

No. 1998-156

## AN ACT

HB 680

Amending the act of December 19, 1974 (P.L.973, No.319), entitled "An act prescribing the procedure under which an owner may have land devoted to agricultural use, agricultural reserve use, or forest reserve use, valued for tax purposes at the value it has for such uses, and providing for reassessment and certain interest payments when such land is applied to other uses and making editorial changes," further providing for definitions, for dedicated agricultural land and for preferential assessment applications; providing for responsibilities of the Department of Agriculture; further providing for responsibilities of county assessors; providing for penalties; and further providing for division and transfer of land, for tax jurisdiction, for tax determination upon abandonment, for appeals and for regulations.

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

Section 1. Section 2 of the act of December 19, 1974 (P.L.973, No.319), known as the Pennsylvania Farmland and Forest Land Assessment Act of 1974, amended March 24, 1980 (P.L.45, No.15), is amended to read:

Section 2. Definitions.—As used in this act, the following words and phrases shall have the meanings ascribed to them in this section unless the context obviously otherwise requires:

"Agricultural commodity." Any [and all plant and animal products including Christmas trees produced in this State for commercial purposes.] of the following:

(1) *Agricultural, apicultural, aquacultural, horticultural, floricultural, silvicultural, viticultural and dairy products.*

(2) *Pasture.*

(3) *Livestock and the products thereof.*

(4) *Ranch-raised furbearing animals and the products thereof.*

(5) *Poultry and the products of poultry.*

(6) *Products commonly raised or produced on farms which are:*

(i) *intended for human consumption; or*

(ii) *transported or intended to be transported in commerce.*

(7) *Processed or manufactured products of products commonly raised or produced on farms which are:*

(i) *intended for human consumption; or*

(ii) *transported or intended to be transported in commerce.*

"Agricultural reserve." Noncommercial open space lands used for outdoor recreation or the enjoyment of scenic or natural beauty and open to the public for such use, without charge or fee, on a nondiscriminatory basis.

**"Agricultural use."** [Use of the land] *Land which is used for the purpose of producing an agricultural commodity or [when devoted to and meeting] is devoted to and meets the requirements and qualifications for payments or other compensation pursuant to a soil conservation program under an agreement with an agency of the Federal Government. The term includes any farmstead land on the tract. The term includes a woodlot and land which is rented to another person and used for the purpose of producing an agricultural commodity.*

**"Capitalization rate."** *The percentage rate used to convert income to value, as determined by the most recent five-year rolling average of fifteen-year fixed loan interest rates offered to landowners by the Federal Agricultural Mortgage Corporation or other similar Federal agricultural lending institution, adjusted to include the landowner's risk of investment and the effective tax rate.*

**"Contiguous tract."** *All portions of one operational unit as described in the deed or deeds, whether or not the portions are divided by streams, public roads or bridges and whether or not the portions are described as multiple tax parcels, tracts, purparts or other property identifiers. The term includes supportive lands, such as unpaved field access roads, drainage areas, border strips, hedgerows, submerged lands, marshes, ponds and streams.*

**"Contributory value of farm building."** *The value of the farm building as an allocated portion of the total fair market value assigned to the tract, irrespective of replacement cost of the building.*

**"Curtilage."** *The land surrounding a residential structure and farm building used for a yard, driveway, on-lot sewage system or access to any building on the tract.*

**"Department."** *The Department of Agriculture of the Commonwealth.*

**"Farm building."** *A structure utilized to store, maintain or house farm implements, agricultural commodities or crops, livestock and livestock products, as defined in the act of June 30, 1981 (P.L.128, No.43), known as the "Agricultural Area Security Law."*

**"Farmstead land."** *Any curtilage and land situated under a residence, farm building or other building which supports a residence, including a residential garage or workshop.*

**"Forest reserve."** *Land, ten acres or more, stocked by forest trees of any size and capable of producing timber or other wood products. The term includes farmstead land on the tract.*

**"Income approach."** *The method of valuation which uses a capitalization rate to convert annual net income to an estimate of present value. Present value is equal to the net annual return to land divided by the capitalization rate.*

