PREFERENTIAL
24 ASSESSMENT IF IT CONTINUES TO MEET THE REQUIREMENTS OF SECTION
25 3.

26 * * *

27 SECTION 3. SECTION 8(B) OF THE ACT, AMENDED DECEMBER 21,
28 1998 (P.L.1225, NO.156), IS AMENDED TO READ:

29 SECTION 8. ROLL-BACK TAXES; SPECIAL CIRCUMSTANCES.--

30 (B) UNPAID ROLL-BACK TAXES SHALL BE A LIEN UPON THE PROPERTY

1 COLLECTIBLE IN THE MANNER PROVIDED BY LAW FOR THE COLLECTION OF
2 DELINQUENT TAXES. ROLL-BACK TAXES SHALL BECOME DUE ON THE DATE
3 OF CHANGE OF USE OR ON THE DATE A WELL SITE RESTORATION REPORT
4 IS FILED UNDER SECTION 6(C.1) (2) (II), OR ANY OTHER TERMINATION
5 OF PREFERENTIAL ASSESSMENT AND SHALL BE PAID BY THE OWNER OF THE
6 LAND AT THE TIME OF CHANGE IN USE, OR ANY OTHER TERMINATION OF
7 PREFERENTIAL ASSESSMENT, TO THE COUNTY TREASURER OR TO THE TAX
8 CLAIM BUREAU, AS THE CASE MAY BE, WHOSE RESPONSIBILITY IT SHALL
9 BE TO MAKE PROPER DISTRIBUTION OF THE TAXES TO THE TAXING BODIES
10 WHEREIN THE PROPERTY IS LOCATED. NOTHING IN THIS SECTION SHALL
11 BE CONSTRUED TO REQUIRE THE TAXING BODY OF A TAXING DISTRICT IN
12 WHICH LAND ENROLLED IN PREFERENTIAL USE IS SITUATED TO ACCEPT
13 THE ROLL-BACK TAXES DUE AND PAYABLE TO THAT TAXING DISTRICT IF
14 THE USE OF THE LAND IS CHANGED FOR THE PURPOSE OF GRANTING OR
15 DONATING SUCH LAND TO:

16 (1) A SCHOOL DISTRICT;

17 (2) A MUNICIPALITY;

18 (3) A COUNTY;

19 (4) A VOLUNTEER FIRE COMPANY;

20 (5) A VOLUNTEER AMBULANCE SERVICE;

21 (6) A NOT-FOR-PROFIT CORPORATION, TAX EXEMPT UNDER SECTION

22 501(C) (3) OF THE INTERNAL REVENUE CODE OF 1954 (68A STAT. 3, 26

23 U.S.C. § 501(C) (3)), PROVIDED THAT, PRIOR TO ACCEPTING OWNERSHIP

24 OF THE LAND, SUCH CORPORATION ENTERS INTO AN AGREEMENT WITH THE

25 MUNICIPALITY WHEREIN THE SUBJECT LAND IS LOCATED GUARANTEEING

26 THAT IT WILL BE USED EXCLUSIVELY FOR RECREATIONAL PURPOSES, ALL

27 OF WHICH SHALL BE AVAILABLE TO THE GENERAL PUBLIC FREE OF

28 CHARGE. IN THE EVENT THE CORPORATION CHANGES THE USE OF ALL OR A

29 PORTION OF THE LAND OR CHARGES ADMISSION OR ANY OTHER FEE FOR

30 THE USE OR ENJOYMENT OF THE FACILITIES, THE CORPORATION SHALL

1 IMMEDIATELY BECOME LIABLE FOR ALL ROLL-BACK TAXES AND ACCRUED
2 INTEREST PREVIOUSLY FORGIVEN PURSUANT HERETO; OR

3 (7) A RELIGIOUS ORGANIZATION FOR CONSTRUCTION OR REGULAR USE
4 AS A CHURCH, SYNAGOGUE OR OTHER PLACE OF WORSHIP, INCLUDING
5 MEETING FACILITIES, PARKING FACILITIES, HOUSING FACILITIES AND
6 OTHER FACILITIES WHICH FURTHER THE RELIGIOUS PURPOSES OF THE
7 ORGANIZATION.

8 * * *

9 Section 2 4. This act shall take effect in 60 days.

