

No. 1994-100

AN ACT

HB 2520

Amending the act of June 30, 1981 (P.L.128, No.43), entitled "An act authorizing the creation of agricultural areas," providing for definitions, for decision on proposed area, for agricultural security areas and for installment purchase programs; further providing for evaluation criteria and decision on proposed area; and further authorizing investment of State money.

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

Section 1. The definitions of "agricultural security area" and "planning commission" in section 3 of the act of June 30, 1981 (P.L.128, No.43), known as the Agricultural Area Security Law, amended December 14, 1988 (P.L.1202, No.149), are amended and the section is amended by adding a definition to read:

Section 3. Definitions.

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

* * *

"Agricultural security area." A unit of [500] 250 or more acres of land used for the agricultural production of crops, livestock and livestock products under the ownership of one or more persons and designated as such by the procedures set forth in this act or designated as such pursuant to the act of January 19, 1968 (1967 P.L.992, No.442), entitled "An act authorizing the Commonwealth of Pennsylvania and the counties thereof to preserve, acquire or hold land for open space uses," prior to the effective date of this amendatory act, by the governing body of the county or governing body of the municipality in which such agricultural land is located on the basis of criteria and procedures which predate the effective date of this amendatory act: Provided, That an owner of land designated as such under the authority of the act of January 19, 1968 (1967 P.L.992, No.442) may withdraw such land from an agricultural security area by providing written notice of withdrawal to the county governing body or governing body of the municipality in which such land is located within 180 days of the effective date of this amendatory act.

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"County planning commission." A planning commission or agency which has been designated by the county governing body to establish and

foster a comprehensive plan for land management and development within the county.

* * *

“Planning commission.” A local government planning commission or agency which has been designated by the governing body of the local government unit to establish and foster a comprehensive plan for land management and development within the local government unit[, or if a county planning commission or agency, then that entity which has been designated by the county governing body to establish and foster a comprehensive plan for land management and development within the county].

* * *

Section 2. Section 5(a), (a.2), (a.3) and (d) of the act, amended or added December 14, 1988 (P.L.1202, No.149) and April 13, 1992 (P.L.100, No.23), are amended to read:

Section 5. Agricultural security areas.

(a) Proposals for creation.—Any owner or owners of land used for agricultural production may submit a proposal to the governing body for the creation of an agricultural security area within such local government unit, provided that such owner or owners own at least [500] 250 acres of viable agricultural land proposed to be included in the area. The proposed area may also consist of two or more noncontiguous tax parcels or accounts: Provided, That each tax parcel or account is at least ten acres.

* * *

(a.2) Proposals for agricultural security areas in more than one local government unit.—If the land included in a proposal for an agricultural security area is situated in more than one local government unit, the proposal shall be submitted to, and approval of the proposal shall be sought from, the governing body of each such local government unit affected. The governing bodies may cooperate in the review of a proposed agricultural security area and may provide joint public notices, a joint agricultural security area advisory committee and a joint public hearing on the security area. A rejection by a governing body shall exclude that portion of the proposal which is situated within the local government unit. However, such rejection shall not preclude the approval of the remaining portion of the proposal as an agricultural security area by the governing body of the other affected local government units, provided that the total acreage approved is at least [500] 250 acres and that such approved portion meets all other requirements imposed under this act for agricultural security areas.

(a.3) Fees.—[A] *Except as provided in this subsection*, a governing body shall not require landowners included in a proposed agricultural security area to pay any fees in connection with the application for or the review of agricultural security areas as required in this section and sections 6, 7, 8 and 9. *A governing body may by resolution impose reasonable filing fees in connection with the administration and review of an agricultural security*

area application that proposes to include substantially the same lands as proposed in a previously submitted application that the governing body had rejected within the last 36 months based on the recommendations of the Agricultural Security Area Advisory Committee and the planning commission.

* * *

(d) Report by planning commission.—

(1) For a planning commission which is not a county planning commission, the following shall apply:

(i) The governing body shall, upon the termination of the 15-day period provided in subsection (b)(3), refer such proposal and proposed modifications to the planning commission.

(ii) The planning commission shall have up to 45 days to review the proposal and proposed modifications and report to the governing body the potential effect of such proposal and proposed modifications upon the local government's planning policies and objectives.

(iii) The failure of the planning commission to submit a report within 45 days shall be deemed to constitute approval of the proposed agricultural security area by the planning commission.

(2) For a county planning commission, the following shall apply:

(i) The governing body shall, upon the termination of the 15-day period provided in subsection (b)(3), refer such proposal and proposed modifications to the county planning commission.

(ii) The county planning commission shall have up to 45 days to review the proposal and proposed modifications and report to the governing body its recommendations concerning the proposal and proposed modifications.

(iii) The failure of the county planning commission to submit a report within 45 days shall be deemed to constitute approval of the proposed agricultural security area by the county planning commission.

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Section 3. Section 7(a) of the act, amended December 14, 1988 (P.L.1202, No.149), is amended to read:

Section 7. Evaluation criteria.