**"Land use category."** *Agricultural use, agricultural reserve or forest reserve.*

***“Net return to land.” Annual net income per acre after operating expenses are subtracted from gross income. Calculation of operating expenses shall not include interest or principal payments.***

***“Roll-back tax.”*** The amount equal to the difference between the taxes paid or payable on the basis of the valuation and the assessment authorized hereunder and the taxes that would have been paid or payable had that land been valued, assessed and taxed as other land in the taxing district in the current tax year, the year of change, and in six of the previous tax years or the number of years of preferential assessment up to seven.

***“Separation.”*** A division, by conveyance or other action of the owner, of lands devoted to agricultural use, agricultural reserve or forest reserve and preferentially assessed under the provisions of this act, into two or more tracts of land, the use of which continues to be agricultural *use*, agricultural reserve or forest reserve and all tracts so formed meet the requirements of section 3.

***“Split-off.”*** A division, by conveyance or other action of the owner, of lands devoted to agricultural use, agricultural reserve or forest reserve and preferentially assessed under the provisions of this act into two or more tracts of land, the use of which on one or more of such tracts does not meet the requirements of section 3.

***“Tract.”*** A lot, piece or parcel of land. The term does not refer to any precise dimension of land.

***“USDA-ERS.”*** The United States Department of Agriculture-Economic Research Service.

***“USDA-NRCS.”*** The United States Department of Agriculture-Natural Resources Conservation Service.

***“Woodlot.”*** An area of less than ten acres, stocked by trees of any size and contiguous to or part of land in agricultural use or agricultural reserve.

Section 2. Section 3 of the act is amended to read:

Section 3. Land Devoted to Agricultural Use, Agricultural Reserve, and/or Forest Reserve[, Woodlots].—(a) For general property tax purposes, the value of land which is presently devoted to agricultural use, agricultural reserve, and/or forest reserve shall, on application of the owner and approval thereof as hereinafter provided, be that value which such land has for its particular *land use category* if it also meets the following conditions:

(1) Land presently devoted to agricultural use: Such land was devoted to agricultural use the preceding three years and is not less than ten contiguous acres in area, *including the farmstead land*, or has an anticipated yearly gross income of *at least* two thousand dollars (\$2,000).

(2) Land presently devoted to agricultural reserve: Such land is not less than ten contiguous acres in area, *including the farmstead land*.

(3) Land presently devoted to forest reserve: Such land is not less than ten contiguous acres in area, *including the farmstead land*.

**[(4) The contiguous tract of land for which application is made is not less than the entire contiguous area used by the owner for agricultural or forest reserve purposes.]**

***(a.1) The following apply to enrollment:***

***(1) A landowner may enroll one tract or more than one contiguous tract for preferential assessment if the total area to be enrolled meets the minimum requirements for eligibility otherwise prescribed in this section. A landowner may not enroll less than the entire contiguous portion of land described in the deed applicable to a tract for which enrollment for preferential assessment is sought.***

***(2) A tract of land which is used for agricultural use, agricultural reserve or forest reserve purposes may be enrolled for preferential assessment notwithstanding that the tract itself does not meet the minimum requirements for eligibility otherwise prescribed in this section if the tract is contiguous to a tract or tracts which have been previously enrolled by the landowner for preferential assessment.***

**[(b) The assessor when determining the value of land in agricultural use, agricultural reserve use, or forest reserve use, shall, in arriving at the value of such land for its particular use, consider available evidence of such lands' capability for its particular use as derived from the soil survey at the Pennsylvania State University, the National Cooperative Soil Survey, the United States Census of Agricultural Categories of land use classes, and evidence of the capability of land devoted to such use.**

**[(c) Farm woodlots, contiguous to, and held by the same ownership as other agricultural land is not required to conform to the ten acre minimum forest reserve requirement.]**

***(d) The county board of assessment appeals may not terminate preferential assessment of land previously determined by the board to qualify for preferential assessment without:***

