
THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 1437 Session of
2012

INTRODUCED BY BRUBAKER, YAW, ALLOWAY, RAFFERTY, FONTANA, FERLO,
MENSCH AND ARGALL, MARCH 6, 2012

REFERRED TO AGRICULTURE AND RURAL AFFAIRS, MARCH 6, 2012

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 policy, for definitions, for decisions, for
4 review, for administration and for the Agricultural
5 Conservation Easement Purchase Fund.

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, amended
10 December 14, 1988 (P.L.1202, No.149) and May 15, 2006 (P.L.190,
11 No.46), is amended to read:

12 Section 2. Statement of legislative findings.

13 It is the declared policy of the Commonwealth to conserve and
14 protect and to encourage the development and improvement of its
15 agricultural lands for the production of food and other
16 agricultural products. It is also the declared policy of the
17 Commonwealth to conserve and protect agricultural lands as
18 valued natural and ecological resources which provide needed
19 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, with an emphasis
20 on clustering of preserved farms to enhance the economic
21 viability of the agricultural community as a whole.

22 It is further the purpose of this act to:

23 (1) Encourage landowners to make a long-term commitment
24 to agriculture by offering them financial incentives and
25 security of land use.

26 (2) Protect farming operations in agricultural security
27 areas from incompatible nonfarm land uses that may render
28 farming impracticable.

29 (3) Assure permanent conservation of productive
30 agricultural lands in order to protect the agricultural

1 economy of this Commonwealth.

2 (4) Provide compensation to landowners in exchange for
3 their relinquishment of the right to develop their private
4 property.

5 (5) Leverage State agricultural easement purchase funds
6 and protect the investment of taxpayers in agricultural
7 conservation easements.

8 (6) Encourage financial partnerships between State and
9 local governments with nonprofit entities in order to
10 increase the funds available for agricultural conservation
11 easement purchases.

12 Section 2. Section 3 of the act is amended by adding
13 definitions to read:

14 Section 3. Definitions.

15 The following words and phrases when used in this act shall
16 have the meanings given to them in this section, unless the
17 context clearly indicates otherwise:

18 * * *

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

21 "Alternative energy system." A facility or an energy system
22 which utilizes a Tier I energy source to generate alternative
23 energy. The term includes a facility or an energy system which
24 generates alternative energy for utilization onsite or for
25 delivery of the energy generated to an energy distribution
26 company or to an energy transmission system operated by a
27 regional transmission organization.

28 * * *

29 "Tier I energy source." A "Tier I alternative energy
30 source," as defined in section 2 of the act of November 30, 2004

1 (P.L.1672, No.213), known as the "Alternative Energy Portfolio
2 Standards Act."

3 * * *

4 Section 3. Section 8(d) of the act, amended April 13, 1992
5 (P.L.100, No.23), is amended to read:

6 Section 8. Decision on proposed area.

7 * * *

8 (d) Filing of area description.--Within ten days of the
9 creation of an agricultural security area, a description thereof
10 shall be filed by the governing body with the recorder of deeds,
11 who shall record the description[, and]; with the planning
12 commissions of the county and of the local government unit; and
13 with the county board for purchasing agricultural conservation
14 easements, if in existence, which shall establish and maintain a
15 repository of records of agricultural security areas established
16 by local governing bodies in the county under this act.

17 Recording shall be done in a manner which is sufficient to give
18 notice to all persons who have, may acquire or may seek to
19 acquire an interest in land in or adjacent to the created
20 agricultural security area. Upon the failure of the governing
21 body to file a description or recorder of deeds to record the
22 created agricultural security area in accordance with the time
23 or manner requirements prescribed in this subsection, any person
24 adversely affected may file a petition with the court of common
25 pleas to compel immediate compliance with the provisions of this
26 subsection.

27 * * *

28 Section 4. Section 9 of the act, amended December 14, 1988
29 (P.L.1202, No.149), is amended to read:

30 Section 9. Review of area.

1 (a) Review by governing body.--The governing body shall
2 review any area created under section 8 seven years after the
3 date of its creation and every seven years thereafter. In
4 conducting such review, the governing body shall ask for the
5 recommendations of the planning commission, the county planning
6 commission and the advisory committee, and shall, at least 120
7 days prior to the end of the seventh year and not more than 180
8 days prior to such date, hold a public hearing at a place within
9 the area or otherwise readily accessible to the area. Prior to
10 the commencement of such review, notice thereof shall be given
11 by publication in a newspaper having a general circulation
12 within the area, by notice posted in five conspicuous places
13 within, adjacent to or near the area and by notice, in writing,
14 to all persons owning land within the area that the agricultural
15 security area will be reviewed in accordance with law. All such
16 notices shall be given 30 days before the commencement of such
17 review. Persons wishing to modify the area shall submit proposed
18 modifications within 30 days of the date of such notices.
19 Thereafter, in conducting such review the governing bodies shall
20 follow all the procedures and requirements of sections 5, 6, 7
21 and 8 for the consideration of the agricultural security area
22 and proposed modifications thereto. Within ten days of its
23 action of termination or modification, the governing body shall
24 file a notice of termination or modification with the recorder
25 of deeds, who shall record such notice in such manner and place
26 as has been provided in the original recording of the
27 agricultural security area. The governing body shall also file a
28 notice of termination or modification with the planning
29 commissions of the county and of the local government unit. If
30 the governing body does not act, or if a modification of an area

1 is rejected, the area shall be deemed to be readopted without
2 modification for another seven years.