(a) Factors to be considered.—The following factors shall be considered by the planning commission, advisory committee, and at any public hearing:

(1) Land proposed for inclusion in an agricultural security area shall have soils which are conducive to agriculture. This factor will have been satisfied without further consideration if at least 50% in the aggregate of the land to be included in an agricultural security area falls into one of the following categories: land whose soils are classified in Soil Conservation Service Capability Classes I through IV, excepting IV(e); land which falls within the Soil Conservation Service classification of "unique farm land"; or land whose soils do not meet Capability Classes I through IV but which

is currently in active farm use and is being maintained in accordance with the soil erosion and sedimentation plan applicable to such land.

(2) Use of land proposed for inclusion in an agricultural security area shall be compatible with local government unit comprehensive plans. Any zoning shall permit agricultural use but need not exclude other uses.

(3) *The landowner may propose to include all of his land, regardless of zoning, in an agricultural security area.*

[(3)] (4) The land proposed for inclusion in the agricultural security area, and any additions which are proposed subsequently, shall be viable agricultural land.

[(4)] (5) Additional factors to be considered are the extent and nature of farm improvements, anticipated trends in agricultural economic and technological conditions and any other matter which may be relevant.

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Section 4. Section 8(e) and (f) of the act, amended April 13, 1992 (P.L.100, No.23), are amended to read:

Section 8. Decision on proposed area.

* * *

(e) Participation.—Participation in the agricultural security area shall be available on a voluntary basis to landowners within the jurisdiction of the governing body including those not among the original petitioners. The deletion of land in the agricultural security area shall only occur after seven years or whenever the agricultural security area is subject to review by the governing body.

(f) *Additions of land to agricultural security area during seven-year period.*—The addition of land to the agricultural security area may occur at any time during the seven-year period provided for in section 9[**Provided, That any**]. *Land may be added to an existing agricultural security area located entirely outside the local government unit in which the proposed land is located: Provided That, prior to the submission of the proposal, the local government unit in which the proposed land is located and each local government unit in which the existing agricultural security area is located have adopted an ordinance or resolution allowing all land to be part of an individual agricultural security area located or to be located in all such local government units.* Any proposal for such addition, and for approval or disapproval thereof, shall follow all the procedures and requirements of sections 5, 6 and 7 and this section for proposal, consideration and decision as to approval or disapproval of the original agricultural security area *except that there shall be no requirement that any proposal for such addition include at least 250 acres of viable agricultural land.* If the land comprising the additional proposal could be added to more than one existing agricultural security area, or shall lie in more than one [township] local government unit, the proposal shall be considered as an addition to the agricultural security area which was first approved. Land added to an existing agricultural security

area during any seven-year period shall be reviewed at the same time as all other land in the agricultural security area.

[(f)] (g) Notification to secretary.—Within ten days of the recording of the agricultural security area, the governing body shall notify the Secretary of Agriculture that the area has been approved and recorded, modified or terminated. Such notification shall be in writing and shall include the number of landowners, the total acreage of the area, the date of approval by the governing body and the date of recording. The notification shall include only one landowner when land is under multiple ownership or is comprised of multiple parcels or accounts.

Section 5. Section 14.1(e)(1)(iii) and (g) of the act, amended or added December 14, 1988 (P.L.1202, No.149) and April 13, 1992 (P.L.100, No.23), are amended and subsections (b) and (h) are amended by adding paragraphs to read:

Section 14.1. Purchase of agricultural conservation easements.

* * *

(b) County programs.—After the establishment of an agricultural security area by the governing body, the county governing body may authorize a program to be administered by the county board for purchasing agricultural conservation easements from landowners whose land is within an agricultural security area.

* * *

(5) The governing body of the county may authorize the establishment of a program for the purchase of agricultural conservation easements on an installment or other deferred basis. The obligation of the county to make payment on an installment or other deferred basis shall not be subject to the requirements of section 602(b) or (c) of the "Local Government Unit Debt Act."

* * *

(e) Easement purchase.—

(1) The State board may reject the recommendation made by a county for purchase of an agricultural conservation easement whenever:

* * *

(iii) The farmland which would be subject to the agricultural conservation easement is not located within a duly established agricultural security area *of 500 or more acres* established or recognized under this act.

* * *

(g) Purchase price.—The price paid for purchase of an agricultural conservation easement in perpetuity shall not exceed the difference between the nonagricultural value and the agricultural value determined pursuant to subsection (f) at the time of purchase, unless the difference is less than the State or county boards' original appraised value in which case the State or county boards' original easement value may be offered. The price paid for purchase of an easement for a term of 25 years shall not exceed one-tenth of

the difference between the nonagricultural value and the agricultural value determined pursuant to subsection (f) at the time of purchase. The purchase price may be paid in a lump sum, in installments over a period of years, or in any other lawful manner of payment. If payment is to be made in installments or another deferred method, the person selling the easement may receive, in addition to the selling price, interest in an amount or at a rate set forth in the agreement of purchase, and final payment *of all State money* shall be made within, and no later than, five years from the date the agricultural conservation easement purchase agreement was *fully* executed. *The county may provide for payments on an installment or other deferred basis and for interest payments by investing its allocation of State money for purchases approved by the State board under subsection (h)(11) in securities deposited into an irrevocable escrow account or in another manner provided by law.*

(h) Allocation of State moneys.—The State board shall make an annual allocation among counties, except counties of the first class, for the purchase of agricultural conservation easements.

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

Section 6. This act shall take effect January 1, 1995.

APPROVED—The 23rd day of November, A.D. 1994.

ROBERT P. CASEY