***(1) written notice under section 4(c.1) from the landowner expressing that preferential assessment is to be terminated; or***

***(2) written notice under section 5(a)(2) from the county assessor to the landowner that preferential assessment is to be terminated, stating the reason for such termination and the opportunity for a hearing under section 9.***

***(e) A county assessor may not impose any requirements or conditions of eligibility for preferential assessment other than those otherwise prescribed in this section.***

Section 3. Section 4 of the act, amended May 9, 1984 (P.L.234, No.51), is amended to read:

Section 4. Applications for Preferential Assessments.—(a) The county board for assessment appeals shall have the responsibility to accept and process applications for preferential assessments as prescribed by this act.

***(a.1) A complete and accurate application for preferential assessment shall be accepted by a county board for assessment appeals or a county***

*assessor if the provisions of section 3 are met. All applications for preferential assessment shall be processed in every county in a timely manner to become effective for the tax year of each taxing body which commences in the calendar year immediately following the application deadline.*

(b) Each owner of [agricultural land,] *land qualifying under this act as agricultural use*, agricultural reserve and/or forest reserve, desiring preferential use assessment [under this act,] shall make application to the county board of assessment appeals of the county in which the land is located. [Such] *Except as provided in subsection (b.1), such* application must be submitted on or before June [first] 1 of the year immediately preceding the tax year. Preferential assessment shall continue under the initial application *or an application amended under subsection (f)* until land use change takes place.

*(b.1) In a year when a reassessment is implemented, the application must be submitted within thirty days of the final order of the county board for assessment appeals or by October 15 of the same year, whichever is sooner, regardless of whether or not judicial review of the order is sought.*

*(b.2) A landowner may apply for preferential assessment for any eligible land in any county, regardless of the landowner's county of residence and whether or not the residence of the landowner is situated on the land submitted for application.*

*(b.3) One application may include more than one land use category.*

(c) There shall be uniform application forms for preferential assessment in all counties. Such application forms shall be developed by the [Department of Agriculture] *department*. In addition to the information which the [Department of Agriculture] *department* shall deem appropriate, the following statement shall be included:

*"The applicant for preferential assessment hereby agrees, if his application is approved for preferential assessment, to submit thirty days' notice to the county assessor of a proposed change in use of the land, a [split-off] change in ownership of a portion of the land[,]* or [a] *of any type of division or conveyance of the land.["'] The applicant for preferential assessment hereby acknowledges that, if his application is approved for preferential assessment, roll-back taxes under section 5.1 of the act may be due for a change in use of the land, a change in ownership of any portion of the land, or any type of division or conveyance of the land."*

*(c.1) A landowner receiving preferential assessment under this act shall submit 30 days' notice to the county assessor of a proposed change in use of the land, a change in ownership of any portion of the land, or any type of division or conveyance of the land.*

(d) The approved application for preferential assessment shall be recorded by the county board for assessment appeals in the office of the recorder of deeds for the county in a preferential assessment docket. A breach of the preferential assessment shall also be recorded by the county board for

assessment appeals in the office of the recorder of deeds. The recorder shall charge a fee for the recordings in accordance with the acts relating to the imposition of fees by recorders of deeds. *The recorder of deeds may not impose a fee unless an application for preferential assessment is approved by the county board for assessment appeals.* The fee for recording the breach of the preferential assessment shall be added onto the total of the roll-back taxes due and shall be paid by the owner of the property.