3 (b) Interim review.--If, within the seven-year period, 10%
4 of the land within the agricultural security area is diverted to
5 residential or nonagricultural commercial development, the
6 governing body may review the diversion and may request, in
7 writing, that the local and county planning commissions and the
8 agricultural security area advisory committee study its review
9 and make recommendations within 30 days of the written request.
10 The governing body shall thereupon conduct a public hearing,
11 after providing the same notice as that which is required under
12 section 6(c). The hearing shall be held no sooner than 45 days
13 after the governing body has submitted written requests for
14 review and recommendation to the planning commissions and
15 advisory committee. The governing body then may terminate or
16 modify the agricultural security area.

17 (c) Failure.--If the review required under this section does
18 not take place, the area shall remain in effect, unmodified,
19 until the review takes place.

20 Section 4.1. Section 14.1(a)(1), (b)(2)(xv), (c)(6), (d)(1),
21 (h), (i) and (k) of the act, amended or added November 23, 1994
22 (P.L.621, No.96), November 23, 1994 (P.L.648, No.100), October
23 16, 1996 (P.L.703, No.121), December 21, 1998 (P.L.1056,
24 No.138), May 30, 2001 (P.L.103, No.14), May 15, 2006 (P.L.190,
25 No.46) and July 7, 2011 (P.L.247, No.44), are amended,
26 subsection (b)(2) is amended by adding subparagraphs, subsection
27 (c) is amended by adding a paragraph and the section is amended
28 by adding subsections to read:

29 Section 14.1. Purchase of agricultural conservation easements.

30 (a) State Agricultural Land Preservation Board.--The

1 Department of Agriculture and the State Agricultural Land
2 Preservation Board shall administer pursuant to this section a
3 program for the purchase of agricultural conservation easements
4 by the Commonwealth.

5 (1) There is established within the Department of
6 Agriculture as a departmental board the State Agricultural
7 Land Preservation Board. The State board shall consist of 17
8 members.

9 (i) There shall be eight voting ex officio members
10 of the State board: the [Secretary of Agriculture]
11 secretary or a designee, who shall serve as the board
12 chairman; the Secretary of Community and Economic
13 Development, or his designee; the Secretary of
14 Environmental Protection, or his designee; the Chairman
15 and the Minority Chairman of the House Agriculture and
16 Rural Affairs Committee, or their designees; the Chairman
17 and the Minority Chairman of the Senate Agriculture and
18 Rural Affairs Committee, or their designees; and the Dean
19 of the College of Agricultural Sciences of The
20 Pennsylvania State University, or his designee.

21 (ii) Five members shall be appointed by the
22 Governor. One member shall be a current member of the
23 governing body of a county, one member shall be a person
24 who is recognized as having significant knowledge in
25 agricultural fiscal and financial matters, one member
26 shall be an active resident farmer of this Commonwealth,
27 one member shall be a residential, commercial or
28 industrial building contractor, and one member shall be a
29 current member of a governing body. Initially, two
30 members shall be appointed for a term of four years, two

1 members shall be appointed for a term of three years and
2 one member shall be appointed for a term of two years.
3 Thereafter, the terms of all members appointed herein
4 shall be four years. The term of a person appointed to
5 replace another member whose term has not expired shall
6 be only the unexpired portion of that term. Members may
7 be reappointed to successive terms.

8 (iii) One member each shall be appointed by the
9 Speaker of the House of Representatives, the Minority
10 Leader of the House of Representatives, the President pro
11 tempore of the Senate and the Minority Leader of the
12 Senate, who shall, at the time of appointment, be
13 resident farm owners and operators of at least one
14 commercial farm in this Commonwealth. The initial term of
15 the appointee of the President pro tempore of the Senate
16 shall be four years, the initial term of the appointee of
17 the Speaker of the House of Representatives shall be
18 three years, the initial term of the appointee of the
19 Minority Leader of the Senate shall be two years and the
20 initial term of the appointee of the Minority Leader of
21 the House of Representatives shall be one year.

22 Thereafter, the terms of all appointees shall be four
23 years. An appointment made to fill an unexpired term
24 shall be only for the duration of the unexpired term.
25 Members may be reappointed to successive terms.

