
 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

AS REPORTED FROM COMMITTEE ON AGRICULTURE AND RURAL AFFAIRS,
HOUSE OF REPRESENTATIVES, AS AMENDED, JUNE 8, 2010

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 general responsibilities of
9 county assessors, for split-off, separation or transfer and
10 for roll-back taxes and special circumstances; and providing ←
11 ~~for removal of land from preferential assessment.~~

12 The General Assembly of the Commonwealth of Pennsylvania
13 hereby enacts as follows:

14 Section 1. The definitions of "agricultural reserve,"
15 "agricultural use" and "forest reserve" in section 2 of the act
16 of December 19, 1974 (P.L.973, No.319), known as the
17 Pennsylvania Farmland and Forest Land Assessment Act of 1974,
18 amended December 21, 1998 (P.L.1225, No.156) and December 8,
19 2004 (P.L.1785, No.235), are amended and the section is amended
20 by adding definitions to read:

21 Section 2. Definitions.--As used in this act, the following

1 words and phrases shall have the meanings ascribed to them in
2 this section unless the context obviously otherwise requires:

3 * * *

4 "Agricultural reserve." Noncommercial open space lands used
5 for outdoor recreation or the enjoyment of scenic or natural
6 beauty and open to the public for such use, without charge or
7 fee, on a nondiscriminatory basis. The term includes any land
8 devoted to the development and operation of an alternative
9 energy system, if a majority of the energy annually generated is
10 utilized on the tract.

11 "Agricultural use." Land which is used for the purpose of
12 producing an agricultural commodity or is devoted to and meets
13 the requirements and qualifications for payments or other
14 compensation pursuant to a soil conservation program under an
15 agreement with an agency of the Federal Government. The term
16 includes:

17 (1) any farmstead land on the tract[. The term includes];

18 (2) a woodlot [and];

19 (3) any land which is rented to another person and used for
20 the purpose of producing an agricultural commodity; and

21 (4) any land devoted to the development and operation of an
22 alternative energy system, if a majority of the energy annually
23 generated is utilized on the tract.

24 * * *

25 "Alternative energy." Electricity, heat or other usable form
26 of energy generated from a Tier I energy source.

27 "Alternative energy system." A facility or energy system
28 that utilizes a Tier I energy source to generate alternative
29 energy. The term includes a facility or system that generates
30 alternative energy for utilization onsite or for delivery of the

1 energy generated to an energy distribution company or to an
2 energy transmission system operated by a regional transmission
3 organization.

4 * * *

5 "Forest reserve." Land, ten acres or more, stocked by forest
6 trees of any size and capable of producing timber or other wood
7 products. The term includes any land devoted to the development
8 and operation of an alternative energy system, if a majority of
9 the energy annually generated is utilized on the tract.

10 * * *

11 "Tier I energy source." A Tier I alternative energy source,
12 as defined in section 2 of the act of November 30, 2004 (P.L.
13 1672, No.213), known as the "Alternative Energy Portfolio
14 Standards Act."

15 * * *

16 Section 1.1. Section 5 of the act, amended December 8, 2004
17 (P.L.1785, No.235), is amended to read:

18 Section 5. Responsibilities of the County Assessor in
19 General.--(a) In addition to keeping such records as are now or
20 hereafter required by law, it shall be the duty of the county
21 assessor:

22 (1) To indicate on property record cards, assessment rolls,
23 and any other appropriate records, the fair market value, the
24 normal assessed value, the land use category and the number of
25 acres enrolled in each land use category, the use value under
26 section 4.2 and the preferentially assessed value of each parcel
27 granted preferential use assessments under this act; and
28 annually, to record on such records all changes, if any, in the
29 fair market value, the normal assessed value, the land use
30 category and the number of acres enrolled in each land use

1 category, the use value under section 4.2 and the preferentially
2 assessed value of such properties.

3 (2) To notify in writing the appropriate taxing bodies and
4 landowner of any preferential assessments granted or terminated
5 for each parcel, including the land use category and the number
6 of acres enrolled in each land use category, within their taxing
7 jurisdiction and of the reason for termination within five days
8 of such change. There shall be a right of appeal as provided by
9 section 9.