*(e) The county board for assessment appeals may impose a fee for processing applications for preferential assessment of no more than fifty dollars (\$50).*

*(f) Amendments to initial application shall be as follows:*

*(1) When a landowner receiving preferential assessment changes a deed as a result of a split-off, separation, transfer or change of ownership, the county board for assessment appeals shall adjust the initial application to reflect the deed change. Such change shall be recorded in accordance with subsection (d). Recording fees shall be paid by the landowner, and the county assessor may not impose any additional fees for amending an application.*

*(2) Preferential assessment on land which continues to meet the provisions of section 3 shall not lapse and shall continue at the same rate previously established under section 4.2.*

Section 4. The act is amended by adding sections to read:

*Section 4.1. Responsibilities of Department.—(a) By June 30, 1999, and by May 1 of each year thereafter, the department shall establish and provide to all county assessors county-specific use values for land in agricultural use and agricultural reserve in accordance with this section.*

*(b) When establishing county-specific use values for land in agricultural use and agricultural reserve, the department shall consult with the Department of Agricultural Economics and Rural Sociology of the College of Agricultural Sciences at The Pennsylvania State University, the Pennsylvania Agricultural Statistics Service, USDA-ERS, USDA-NRCS and other sources as the department deems appropriate and shall use the income approach for asset valuation.*

*(c) By June 30, 1999, and by May 1 of each year thereafter and in consultation with the Bureau of Forestry of the Department of Conservation and Natural Resources, the department shall establish and provide to all county assessors use values for land in forest reserve.*

*Section 4.2. Responsibilities of County Assessor in Establishing Use Values.—(a) For each application for preferential assessment, the county assessor shall establish a total use value for land in agricultural use and agricultural reserve, including farmstead land, by considering available evidence of the capability of the land for its particular use utilizing the USDA-NRCS Agricultural Land Capability Classification system and other information available from USDA-ERS, The Pennsylvania State University*

*and the Pennsylvania Agricultural Statistics Service. Contributory value of farm buildings shall be used.*

*(b) For each application for preferential assessment, the county assessor shall establish a total use value for land in forest reserve, including farmstead land, by considering available evidence of capability of the land for its particular use. Contributory value of farm buildings shall be used.*

*(c) A county assessor may establish use values which are less than the values provided by the department under section 4.1, but lesser values shall be applied uniformly to all land in the county eligible for preferential assessment.*

Section 5. Section 5 of the act, amended May 21, 1976 (P.L.143, No.68), is amended to read:

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

(1) To indicate on property record cards, assessment rolls, and any other appropriate records, the fair market value, the normal assessed value, *the use value under section 4.2* and the preferentially assessed value of each parcel granted preferential use assessments under this act; and annually, to record on such records all changes, if any, in the fair market value, the normal assessed value, *the use value under section 4.2* and the preferentially assessed value of such properties.

(2) To notify *in writing* the appropriate taxing bodies *and landowner* of any preferential assessments granted or terminated within their taxing jurisdiction *and of the reason for termination* within five days of such change. *There shall be a right of appeal as provided by section 9.*

(3) To notify *in writing* the owner of a property that is preferentially assessed under this act, and the taxing bodies of the district in which such property is situated, of any changes in the fair market value, the normal assessed value, *the use value under section 4.2* or *the* preferentially assessed value within five days of such change. There shall be a right of appeal as provided for in section 9 *[of this act]*.

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

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

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

Section 6. The act is amended by adding sections to read:

**Section 5.1. Penalty for Ineligible Use.**—*If a landowner changes the use of any tract of land subject to preferential assessment under this act to one which is inconsistent with the provisions of section 3 or for any other reason the land is removed from a land use category under section 3, except for a condemnation of the land, the land so removed and the entire tract of which it was a part shall be subject to roll-back taxes plus interest on each year's roll-back tax at the rate of six percent (6%) per annum. After the first seven years of preferential assessment, the roll-back tax shall apply to the seven most recent tax years.*

**Section 5.2. Civil Penalties.**—(a) *The county board for assessment appeals may assess a civil penalty of not more than one hundred dollars (\$100) upon a person for each violation of this act or any regulation promulgated under this act.*

(b) *If a civil penalty is assessed against a person under subsection (a), the county board for assessment appeals must notify the person by certified mail of the nature of the violation and the amount of the civil penalty and that the person may notify the county board for assessment appeals in writing within ten calendar days that the person wishes to contest the civil penalty. If, within ten calendar days from the receipt of that notification, the person does not notify the county board for assessment appeals of intent to contest the assessed penalty, the civil penalty shall become final.*