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 * * *

8 (xv) To exercise primary enforcement authority with
9 respect to the following:

10 (A) Agricultural conservation easements within
11 the county.

12 (B) Agricultural conservation easements acquired
13 pursuant to the criteria set forth in subparagraph
14 (i), including any portion of such an agricultural
15 conservation easement extending into an adjoining
16 county.

17 (C) Monitoring to ensure compliance with the
18 applicable deed of easement conducted under this
19 subparagraph occurs at least annually, as follows:

20 (I) An on-farm inspection shall take place
21 at least every other year. Notice of the
22 inspection shall be provided to the landowner at
23 least ten days prior to the inspection.

24 (II) In addition to the requirement under
25 subclause (I), other types of monitoring methods
26 may be used by a county if approved by the State
27 board as part of an approved county program.

28 (xv.1) Within 45 days of the discovery of a
29 violation of the terms of an easement, to give notice of
30 the violation to the owner of the restricted land, the

1 county governing body and the State board. The county
2 board may have up to 90 days to work with the owner of
3 the restricted land to correct the violation.

4 * * *

5 (xvii) To establish and maintain a repository of
6 records of agricultural security areas established by
7 local governing bodies in the county under this act.

8 (xviii) To establish, in its discretion, in its
9 county program for the purchase of agricultural
10 conservation easements a reasonable nonrefundable or
11 refundable fee for the review of applications for:

12 (A) An agricultural conservation easement
13 purchase.

14 (B) An appraisal of land under consideration for
15 agricultural conservation easement purchase.

16 (C) A survey of land under consideration for
17 agricultural conservation easement purchase.

18 (D) Other services or activities it undertakes
19 prior to the purchase of the subject agricultural
20 conservation easement, or for activities undertaken
21 after the agricultural conservation easement has been
22 acquired.

23 No fee may be established for inspection and monitoring
24 activities.

25 * * *

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

29 * * *

30 (6) An agricultural conservation easement shall not

1 prevent:

2 (i) The granting of leases, assignments or other
3 conveyances or the issuing of permits, licenses or other
4 authorization for the exploration, development, storage
5 or removal of coal or noncoal minerals by underground
6 mining methods, oil and gas by the owner of the subject
7 land or the owner of the underlying coal or noncoal
8 minerals by underground mining methods, oil and gas or
9 the owner of the rights to develop the underlying coal or
10 noncoal minerals by underground mining methods, oil and
11 gas, or the development of appurtenant facilities
12 [related to] required for the removal from the subject
13 farm of coal or noncoal minerals by underground mining
14 methods, oil or gas development or activities incident to
15 the removal or development of such minerals subject to
16 (6.1).

17 (ii) The granting of rights-of-way by the owner of
18 the subject land in and through the land for the
19 installation of, transportation of, or use of water,
20 sewage, electric, telephone, coal or noncoal minerals by
21 underground mining methods, gas, oil or oil products
22 lines.

23 (iii) Construction and use of structures on the
24 subject land necessary for agricultural production or a
25 commercial equine activity.

26 (iv) Construction and use of structures on the
27 subject land for the landowner's principal residence or
28 for the purpose of providing necessary housing for
29 seasonal or full-time employees[: Provided, That only].
30 This subparagraph is subject to the following:

1 (A) Only one such structure may be constructed
2 on no more than two acres of the subject land during
3 the term of the agricultural conservation easement.

4 (B) The owner of the land subject to the
5 agricultural conservation easement may relinquish and
6 extinguish the right of construction and use of
7 structures conferred by this subparagraph by
8 recording, in the office for the recording of deeds
9 in the county in which the land subject to the
10 agricultural conservation easement is located, an
11 affidavit evidencing the intent to relinquish and
12 extinguish.

13 (C) For easements purchased under subsection (d)
14 (1)(v)(B), a county may, as part of an approved
15 county program, prohibit the right of construction
16 and use of structures conferred by this subparagraph.

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

21 (vi) Commercial equine activity on the subject land.

22 (vii) The development and operation of an
23 alternative energy system, if:

24 (A) A majority of the energy annually generated
25 is utilized on the land subject to the deed of
26 easement.

27 (B) It is provided for in the county
28 Agricultural Conservation Easement Purchase Program
29 approved by the State board under subsection (d).

30 (6.1) No more than 2% or 5 acres, whichever is less, of

1 the land subject to an agricultural conservation easement
2 under this act shall be devoted to the development of
3 appurtenant facilities related to the removal of coal or
4 noncoal minerals by underground mining methods, oil or gas
5 development or activities incident to the removal or
6 development of such minerals, except as approved by the
7 county board.