10 (3) To notify in writing the owner of a property that is
11 preferentially assessed under this act, and the taxing bodies of
12 the district in which such property is situated, of any changes
13 in the fair market value, the normal assessed value, the land
14 use category and the number of acres enrolled in each land use
15 category, the use value under section 4.2 or the preferentially
16 assessed value within five days of such change. There shall be a
17 right of appeal as provided for in section 9.

18 (4) To maintain a permanent record of the tax rates, in
19 mills, levied by each of the taxing authorities in the county
20 for each tax year.

21 (5) By January 31 of each year, to report to the department
22 for the previous year the number of acres enrolled in each land
23 use category, the number of acres terminated in each land use
24 category, the dollar amount received as roll-back taxes and the
25 dollar amount received as interest on roll-back taxes.

26 (b) It shall be the duty of the county assessor, as set
27 forth under section 8(c), to calculate roll-back taxes, give
28 notice of the amounts due to landowners and interested parties
29 and to file liens for unpaid roll-back taxes.

30 (b.1) With respect to the development of an alternative

1 energy system which continues to meet the definition of
2 agricultural use, agricultural reserve or forest reserve, the
3 land devoted to that development and operation shall retain the
4 same land use category for preferential assessment as was
5 approved for the land before the devotion took place.

6 (c) The preferential use assessments granted under this act
7 shall be considered by the State Tax Equalization Board in
8 determining the market value of taxable real property for school
9 subsidy purposes. The State Tax Equalization Board shall not
10 reflect the individual school district market value decrease, as
11 it relates to agricultural land, when certifying the Statewide
12 market value to the Department of Education.

13 Section 2. Section 6 heading and (a.1) of the act, amended
14 December 21, 1998 (P.L.1225, No.156), are amended and the
15 section is amended by adding subsections to read:

16 Section 6. Split-off, Separation or Transfer; Leasing for
17 Wireless Service; Utilization of Land or Conveyance of Rights
18 for Exploration or Extraction of Gas, Oil or Coal Bed Methane;
19 Utilization of Land for Commercial Alternative Energy
20 Generation; Death of Landowner; Temporary Leases.--(a.1) (1)

21 The split-off of a part of land which is subject to preferential
22 assessment under this act shall subject the land so split off
23 and the entire tract from which the land was split off to roll-
24 back taxes as set forth in section 5.1, except as provided in
25 this subsection. [The landowner changing the use of the land to
26 one inconsistent with this act] The landowner who conducts the
27 split-off shall be liable for payment of roll-back taxes. [The
28 landowner of land which continues to be eligible for
29 preferential assessment shall not be liable for any roll-back
30 taxes triggered as a result of a change to an ineligible use by

1 the owner of the split-off tract. Roll-back] If one of the
2 following provisions apply, roll-back taxes under section 5.1
3 shall [not] only be due [if one of the following provisions
4 applies] as provided in this subsection:

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

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

17 (2) Each tract which has been split off under and meets the
18 provisions of paragraph (1)(i) shall be subject to roll-back
19 taxes for such a period of time as provided in section 5.1. The
20 landowner [changing the use of the land] who conducts the split-
21 off shall be liable for payment of roll-back taxes, which shall
22 only be due with respect to the split-off portion of land. If
23 the owner of the tract which has been split off under paragraph
24 (1)(i) subsequently changes the use of that land to an
25 ineligible use, the owner of the original tract which continues
26 to be eligible for preferential assessment shall not be liable
27 for any roll-back taxes triggered as a result.

28 (2.1) No roll-back taxes shall be due for ~~split-offs~~ A
29 SPLIT-OFF described in paragraph (1)(ii).

30 (3) The split-off of a tract of land which meets the



1 provisions of paragraph (1) shall not invalidate the
2 preferential assessment on any land retained by the landowner
3 which continues to meet the provisions of section 3.

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

7 (5) Any person may bring an action in equity to enjoin use
8 of the land inconsistent with the use provided in this
9 subsection.

10 (6) Land which has been split off shall be deemed to be used
11 for residential use, agricultural use, agricultural reserve or
12 forest reserve unless it is demonstrated that the owner of the
13 split-off parcel is actively using the tract in a manner which
14 is inconsistent with residential use, agricultural use,
15 agricultural reserve or forest reserve.