(c) *If timely notification of the intent to contest the civil penalty is given, the person contesting the civil penalty shall be provided with a hearing in accordance with 2 Pa.C.S. Ch. 5 Subch. B (relating to practice and procedure of local agencies) and Ch. 7 Subch. B (relating to judicial review of local agency action).*

Section 7. Section 6 of the act, amended March 24, 1980 (P.L.45, No.15) and May 31, 1996 (P.L.334, No.51), is amended to read:

Section 6. [Separation,] Split-off, *Separation* or Transfer.—(a) **The split-off of a part of the land which is being valued, assessed and taxed under this act for a use other than agricultural or agricultural reserve or forest reserve shall, except when the split-off occurs through condemnation, subject the land so divided and the entire parcel from which the land was divided to liability for the roll-back taxes as set forth in section 8 of this act except as provided in subsection (b).**

(b) **The owner of property subject to a preferential tax assessment may split-off land covered by the preferential tax assessment: Provided, That the tract of land so split-off shall not exceed two acres annually and may only be used for residential, agricultural, or forest reserve use during such time as the land retained shall continue to receive preferential tax assessment and the construction of a residential dwelling to be occupied by the person to whom the land is transferred: And further provided, That the total parcel or parcels of land so split-off under the provisions of this subsection shall not exceed ten percent or ten acres, whichever is lesser, of the entire tract subject to the**



preferential tax assessment. Any person may bring an action in equity to enjoin any use of the land inconsistent with the use provided in this subsection. Such land shall be subject to roll-back taxes due for each parcel split-off and for such period of time as provided by section 8 of this act. The split-off of a parcel of land which meets the requirements of this section shall not invalidate the preferential tax assessment and the land retained by the landowner shall continue to be eligible for use value assessment if it continues to meet the requirements of section 3 of this act.] *(a.1) (1) The split-off of a part of land which is subject to preferential assessment under this act shall subject the land so split off and the entire tract from which the land was split off to roll-back taxes as set forth in section 5.1. The landowner changing the use of the land to one inconsistent with this act shall be liable for payment of roll-back taxes. The landowner of land which continues to be eligible for preferential assessment shall not be liable for any roll-back taxes triggered as a result of a change to an ineligible use by the owner of the split-off tract. Roll-back taxes under section 5.1 shall not be due if one of the following provisions applies:*

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

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

*(2) Each tract which has been split off under paragraph (1)(i) shall be subject to roll-back taxes for such a period of time as provided in section 5.1. The landowner changing the use of the land shall be liable for payment of roll-back taxes.*

*(3) The split-off of a tract of land which meets the provisions of paragraph (1) shall not invalidate the preferential assessment on any land retained by the landowner which continues to meet the provisions of section 3.*

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

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

*(6) Land which has been split off shall be deemed to be used for residential use, agricultural use, agricultural reserve or forest reserve unless it is demonstrated that the owner of the split-off parcel is actively*

*using the tract in a manner which is inconsistent with residential use, agricultural use, agricultural reserve or forest reserve.*

*(a.2) The owner of land subject to preferential assessment may separate land. If a separation occurs, all tracts formed by the separation shall continue to receive preferential assessment unless, within seven years of the separation, there is a subsequent change of use to one inconsistent with the provisions of section 3. Such subsequent change in use shall subject the entire tract so separated to roll-back taxes as set forth in section 5.1. The landowner changing the use of the land to one inconsistent with the provisions of section 3 shall be liable for payment of roll-back taxes. After seven years from the date of the separation, only that portion of land which has had its use changed to one which is inconsistent with the provisions of section 3 shall be subject to roll-back taxes as set forth in section 5.1. Payment of roll-back taxes shall not invalidate the preferential assessment on any land which continues to meet the provisions of section 3.*

*(a.3) If ownership of land subject to a single application for preferential assessment is transferred to another landowner, the land shall continue to receive preferential assessment, and no roll-back taxes shall be due unless there is a subsequent change of use to one inconsistent with the provisions of section 3. The landowner changing the use of the land to one inconsistent with the provisions of section 3 shall be liable for payment of roll-back taxes. Payment of roll-back taxes shall not invalidate the preferential assessment on any land which continues to meet the provisions of section 3.*