8 * * *

9 (d) Program approval.--

10 (1) The standards, criteria and requirements established
11 by the State board for State board approval of county
12 programs for purchasing agricultural conservation easements
13 shall include, but not be limited to, the extent to which the
14 county programs consider and address the following:

15 (i) The quality of the farmlands subject to the
16 proposed easements, including soil classification and
17 soil productivity ratings. Farmland considered should
18 include soils which do not have the highest soil
19 classifications and soil productivity ratings but which
20 are conducive to producing crops unique to the area. A
21 county program shall require a minimum weighted value of
22 30% for prioritizing applications for agricultural
23 conservation easement purchase when implementing the
24 provisions of this subparagraph.

25 (ii) The likelihood that the farmlands would be
26 converted to nonagricultural use unless subject to an
27 agricultural conservation easement and, if a local or
28 county comprehensive plan exists, the likelihood
29 compliance with the comprehensive plan would be achieved
30 if the proposed easement of the subject farm were

1 purchased. Areas in the county devoted primarily to
2 agricultural use where development is occurring or is
3 likely to occur in the next 20 years should be
4 identified. For purposes of considering the likelihood of
5 conversion, the existence of a zoning classification of
6 the land shall not be relevant, but the market for
7 nonfarm use or development of farmlands shall be
8 relevant. A county program shall require a minimum
9 weighted value of 10% for prioritizing applications for
10 agricultural conservation easement purchase when
11 implementing the provisions of this subparagraph.

12 (ii.1) Proximity of the farmlands subject to
13 proposed easements to other agricultural parcels in the
14 county which are subject to agricultural conservation
15 easements. A county program shall require a minimum
16 weighted value of 25% for prioritizing applications for
17 agricultural conservation easement purchase when
18 implementing the provisions of this subparagraph.

19 (iii) The stewardship of the land and use of
20 conservation practices and best land management
21 practices, including, but not limited to, soil erosion
22 and sedimentation control as required by the act of June
23 22, 1937 (P.L.1987, No.394), known as "The Clean Streams
24 Law," and nutrient and odor management as may be required
25 by 3 Pa.C.S. Ch. 5 (relating to nutrient and odor
26 management). A conservation plan shall only be required
27 to be updated when a change in land management practice
28 takes place or when a violation of "The Clean Streams
29 Law" occurs. A county program shall require a minimum
30 weighted value of 10% for prioritizing applications for

1 agricultural conservation easement purchase when
2 implementing the provisions of this subparagraph.

3 (iv) Fair, equitable, objective and
4 nondiscriminatory procedures for determining purchase
5 priorities.

6 (v) [(I)] Contiguous acreage as follows:

7 (A) Provisions requiring a farmland tract to be
8 contiguous acreage of at least 50 acres in size
9 unless the tract is at least ten acres in size and is
10 either utilized for a crop unique to the area or is
11 contiguous to property which has a perpetual
12 conservation easement in place held by a "qualified
13 organization" as defined in section 170(h) (3) of the
14 Internal Revenue Code of 1986 (Public Law 99-514, 26
15 U.S.C. § 170(h) (3)).

16 [(II)] (B) A county may require a farmland tract
17 to be contiguous acreage of at least 35 acres in size
18 unless the tract is at least ten acres in size and is
19 either utilized for a crop unique to the area or is
20 contiguous to a property which has a perpetual
21 conservation easement in place held by a "qualified
22 conservation organization" as defined in section
23 170(h) (3) of the Internal Revenue Code of 1986. If a
24 county implements the provisions of this subclause,
25 State funds used for the purchase of an agricultural
26 conservation easement less than 50 acres in size may
27 include costs incidental to the purchase and shall
28 not exceed 50% of the purchase price per acre, unless
29 it is at least ten acres in size and is either
30 utilized for a crop unique to the area or is

1 contiguous to a property which has a perpetual
2 conservation easement in place held by a "qualified
3 conservation organization" as defined in section
4 170(h)(3) of the Internal Revenue Code of 1986. A
5 county program:

6 (I) shall require a minimum weighted value
7 of 20% for prioritizing applications for
8 agricultural conservation easement purchase when
9 implementing the provisions of paragraph (ii.1);
10 and

11 (II) may, as part of an approved county
12 program, prohibit the right conferred by
13 subsection (c)(6)(iv) to construct and use
14 structures on the subject land for the
15 landowner's principal residence of seasonal or
16 full-time employees.

17 * * *

18 (h) Allocation of State moneys.--By March 1 of each year,
19 the State board shall make an annual allocation among counties,
20 except counties of the first class, for the purchase of
21 agricultural conservation easements.

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

25 [(i) "Adjusted weighted transfer tax revenues." An
26 amount equal to the weighted transfer tax revenues of a
27 county divided by the sum of the weighted transfer tax
28 revenues of all counties except counties of the first
29 class.]

