

No. 319

AN ACT

HB 1056

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.

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

Section 1. Short Title.—This act shall be known and may be cited as the “Pennsylvania Farmland and Forest Land Assessment Act of 1974.”

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.

“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 for the purpose of producing an agricultural commodity or when devoted to and meeting 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.

“Forest reserve.” Land, ten acres or more, stocked by forest trees of any size and capable of producing timber or other wood products.

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 use 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 or has an anticipated yearly gross income of two thousand dollars (\$2,000).

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

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

(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.

(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.

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.

(b) Each owner of agricultural land, 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 application must be submitted on or before July first of the year immediately preceding the tax year. Preferential assessment shall continue under the initial application until land use change takes place.

(c) There shall be uniform application forms for preferential assessment in all counties. Such application forms shall be developed by the Department of Agriculture. In addition to the information which the Department of Agriculture 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 of a portion of the land, or a conveyance of the land.”

Section 5. Responsibilities of the County Assessor.—(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 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 and the preferentially assessed value of such properties.

(2) To notify the appropriate taxing bodies of any preferential assessments granted or terminated within their taxing jurisdiction within five days of such change.

(3) To notify 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 or 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 interested parties and to file liens for unpaid roll-back taxes.

(c) The preferential use assessments granted under this act shall not be considered by the State Tax Equalization Board in determining the market value of taxable real property for school subsidy purposes.

Section 6. Separation or Split-off.—(a) Separation or split-off of a part of the land which is being valued, assessed and taxed under this act either by conveyance or other action of the owner of such land for a use other than agricultural or agricultural reserve or forest reserve shall, except when the separation occurs through condemnation, subject the land so separated and the entire parcel from which the land was separated 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 transfer land covered by the preferential tax assessment: Provided, That the tract of land so transferred 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 transferred 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 separated and for such period of time as provided by section 8 of this act. The transfer 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 minimum acreage or, if devoted to agricultural use, gross income requirements established by this act.

(c) Any change in use of a separation or split-off of land shall be in compliance with the zoning ordinances of the local municipality, if in effect.

Section 7. Contiguous Land in More Than One Taxing District.—Where contiguous land in agricultural, or agricultural reserve, and/or forest reserve use in one ownership is located in more than one taxing district, compliance with the minimum area requirement 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 8. Determination of Amounts of Taxes When Use Abandoned.—(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.

(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, a split-off of a portion of the land, or a conveyance of the land, as provided for under section 4(c), 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.

Section 9. Appeals.—(a) The owner of a property upon 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 10. Renegotiation of Open Space Agreements.—Any county which has covenanted with landowners of farm or forest land as to assessments and open space use of such land under the act of January 13, 1966 (1965 P.L.1292, No.515), entitled “An act enabling certain counties of the Commonwealth to covenant with land owners for preservation of land in farm, forest, water supply, or open space uses,” may, at the landowner’s option, renegotiate such agreements so as to make them conform to the provisions of this act as to preferential assessments.

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

Section 12. Applicability.—This act shall apply to all counties of the Commonwealth of Pennsylvania.

Section 13. Severability; Inconsistent Laws.—If any section, provision, or clause of this act shall be declared invalid or inapplicable to any persons or circumstances, such action shall not be construed to affect the rest of the act or circumstances not so affected. All laws or portions of laws inconsistent with the policy and provisions of this act are hereby repealed to that extent.

Section 14. Effective Date.—This act shall take effect immediately.

APPROVED—The 19th day of December, A. D. 1974.

MILTON J. SHAPP

The foregoing is a true and correct copy of Act of the General Assembly
No. 319.

A handwritten signature in black ink, reading "C. McLaughlin Tucker". The signature is written in a cursive style with a large initial "C" and a prominent "T" at the end.

Secretary of the Commonwealth.