(b.1) The owner of property subject to [a] preferential [tax] assessment may lease land covered by the preferential [tax] assessment to be used for wireless or cellular telecommunication when the following conditions are satisfied:

- (1) The tract of land so leased does not exceed one-half of an acre.
- (2) The tract of land does not have more than one communication tower.
- (3) The tract of land is accessible.
- (4) The tract of land is not sold or subdivided. A lease of land shall not be considered a subdivision under this paragraph.

(b.2) Use of land under this section for wireless services other than wireless telecommunications may only qualify if such wireless services share a tower with a wireless telecommunications provider as provided for in subsection (b.1). Roll-back taxes shall be imposed upon the tract of land leased by the landowner for wireless or cellular telecommunications purposes and the fair market value of that tract of land shall be adjusted accordingly. The lease of such a tract of land shall not invalidate the preferential [tax] assessment of the land which is not so leased, and such land shall continue to be eligible for [use value] *preferential* assessment if it continues to meet the requirements of section 3.

(b.3) The wireless or cellular communications provider shall be solely responsible for obtaining required permits in connection with any construction

on a tract of land which it leases pursuant to the provisions of this section for telecommunications purposes. No permit requested pursuant to this section shall be denied by a municipality for any reason other than failure to strictly comply with permit application procedures.

(c) **The owner of property subject to a preferential use assessment may separate land covered by the preferential use assessment. When a separation occurs, all tracts formed thereby shall continue to receive preferential use assessment, unless a subsequent abandonment of preferential use occurs within seven years of the separation. Such abandonment shall subject the entire tract of land so separated to liability for the roll-back taxes, which are to be paid by the person changing the use, as set forth in section 8. After seven years from the date of the occurrence of the separation, only that portion whose use has been abandoned shall be subject to the roll-back taxes as set forth in section 8.]**

(d) **[When property] Upon the death of a landowner receiving preferential assessment under this act, if land subject to preferential [tax] assessment is [separated] divided among the beneficiaries designated as class A for inheritance tax purposes [of the owner receiving the benefit of preferential tax assessment as a result of the death of the owner a subsequent change in the use of one such beneficiary's portion of the property] and, as a result of such division, one or more tracts no longer meet the provisions of section 3, no roll-back tax shall be due on any of the land which previously qualified for preferential assessment. A subsequent change in the use of one such beneficiary's portion of the [property] divided land shall not subject any other beneficiary's portion of the [property due] divided land to roll-back taxes. Roll-back taxes shall be due only in [accord with provisions of section 8] accordance with the provisions of section 5.1 on the tract held by the beneficiary who changes the use of any portion of his or her inheritance.**

(e) Any change in use of land subject to [a] preferential [use] assessment shall be in compliance with the zoning ordinances of the local municipality, if in effect.

Section 8. Section 7 of the act is amended to read:

Section 7. **Contiguous Land in More Than One Taxing District.**—Where contiguous land in agricultural [or] use, agricultural reserve, and/or forest reserve [use] in one ownership is located in more than one taxing district, compliance with the minimum area requirement *under section 3* shall be determined on the basis of the total area of such land and not the area which is located in the particular taxing district.

Section 9. Section 8 of the act, amended March 24, 1980 (P.L.45, No.15), May 13, 1983 (P.L.9, No.4) and December 12, 1994 (P.L.942, No.133), is amended to read:

Section 8. **[Determination of Amounts of] Roll-Back Taxes [When Use Abandoned]; Special Circumstances.**—[(a) When any tract of land which

is in agricultural use, or agricultural reserve use or forest reserve use and which is being valued, assessed and taxed under the provisions of this act, is applied to a use other than agricultural, agricultural reserve or forest reserve, or for any other reason, except condemnation thereof, is removed from the category of land preferentially assessed and taxed under this act, the land so removed and the entire tract of which it was a part shall be subject to taxes in an amount equal to the difference, hereinafter referred to as roll-back taxes, if any, between the taxes paid or payable on the basis of the valuation and the assessment authorized hereunder and the taxes that would have been paid or payable had that land been valued, assessed and taxed as other land in the taxing district in the current tax year, the year of change, and in six of the previous tax years or the number of years of preferential assessment up to seven, plus interest on each year's roll-back tax at the rate of six percent (6%) per annum. After the first seven years of preferential assessment, the roll-back shall apply to the seven most recent tax years.]