30 (ii) "Annual agricultural production." The total

1 dollar volume of sales of livestock, crops and
2 agricultural products according to the most recent Annual
3 Crop and Livestock Summary published by the Pennsylvania
4 Agricultural Statistics Service.

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

8 (iv) "Average realty transfer tax revenues." The
9 total annual realty transfer tax revenues collected in
10 all counties, except counties of the first class, divided
11 by 66.

12 (v) "Realty transfer tax revenues." The tax imposed
13 and collected under section 1102-C of the act of March 4,
14 1971 (P.L.6, No.2), known as the "Tax Reform Code of
15 1971."

16 [(vi) "Weighted transfer tax revenues." An amount
17 equal to the total annual realty transfer tax revenues
18 collected in a county divided by the sum of the total
19 annual realty transfer tax revenues collected in all
20 counties except counties of the first class which does
21 not exceed three times the average realty transfer tax
22 revenues.

23 (2) An annual allocation shall be made to each county,
24 except counties of the first class, for the purchase of
25 agricultural conservation easements by the Commonwealth at
26 the beginning of the county fiscal year which equals 50% of
27 the annual easement purchase threshold multiplied by the
28 adjusted weighted transfer tax revenues of the county for the
29 preceding calendar year.

30 (3) If the aggregate annual allocation under this

1 paragraph to all counties, except counties of the first
2 class, does not exceed 50% of the annual easement purchase
3 threshold, an additional annual allocation from 50% of the
4 annual easement purchase threshold shall be made to a county,
5 except a county of the first class, at the beginning of the
6 county fiscal year for the joint purchase of agricultural
7 conservation easements by the Commonwealth and a county. The
8 additional annual allocation under this paragraph shall equal
9 the sum of:

10 (i) The annual appropriation of local moneys by a
11 county for the purchase of agricultural conservation
12 easements which does not exceed the average annual
13 allocation under paragraph (2) multiplied by four.

14 (ii) The annual appropriation of local moneys by a
15 county for the purchase of agricultural conservation
16 easements which does not exceed the average annual
17 allocation under paragraph (2) multiplied by four, if the
18 county has an annual agricultural production which equals
19 at least 2% of the total annual agricultural production
20 of the Commonwealth for the same year.

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

1 multiplied by a percentage equal to the annual appropriation
2 of local moneys appropriated by the county for the purchase
3 of agricultural conservation easements divided by the
4 aggregate of local moneys appropriated by all counties,
5 except counties of the first class, for the purchase of
6 agricultural conservation easements and in all cases shall
7 not exceed the average annual allocation under paragraph (2)
8 multiplied by four.

9 (5) An additional annual allocation shall be made to a
10 county, except a county of the first class, from the amount
11 by which 50% of the annual easement purchase threshold
12 exceeds the total allocations made under paragraph (3) or
13 (4), as the case may be, as follows:

14 (i) An additional annual allocation shall be made
15 for the joint purchase of agricultural conservation
16 easements by the Commonwealth and a county which equals
17 six-tenths of the amount by which 50% of the annual
18 easement purchase threshold exceeds the total allocations
19 made under paragraph (3) or (4), as the case may be,
20 multiplied by a percentage equal to the annual
21 appropriation of local moneys appropriated by the county
22 for the purchase of agricultural conservation easements
23 divided by the aggregate of local moneys appropriated by
24 all counties, except counties of the first class, for the
25 purchase of agricultural conservation easements.

26 (ii) An additional annual allocation shall be made
27 for the purchase of agricultural conservation easements
28 by the Commonwealth which equals four-tenths of the
29 amount by which 50% of the annual easement purchase
30 threshold exceeds the total allocations made under

1 paragraph (3) or (4), as the case may be, multiplied by
2 the adjusted weighted transfer tax revenues of the county
3 for the preceding calendar year.]

4 (6) The allocation of a county shall be adjusted for
5 purchases of agricultural conservation easements made with
6 moneys from the county's allocation, for all costs, except
7 administrative costs, incurred by the Commonwealth or a
8 county incident to the purchase of agricultural conservation
9 easements and for the costs of reimbursing nonprofit land
10 conservation organizations for expenses incurred in acquiring
11 and transferring agricultural conservation easements to the
12 Commonwealth or county. No purchase of an agricultural
13 conservation easement shall be made with State moneys
14 allocated to a county unless the amount of the purchase price
15 is equal to or less than the adjusted allocation or the
16 county pays the portion of the purchase price which
17 represents the difference between the purchase price and the
18 adjusted allocation.

19 (8.1) [Beginning with the annual allocation under
20 paragraphs (2), (3), (4) and (5) made by March 1, 1995, and
21 for each] An annual allocation [thereafter, money allocated
22 to counties which are not eligible counties] shall be
23 [immediately reallocated to eligible counties.] made to each
24 eligible county for the purchase of agricultural conservation
25 easements at the beginning of the county fiscal year as
26 follows:

27 (i) Fifty percent [of the money available for
28 reallocation under this paragraph] shall be [reallocated]
29 allocated to eligible counties on the basis of the annual
30 agricultural production in each eligible county as a

1 percentage of the total annual agricultural production in
2 all those eligible counties.