16 * * *

17 (c.1) The following apply:

18 (1) Land subject to preferential assessment may be leased or
19 otherwise devoted to the exploration for and removal of gas and
20 oil, including the extraction of coal bed methane, and the
21 development of appurtenant facilities, including new roads and
22 bridges, pipelines and other buildings or structures, related to
23 exploration for and removal of gas and oil and the extraction of
24 coal bed methane.

25 (2) Portions of land subject to preferential assessment may
26 be used for exploration for and removal of gas and oil,
27 including the extraction of coal bed methane, and the
28 development of appurtenant facilities, including new roads and
29 bridges, pipelines and other buildings or structures, related to
30 those activities.

1 (3) Roll-back taxes shall be imposed upon those portions of
2 land actually devoted to activities set forth in paragraph (2),
3 excluding land devoted to subsurface transmission or gathering
4 lines, which shall not be subject to roll-back tax. The portion
5 of land subject to roll-back tax shall be the restored well site
6 and land which is incapable of being immediately used for the
7 agricultural use, agricultural reserve or forest reserve
8 activities required under section 3, as measured from the well
9 site restoration report as approved by the Department of ←
10 Environmental Protection as required by 25 Pa. Code 78.65
11 (relating to site restoration) or its subsequent version. A copy
12 of this report shall be submitted by the Department of
13 Environmental Protection to the county assessor within ten days
14 of its approval. The fair market value of the restored well site
15 and land which is incapable of being immediately used for the
16 agricultural use, agricultural reserve or forest reserve
17 activities required under section 3 shall be adjusted
18 retroactively to the date ~~the~~ A permit was approved under ←
19 section 201 of the act of December 19, 1984 (P.L.1140, No.223),
20 known as the "Oil and Gas Act." Roll-back taxes shall become due
21 upon the filing of the approved well site restoration report
22 with the county assessor. The utilization of a portion of land
23 for activities set forth in paragraph (2) shall not invalidate
24 the preferential assessment of the land which is not so utilized
25 and the land shall continue to receive preferential assessment
26 if it continues to meet the requirements of section 3.

27 (4) Notwithstanding paragraph (3), no roll-back tax shall be
28 imposed upon a landowner for activities related to the
29 exploration for or removal of oil or gas, including the
30 extraction of coal bed methane, conducted by parties other than

1 the landowner that hold the rights to conduct such activities
2 pursuant to an instrument, conveyance or other vesting of the
3 rights if the transfer of the rights occurred:

4 (i) before the land was enrolled for preferential assessment
5 under this act; and

6 (ii) before the effective date of this section.

7 (c.2) The following apply:

8 (1) Portions of land subject to preferential assessment may
9 be leased or otherwise devoted to a wind power generation
10 system.

11 (2) Roll back taxes for a wind power generation system shall
12 be imposed upon the portion of land where the foundation of the
13 wind turbine is located and upon the area of surface covered by
14 appurtenant structures, including new roads, bridges,
15 transmission lines, substations and other buildings and
16 structures related to the system. The fair market value of the
17 portion of land for which roll back taxes have been assessed
18 under this subsection shall be adjusted accordingly. The
19 utilization of a portion of the land for a wind power generation
20 system shall not invalidate the preferential assessment of land
21 which is not so utilized, and such land shall continue to
22 receive preferential assessment if it continues to meet the
23 requirements of section 3. An owner who is subject to roll back
24 taxes under this subsection shall submit a notice of the
25 installation of a wind power generation system to the county
26 assessor no later than 30 days following the commencement of
27 electricity generation at the wind power generation system
28 (RESERVED).

29 (c.3) The owner of property subject to preferential
30 assessment may temporarily lease a portion of the land for pipe

1 storage yards. Only one lease is permitted to the owner under ←
2 this subsection IS PERMITTED TO A LANDOWNER, and a copy of the ←
3 lease shall be provided to the county assessor within ten days
4 of its signing by the landowner. The lease may SHALL not exceed ←
5 two years AND SHALL NOT BE EXTENDED OR RENEWED. Following the ←
6 expiration of the lease, the land shall be restored to the
7 original use which qualified it for preferential assessment.