(b) Unpaid roll-back taxes shall be a lien upon the property collectible in the manner provided by law for the collection of delinquent taxes. Roll-back taxes shall become due on the date of change of use, or any other termination of preferential assessment and shall be paid by the owner of the land at the time of change in use, or any other termination of preferential assessment, to the county treasurer or to the tax claim bureau, as the case may be, whose responsibility it shall be to make proper distribution of the taxes [and interest] to the taxing bodies wherein the property is located. Nothing in this section shall be construed to require the taxing body of a taxing district in which land enrolled in preferential use is situated to accept the roll-back taxes [and accrued interest] due and payable to that taxing district if the [preferential] use *of the land* is [abandoned] *changed* for the purpose of granting or donating such land to:

- (1) a school district;
- (2) a municipality;
- (3) a county;
- (4) a volunteer fire company;
- (5) a volunteer ambulance service; [or]

(6) a not-for-profit corporation, tax exempt under section 501(c)(3) of the Internal Revenue Code of 1954 (68A Stat. 3, 26 U.S.C. § 501(c)(3)), provided that, prior to accepting ownership of the land, such corporation enters into an agreement with the municipality wherein the subject land is located guaranteeing that it will be used exclusively for recreational purposes, all of which shall be available to the general public free of charge. In the event the corporation changes the use of all or a portion of the land or charges admission or any other fee for the use or enjoyment of the facilities, the corporation shall immediately become liable for all roll-back taxes and accrued interest previously forgiven pursuant hereto[.]; *or*

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

*(b.1) Any accrued interest on roll-back taxes shall become due on the date of change of use or any other termination of preferential assessment and shall be paid by the landowner liable for roll-back taxes, at the time of change in use or any other termination of preferential assessment, to the county treasurer. The county treasurer shall make proper distribution of the interest to the county commissioners and the county comptroller, as the case may be, who shall properly designate all of the interest for use by the county board of the eligible county under the act of June 30, 1981 (P.L.128, No.43), known as the "Agricultural Area Security Law." The interest shall be in addition to other local money appropriated by an eligible county for the purchase of agricultural conservation easements under section 14.1(h) of the "Agricultural Area Security Law." If the county where the interest is collected is not an eligible county under the "Agricultural Area Security Law," the county treasurer shall forward all of the interest to the Agricultural Conservation Easement Purchase Fund.*

*(b.2) Interest on roll-back taxes distributed in accordance with subsection (b.1) to the county commissioners and the county comptroller, as the case may be, for use by the county board of the eligible county under the "Agricultural Area Security Law" shall be segregated into a special roll-back account, and, notwithstanding any other provisions of the "Agricultural Area Security Law," the eligible county board in distributing moneys from the special roll-back account shall, in its discretion, give priority to the purchase of agricultural conservation easements from agricultural security areas located within the municipal corporation in which the land subject to the roll-back taxes is situate.*

*(c) Within five working days after receipt of a notice from the owner of a property, which is preferentially assessed, of a proposed change in the use of the land, to one not meeting the requirements of section 3, or a split-off of a portion of the land, the county assessor shall:*

*(1) Calculate by years the total of all roll-back taxes due at the time of change and shall notify the property owner of such amounts. In the case of a conveyance of all or part of said land, he shall notify the prospective buyer, if known, of such amounts.*

*(2) With respect to the roll-back taxes for the current year, he shall notify the taxing bodies of the district in which the property is located of the additional amount of assessment upon which taxes shall be levied and collected. In the case of county property taxes, he shall notify the tax collector of the appropriate district of additional county tax to be collected.*

*(3) With respect to roll-back taxes for years prior to the current year which the assessor has determined to be due, he shall file a claim for such amounts with the tax claim bureau or the county treasurer, as the case may*

be, which upon said filing shall constitute a lien having the same force and effect as if filed by the taxing bodies.