3 (ii) Twenty-five percent [of the money available for
4 reallocation under this paragraph] shall be [reallocated]
5 allocated to eligible counties on the basis of the realty
6 transfer tax revenues for the last fiscal year in each of
7 the eligible counties as a percentage of the total realty
8 transfer tax revenues for the last fiscal year in all
9 those eligible counties.

10 (iii) Twenty-five percent [of the money available
11 for reallocation under this paragraph] shall be
12 [reallocated] allocated to eligible counties on the basis
13 of the local moneys appropriated by eligible counties for
14 the purchase of agricultural conservation easements for
15 the current county fiscal year in each of the eligible
16 counties plus an amount equal to the amount appropriated
17 for agricultural conservation easement purchases in the
18 county in the preceding year by an eligible nonprofit
19 entity as a percentage of the total of local moneys
20 appropriated Statewide for the purchase of agricultural
21 conservation easements for the current county fiscal year
22 in all those eligible counties plus an amount equal to
23 the amount appropriated for agricultural conservation
24 easement purchases in this Commonwealth in the preceding
25 year by eligible nonprofit entities.

26 (8.2) The total annual allocation made to an eligible
27 county by March 1 of the county's fiscal year for the
28 purchase of agricultural conservation easements [and the
29 total annual reallocation made to an eligible county under
30 paragraph (8.1)] may be spent over a period of two

1 consecutive county fiscal years. Money allocated [or
2 reallocated] to a county under this subsection which has not
3 been expended or encumbered by such county at the conclusion
4 of the second county fiscal year shall be restored to the
5 fund. Such money shall not be restored to the fund if by
6 December 31 of the second fiscal year the department has
7 received an agreement executed by the landowner and the
8 county to purchase a specific agricultural conservation
9 easement as part of the county board's recommendation for
10 purchase.

11 (8.3) Money appropriated to an eligible county which has
12 not purchased or encumbered an agricultural conservation
13 easement in five consecutive years shall be immediately
14 reappropriated to all other eligible counties as described
15 under paragraph (8.1). A county whose money has been
16 reappropriated under this paragraph shall notify the State
17 board of its intent to purchase agricultural conservation
18 easements before the beginning of the county fiscal year in
19 which the county intends to become active.

20 (9) [The] Except as provided in paragraph (9.1), the
21 allocation made to a county under this subsection shall be
22 used for the purchase of agricultural conservation easements
23 in perpetuity.

24 (9.1) Each year a county may use up to the lesser of 10%
25 or \$20,000 of the money provided under this subsection to
26 enforce agricultural conservation easements, including the
27 payment of legal costs associated with defending an
28 agricultural conservation easement, as required under this
29 act. Funds not spent under this paragraph after one year must
30 be reallocated for easement purchases within the county.

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

9 (ii) Nothing in this paragraph shall affect any
10 reallocation made prior to the effective date of this
11 paragraph.]

12 (11) Whenever the State board approves the
13 recommendation made by a county for purchase of an
14 agricultural conservation easement on an installment or other
15 deferred basis and final payment is to be made more than five
16 years from the date the agricultural conservation easement
17 purchase agreement is fully executed, the moneys allocated to
18 the county for the purchase of such easement, exclusive of
19 interest, shall be transferred to the county and may be
20 invested by the county in the manner provided by law.
21 Transfer of the moneys to the county shall relieve the
22 Commonwealth of any obligation to pay or assure the payment
23 of the purchase price and interest.

24 (i) Subdivision of land after easement purchase.--

25 (1) Each county program shall specify the conditions
26 under which the subdivision of land subject to an
27 agricultural conservation easement may be permitted. In no
28 case, however, shall a county program permit a subdivision
29 which will do any of the following:

30 (i) [harm] Harm the economic viability of the

1 farmland for agricultural production[; or].

2 (ii) [convert] Convert land which has been devoted
3 primarily to agricultural use to another primary use,
4 except that a county program may permit one subdivision
5 for the purpose of the construction of a principal
6 residence for the landowner or an immediate family
7 member. The right of subdivision for construction of a
8 principal residence may be relinquished and extinguished
9 or prohibited under subsection (c) (6) (iv).

10 (2) The county board may agree to permit a parcel of
11 land subject to an agricultural conservation easement to be
12 subdivided after the granting of such easement as follows:

13 (i) The landowner of record may submit an
14 application, in such form and manner as the county board
15 may prescribe, to the county board requesting that a
16 parcel of the land subject to an easement be subdivided.
17 Upon receipt of the application, the county board shall
18 cause to be forwarded written notification thereof to the
19 county zoning office, county planning office and county
20 farmland preservation office, herein referred to as the
21 reviewing agencies. Each reviewing agency shall have 60
22 days from receipt of such notification to review, comment
23 and make recommendations on the proposed application to
24 the county board.

