

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 188 Session of 2015

INTRODUCED BY SONNEY, V. BROWN, COHEN, JAMES, MILLARD, MURT, O'BRIEN, PASHINSKI, ROSS, McCARTER, PEIFER, GIBBONS, SABATINA AND MOUL, JANUARY 23, 2015

AMENDMENTS TO SENATE AMENDMENTS, HOUSE OF REPRESENTATIVES, JUNE 16, 2015

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 definitions and for the purchase of
4 agricultural conservation easements.

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

7 Section 1. Section 3 of the act of June 30, 1981 (P.L.128,
8 No.43), known as the Agricultural Area Security Law, is amended
9 by adding definitions to read:

10 Section 3. Definitions.

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

14 * * *

15 "Threatened or endangered species." Any of the following:

16 (1) Animals or plants identified as threatened or
17 endangered under one of the following:

1 (i) The Endangered Species Act of 1973 (Public Law
2 93-205, 16 U.S.C. § 1531 et seq.).

3 (ii) The act of June 23, 1982 (P.L.597, No.170),
4 known as the Wild Resource Conservation Act.

5 (iii) 30 Pa.C.S. (relating to fish).

6 (iv) 34 Pa.C.S. (relating to game).

7 (2) An animal or plant species proposed for listing as
8 an endangered or threatened species under the Endangered
9 Species Act of 1973.

10 * * *

11 "Wind power generation system." A system of wind turbines
12 larger than 100 kilowatts designed to collect and utilize wind
13 power for the purpose of delivering electricity to the power
14 grid to be distributed to an end user by an electric utility or
15 power system operator. The term includes the foundation of a
16 wind turbine and appurtenant structures, including new roads and
17 bridges, transmission lines, substations and other related
18 buildings or structures.

19 Section 2. Section 14.1(c)(6) of the act is amended by
20 adding a subparagraph to read:

21 Section 14.1. Purchase of agricultural conservation easements.

22 * * *

23 (c) Restrictions and limitations.--An agricultural
24 conservation easement shall be subject to the following terms,
25 conditions, restrictions and limitations:

26 * * *

27 (6) An agricultural conservation easement shall not
28 prevent:

29 * * *

30 (vii) The granting of rights-of-way by the owner of

1 the subject land in and through the land for the
2 installation of or use of a wind power generation system,
3 if all of the following apply:

4 (A) The subject land consists of 50 or more
5 acres.

6 (B) If the subject land consists of less than
7 100 acres, the wind power generation system may be
8 constructed on no more than two acres of the subject
9 land.

10 (C) If the subject land consists of 100 or more
11 acres, the wind power generation system may be
12 constructed on no more than two acres of the subject
13 land, plus two additional acres for every 50 acres by
14 which the subject land exceeds 100 acres.

15 (D) If the subject land upon which the wind
16 power generation system is constructed is
17 subsequently subdivided or conveyed or transferred in
18 whole or in part, the subject land upon which the
19 wind power generation system is located must continue
20 to consist of 50 or more acres.

21 (E) The wind power generation company conducts
22 an assessment or survey to determine the presence of
23 endangered or threatened species and the species'
24 critical habitats in the area likely to be affected
25 by the installation and use of the wind power
26 generation system. The ~~study~~ ASSESSMENT OR SURVEY <--
27 shall further determine whether the installation will
28 adversely affect a threatened or endangered species
29 or a threatened or endangered species' habitat. If
30 there is a determination that the installation or use

1 of the wind power generation system will adversely
2 affect a threatened or endangered species or a
3 threatened or endangered species' habitat, measures
4 shall be implemented BY THE WIND POWER GENERATION <--
5 COMPANY to avoid, minimize or mitigate the adverse
6 effects. FAILURE BY A WIND POWER GENERATION COMPANY <--
7 TO COMPLY WITH THE REQUIREMENTS OF THIS SUBCLAUSE
8 SHALL NOT CONSTITUTE A VIOLATION OF THIS SECTION BY
9 THE LANDOWNER OR A BREACH OF THE LANDOWNER'S
10 OBLIGATIONS UNDER THE AGRICULTURAL CONSERVATION
11 EASEMENT.

12 * * *

13 Section 3. The addition of section 14.1(c)(6)(vii) of the
14 act shall apply to agricultural conservation easements executed
15 after June 29, 1981.

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