(d) (1) A landowner may apply a maximum of [up to] two acres of a tract of land subject to [a preferential use] *preferential* assessment toward direct commercial sales of agriculturally related products and activities ~~or for a rural enterprise incidental to the operational unit~~ without subjecting the entire tract to roll-back taxes, provided that:

[(1)] (i) The commercial activity is owned and operated by the landowner or his beneficiaries who are designated as class A for inheritance tax purposes.

[(2)] (ii) An assessment of the inventory of the goods involved verifies that it is owned by the landowner or his beneficiaries.

(iii) *The rural enterprise does not permanently render the land incapable of producing an agricultural commodity.*

(2) Roll-back taxes shall be imposed upon that portion of the tract where the commercial activity takes place and the fair market value of that tract shall be adjusted accordingly.

(e) (1) Notwithstanding the provisions of subsection (a), no roll-back taxes shall be due and no breach of a preferential assessment shall be deemed to have occurred if:

(i) the land transferred from a preferential assessment is conveyed to a nonprofit corporation for use as a cemetery[; and

(ii)] *and* at least ten acres of land remain in the preferential use after removal[.]; *or*

(iii) *the land transferred from a preferential assessment, or an easement or a right-of-way in that land, is conveyed to a nonprofit corporation and:*

(A) *the subject land does not exceed twenty feet in width;*

(B) *the subject land is used as a trail for nonmotorized passive recreational use;*

(C) *the subject land is available to the public for use without charge; and*

(D) *at least ten acres of land remain in preferential assessment after conveyance.*

(2) [A] *Any acquisition or subsequent resale or change in use* of any of the removed land for use other than as a cemetery *under paragraph (1)(i) or as a trail under paragraph (1)(iii)* shall subject the nonprofit corporation to payment of roll-back taxes and interest due on the entire tract of land removed.

Section 10. Section 9 of the act is amended to read:

Section 9. Appeals.—(a) The owner of a property [upon] *which is subject to preferential assessment or for* which [a] preferential assessment is sought, and the political subdivision in which said property is situated, shall have the right of appeal in accordance with existing law.

(b) When roll-back taxes for prior years are to be collected as provided above, no person and no political subdivision shall be permitted to question

any assessment of any prior year before the Board of Assessment Appeals unless a timely appeal was filed pursuant to the requirements of the acts of Assembly relating to assessment appeals during the time period for which appeals for that year would normally be taken.

Section 11. Section 11 of the act is amended to read:

Section 11. Rules and Regulations.—The [**Secretary of the Department of Agriculture**] *department* shall promulgate rules and regulations necessary to promote the efficient, uniform, Statewide administration of the act.

Section 12. (a) Within 180 days of the effective date of this act, the Department of Agriculture shall promulgate interim regulations to provide to the county assessors guidelines and standardized worksheets for use in implementing the provisions of this act. The guidelines and worksheets shall include a detailed delineation of the procedures to be followed in implementing this act and the methods to be used in establishing use values as required by this act. The interim regulations shall not be subject to review under:

(1) section 205 of the act of July 31, 1968 (P.L.769, No.240), referred to as the Commonwealth Documents Law;

(2) section 204(b) of the act of October 15, 1980 (P.L.950, No.164), known as the Commonwealth Attorneys Act; or

(3) the act of June 25, 1982 (P.L.633, No.181), known as the Regulatory Review Act.

(b) Interim regulations under subsection (a) shall expire April 30, 2001, and shall be replaced by regulations which are promulgated as provided by law.

Section 13. This act shall take effect immediately.

APPROVED—The 21st day of December, A.D. 1998.

THOMAS J. RIDGE