25 (ii) After reviewing the application and the
26 comments and recommendations submitted by the reviewing
27 agencies, the county board shall approve or reject the
28 application to subdivide within 120 days after the date
29 of its filing unless the time is extended by mutual
30 agreement of the landowner and reviewing agencies.

1 (iii) If the application to subdivide land is
2 approved by the county board, a copy of the application,
3 along with the comments and recommendations of the
4 reviewing agencies, shall be forwarded to the State board
5 for review and approval or disapproval. When reviewing an
6 application to subdivide land subject to an agricultural
7 conservation easement, the State board shall consider
8 only whether the application complies with the conditions
9 under which subdivisions are permitted by the approved
10 county program. The State board shall notify the county
11 board of its decision regarding the application.

12 (iv) If the application to subdivide is rejected by
13 the county board, the application shall be returned to
14 the landowner with a written statement of the reasons for
15 such rejection. Within 30 days after the receipt of the
16 statement of rejection, the landowner may appeal the
17 rejection in accordance with 2 Pa.C.S. Ch. 5 Subch. B
18 (relating to practice and procedure of local agencies)
19 and Ch. 7 Subch. B (relating to judicial review of local
20 agency action).

21 (i.1) Transfer of less than the entirety of the land
22 described in a deed of agricultural conservation easement.--

23 (1) Each county program shall specify the conditions
24 under which an owner of land subject to an agricultural
25 conservation easement may transfer less than the entirety of
26 the land described in the deed of agricultural conservation
27 easement. The conditions may prohibit, restrict or limit the
28 transfer of less than the entirety of the land described in
29 the deed of agricultural conservation easement. A county
30 program may not permit a transfer of less than the entirety

1 of the land described in the deed of agricultural
2 conservation easement if the transfer will:

3 (i) cause an owner of land described in the deed of
4 agricultural conservation easement to own an aggregate
5 portion of that land that contains less than 50% of soils
6 that are:

7 (A) available for agricultural production; and

8 (B) of land capability classes I, II, III and
9 IV, as defined by the United States Department of
10 Agriculture Natural Resources Conservation Service.

11 (ii) convert land that has been devoted primarily to
12 agricultural use to another primary use;

13 (iii) cause any owner of land described in the deed
14 of agricultural conservation easement to own a portion of
15 the land that is less than:

16 (A) Fifty-two contiguous acres in size; or

17 (B) Thirty-five contiguous acres in size within
18 a county that allows for the establishment of
19 agricultural conservation easements on tracts of at
20 least 35 acres under subsection (d) (1) (v) (B); or

21 (iv) cause an owner of land described in the deed of
22 agricultural conservation easement to own an aggregate
23 portion of that land that has less than 50% of its
24 acreage in harvested cropland, pasture or grazing land.

25 (2) The county board may agree to permit the owner of
26 land subject to an agricultural conservation easement to
27 transfer less than the entirety of the land described in the
28 deed of agricultural conservation easement as follows:

29 (i) The landowner of record may submit an
30 application, in a form and manner as the board shall

1 prescribe, to the county board requesting approval for
2 the landowner to transfer less than the entirety of the
3 land described in the deed of agricultural conservation
4 easement.

5 (ii) The county board shall review the application
6 to determine whether the proposed transfer meets the
7 criteria set forth in paragraph (1)(i), (ii), (iii) and
8 (iv) and complies with the approved county program.

9 (iii) After reviewing the application, the county
10 board shall approve or reject the application within 120
11 days after the date of its filing unless the time is
12 extended by mutual agreement of the landowner and the
13 county board.

14 (iv) If the application is approved by the county
15 board, a copy of the application shall be forwarded to
16 the State board for review and approval or disapproval.
17 When reviewing an application requesting approval under
18 this paragraph, the State board shall consider only
19 whether the application complies with the conditions
20 under which the transfers are permitted by the approved
21 county program. The State board shall notify the county
22 board of its decision regarding the application.

23 (v) If an application under this paragraph is
24 rejected by the county board, it must be returned to the
25 landowner with a written statement of the reasons for the
26 rejection. Within 30 days after the receipt of the
27 statement of rejection, the landowner may appeal the
28 rejection in accordance with 2 Pa.C.S. Chs. 5 Subch. B
29 (relating to practice and procedure of local agencies)
30 and 7 Subch. B (relating to judicial review of local

1 agency action).

2 * * *

3 (j.1) Easement amendments.--

4 (1) A county shall specify the conditions under which an
5 existing deed of easement may be amended to add an easement
6 purchased on land which:

7 (i) is contiguous to the land subject to the
8 original deed of easement; and

9 (ii) except for minimum acreage requirements under
10 subsection (d) (v), otherwise qualifies for easement
11 purchase under this act.