8 (c.4) The following apply:

9 (1) The owner of property subject to preferential assessment
10 may lease or otherwise devote land subject to preferential
11 assessment to small noncoal surface mining, as provided for
12 under the act of December 19, 1984 (P.L.1093, No.219), known as
13 the "Noncoal Surface Mining Conservation and Reclamation Act."

14 (2) Roll-back taxes shall be imposed upon those portions of
15 land leased or otherwise devoted to small noncoal surface
16 mining, and the fair market value of those portions of the land
17 shall be adjusted accordingly. Roll-back taxes on those portions
18 of the land shall not invalidate the preferential assessment of
19 the land which is not so leased or devoted, and the land shall
20 continue to be eligible for preferential assessment if it
21 continues to meet the requirements of section 3.

22 (3) Only one small noncoal surface mining permit may be
23 active at any one time on land subject to a single application
24 for preferential assessment.

25 * * *

26 Section 3. Section 8(b) of the act, amended December 21,
27 1998 (P.L.1225, No.156), is amended to read:

28 Section 8. Roll-Back Taxes; Special Circumstances.--

29 (b) Unpaid roll-back taxes shall be a lien upon the property
30 collectible in the manner provided by law for the collection of



1 delinquent taxes. Roll-back taxes shall become due on the date
2 of change of use or on the date a well site restoration report
3 is filed with the county assessor under section 6(c.1)(3) or,
4 with regard to a wind power generation system under section
5 6(c.2)(2), on the date the notice of the installation of the
6 system is received by the county assessor, or any other
7 termination of preferential assessment and shall be paid by the
8 owner of the land at the time of change in use, or any other
9 termination of preferential assessment, to the county treasurer
10 or to the tax claim bureau, as the case may be, whose
11 responsibility it shall be to make proper distribution of the
12 taxes to the taxing bodies wherein the property is located.
13 Nothing in this section shall be construed to require the taxing
14 body of a taxing district in which land enrolled in preferential
15 use is situated to accept the roll-back taxes due and payable to
16 that taxing district if the use of the land is changed for the
17 purpose of granting or donating such land to:

- 18 (1) a school district;
- 19 (2) a municipality;
- 20 (3) a county;
- 21 (4) a volunteer fire company;
- 22 (5) a volunteer ambulance service;
- 23 (6) a not-for-profit corporation, tax exempt under section
24 501(c)(3) of the Internal Revenue Code of 1954 (68A Stat. 3, 26
25 U.S.C. § 501(c)(3)), provided that, prior to accepting ownership
26 of the land, such corporation enters into an agreement with the
27 municipality wherein the subject land is located guaranteeing
28 that it will be used exclusively for recreational purposes, all
29 of which shall be available to the general public free of
30 charge. In the event the corporation changes the use of all or a

1 portion of the land or charges admission or any other fee for
2 the use or enjoyment of the facilities, the corporation shall
3 immediately become liable for all roll-back taxes and accrued
4 interest previously forgiven pursuant hereto; or

5 (7) a religious organization for construction or regular use
6 as a church, synagogue or other place of worship, including
7 meeting facilities, parking facilities, housing facilities and
8 other facilities which further the religious purposes of the
9 organization.

10 * * *

11 ~~Section 3.1. The act is amended by adding a section to read:~~ ←

12 ~~Section 8.1. Removal of Land From Preferential Assessment.~~

13 ~~(a) A landowner receiving preferential assessment under this~~
14 ~~act may remove land from preferential assessment if:~~

15 ~~(1) the landowner notifies in writing the county assessor by~~
16 ~~June 1 of the year immediately preceding the tax year for which~~
17 ~~the removal is requested;~~

18 ~~(2) the entire tract or tracts enrolled on a single~~
19 ~~application for preferential assessment are removed from~~
20 ~~preferential assessment; and~~

21 ~~(3) the landowner pays roll back taxes on the entire tract~~
22 ~~or tracts as provided for in section 5.1.~~

23 ~~(b) Land removed from preferential assessment under this~~
24 ~~section shall not be eligible to be subsequently reenrolled in~~
25 ~~preferential assessment by the same landowner.~~

26 ~~(c) Nothing in this section shall be construed to prohibit a~~
27 ~~landowner whose land was terminated from preferential assessment~~
28 ~~under other sections of this act from reenrolling the land in~~
29 ~~preferential assessment.~~

30 Section 4. This act shall take effect in 60 days.