12 (2) A deed of merger shall be required under this
13 subsection.

14 (3) Notwithstanding any other provision of law, the
15 restrictions set forth in the original deed of easement
16 executed in connection with the purchase of the original
17 agricultural conservation easement shall be binding on the
18 amended deed of easement.

19 (4) Easement amendments must be brought before the State
20 board for approval in the manner prescribed under subsection
21 (d) for easement purchases.

22 (k) Provisions for agricultural conservation easements.--

23 (1) Any land subject to an agricultural conservation
24 easement under this act shall continue to be subject to the
25 provisions of sections 11, 12 and 13 regardless of any future
26 modification or termination of the agricultural security area
27 under section 9.

28 (2) Any land subject to an agricultural conservation
29 easement under this act shall remain under and subject to the
30 agricultural conservation easement regardless of whether the

1 agricultural security area in which the land is located was
2 established and maintained in accordance with the
3 requirements of this act.

4 Section 5. Section 14.2 of the act, amended or added
5 December 14, 1988 (P.L.1202, No.149) and May 15, 2006 (P.L.190,
6 No.46), is amended to read:

7 Section 14.2. Agricultural Conservation Easement Purchase Fund.

8 (a) Purpose of fund.--

9 (1) The Agricultural Conservation Easement Purchase Fund
10 shall be the source from which all moneys are authorized with
11 the approval of the Governor to carry out the purpose of this
12 act.

13 (2) Except as set forth in paragraph 3, the moneys
14 appropriated to the fund shall be utilized in accordance with
15 the expenditures and distribution authorized, required or
16 otherwise provided in the program for purchase of
17 agricultural conservation easements contained in section
18 14.1, for the purpose of paying all costs, except excluding
19 administrative costs but including costs associated with
20 enforcement of agricultural conservation easements under
21 section 14.1(h)(9.1), incurred by the Commonwealth or a
22 county incident to the purchase of agricultural conservation
23 easements, and for the purpose of reimbursing nonprofit land
24 conservation organizations for expenses incurred in acquiring
25 and transferring agricultural conservation easements to the
26 Commonwealth or a county.

27 (3) Each fiscal year, up to \$200,000 of the money in the
28 fund may be used for the purpose of reimbursement allocation
29 under section 14.6(b). Up to 10% of these funds may be used
30 for administrative expenses of the department incurred under

1 section 14.6(b).

2 (b) Interfund transfers authorized.--

3 (1) Whenever the cash balance and the current estimated
4 receipts of the Agricultural Conservation Easement Purchase
5 Fund shall be insufficient at any time during any State
6 fiscal year to meet promptly the obligations of the
7 Commonwealth from such fund, the State Treasurer is hereby
8 authorized and directed, from time to time during such fiscal
9 year, to transfer from the General Fund to the Agricultural
10 Conservation Easement Purchase Fund such sums as the Governor
11 directs, but in no case less than the amount necessary to
12 meet promptly the obligations to be paid from such fund nor
13 more than an amount which is the smallest of:

14 (i) the difference between the amount of debt
15 authorized to be issued under the authority of this act
16 and the aggregate principal amount of bonds and notes
17 (not including refunding bonds and replacement notes)
18 issued; and

19 (ii) the difference between the aggregate principal
20 amount of bonds and notes permitted under section 14.3(e)
21 to be issued during a State fiscal year and the aggregate
22 principal amount of bonds and notes (not including
23 refunding bonds and replacement notes) issued during such
24 State fiscal year.

25 Any sums so transferred shall be available only for the
26 purposes for which funds are appropriated from the
27 Agricultural Conservation Easement Purchase Fund. Such
28 transfers shall be made hereunder upon warrant of the State
29 Treasurer upon requisition of the Governor.

30 (2) In order to reimburse the General Fund for moneys

1 transferred from such fund under section 14.2(b)(1), there
2 shall be transferred moneys to the General Fund from the
3 Agricultural Conservation Easement Purchase Fund from
4 proceeds obtained from bonds and notes issued under the
5 authority of this act or from other available funds in such
6 amounts and at such times as the Governor shall direct. Such
7 retransfers shall be made upon warrant of the State Treasurer
8 upon requisition of the Governor.

9 Section 6. This act shall take effect as follows:

10 (1) The amendment of section 14.1(d)(1) of the act shall
11 take effect two years after the portion of the act specified
12 in paragraph (4) takes effect.

13 (2) The amendment of section 14.1(h) of the act shall
14 take effect March 1 following when the portion of the act
15 specified in paragraph (4) takes effect.

16 (3) This section shall take effect immediately.

17 (4) The remainder of this act shall take effect in 60
18 days.