

No. 1994-96

## AN ACT

SB 1629

Amending the act of June 30, 1981 (P.L.128, No.43), entitled "An act authorizing the creation of agricultural areas," further providing for definitions; providing standards, criteria and requirements for the purchasing of agricultural conservation easements; providing for review of county programs; imposing duties on the State Agricultural Land Preservation Board and county boards; and further providing for subdivision of land and change of ownership.

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

Section 1. The definition of "agricultural conservation easement" in section 3 of the act of June 30, 1981 (P.L.128, No.43), known as the Agricultural Area Security Law, amended June 22, 1990 (P.L.242, No.57), is amended and the section is amended by adding definitions 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:

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"Agricultural conservation easement." An interest in land, less than fee simple, which interest represents the right to prevent the development or improvement of the land for any purpose other than agricultural production. The easement may be granted by the owner of the fee simple to any third party or to the Commonwealth, to a county governing body or to a unit of local government. **[It may be granted for a term of 25 years or in perpetuity, as the equivalent of covenants running with the land.]** *It shall be granted in perpetuity as the equivalent of covenants running with the land.* The exercise or failure to exercise any right granted by the easement shall not be deemed to be management or control of activities at the site for purposes of enforcement of the act of October 18, 1988 (P.L.756, No.108), known as the "Hazardous Sites Cleanup Act."

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"*Crops unique to the area.*" **Include, but are not limited to, crops which historically have been grown or have been grown within the last five years in the region and which are used for agricultural production in the region.**

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"*Eligible counties.*" **Counties whose easement purchase programs have been approved by the State Agricultural Land Preservation Board. For the purpose of annual allocations, an eligible county must have its easement purchase program approved by the State Agricultural Land Preservation**

*Board by January 1 of the year in which the annual allocation is made. Counties of the first class are not eligible under any circumstances.*

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*“Immediate family member.” A brother, sister, son, daughter, stepson, stepdaughter, grandson, granddaughter, father or mother of the landowner.*

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Section 2. Section 14.1 of the act, amended or added December 14, 1988 (P.L.1202, No.149), June 22, 1990 (P.L.242, No.57), April 13, 1992 (P.L.100, No.23) and December 17, 1993 (P.L.522, No.75), is amended to read:

Section 14.1. Purchase of agricultural conservation easements.

(a) State Agricultural Land Preservation Board.—The Department of Agriculture and the State Agricultural Land Preservation Board shall administer pursuant to this section a program for the purchase of agricultural conservation easements by the Commonwealth.

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

(i) There shall be eight voting ex officio members of the State board: the Secretary of Agriculture, who shall serve as the board chairman; the Secretary of Community Affairs, or his designee; the Secretary of Environmental Resources, or his designee; the Chairman and the Minority Chairman of the House Agriculture and Rural Affairs Committee, or their designees; the Chairman and the Minority Chairman of the Senate Agriculture and Rural Affairs Committee, or their designees; and the Dean of the College of Agriculture of The Pennsylvania State University.

(ii) Five members shall be appointed by the Governor. One member shall be a current member of the governing body of a county, one member shall be a person who is recognized as having significant knowledge in agricultural fiscal and financial matters, one member shall be an active resident farmer of this Commonwealth, one member shall be a residential, commercial or industrial building contractor, and one member shall be a current member of a governing body. Initially, two members shall be appointed for a term of four years, two members shall be appointed for a term of three years and one member shall be appointed for a term of two years. Thereafter, the terms of all members appointed herein shall be four years. The term of a person appointed to replace another member whose term has not expired shall be only the unexpired portion of that term. Members may be reappointed to successive terms.

(iii) One member each shall be appointed by the Speaker of the House of Representatives, the Minority Leader of the House of Representatives, the President pro tempore of the Senate and the Minority Leader of the Senate, who shall, at the time of appointment, be resident farm owners and operators of at least one commercial farm

in this Commonwealth. The initial term of the appointee of the President pro tempore of the Senate shall be four years, the initial term of the appointee of the Speaker of the House of Representatives shall be three years, the initial term of the appointee of the Minority Leader of the Senate shall be two years and the initial term of the appointee of the Minority Leader of the House of Representatives shall be one year. Thereafter, the terms of all appointees shall be four years. An appointment made to fill an unexpired term shall be only for the duration of the unexpired term. Members may be reappointed to successive terms.

(2) Nine members shall constitute a quorum for purposes of conducting meetings and official actions pursuant to authority given to the State board under this act.

(3) It shall be the duty and responsibility of the State board to exercise the following powers:

(i) To adopt rules and regulations pursuant to this act: Provided, That the board shall have the power and authority to promulgate, adopt, publish and use guidelines for the implementation of this act until September 30, 1990, or the effective date of final rules and regulations, whichever first occurs, pending adoption of final rules and regulations. Guidelines proposed under the authority of this section shall be subject to review by the General Counsel and the Attorney General in the manner provided for the review of proposed rules and regulations pursuant to the act of October 15, 1980 (P.L.950, No.164), known as the "Commonwealth Attorneys Act," but shall not be subject to review pursuant to the act of June 25, 1982 (P.L.633, No.181), known as the "Regulatory Review Act."

(ii) To adopt rules of procedure and bylaws governing the operations of the State board and the conduct of its meetings.

(iii) To review, and accept or reject, the recommendation made by a county board for the purchase of an agricultural conservation easement by the Commonwealth.

(iv) To execute agreements to purchase agricultural conservation easements in the name of the Commonwealth if recommended by a county and approved by the State board as provided in subparagraph (iii).

(v) To purchase in the name of the Commonwealth agricultural conservation easements if recommended by a county and approved by the State board as provided in subparagraph (iii).

(vi) To purchase agricultural conservation easements jointly with a county if recommended by a county and approved by the State board as provided in subparagraph (iii).

(vii) To allocate State moneys among counties for the purchase of agricultural conservation easements, in accordance with provisions of subsection (g).

(viii) To establish and maintain a central repository of records which shall contain records of county programs for purchasing agricultural conservation easements, records of agricultural conservation easements purchased by counties, and records of agricultural conservation easements purchased by the Commonwealth. All records indicating the purchase of agricultural conservation easements shall refer to and describe the farm land subject to the agricultural conservation easement.

(ix) To record agricultural conservation easements purchased by the Commonwealth or jointly owned, in the office of the recorder of deeds of the county wherein the agricultural conservation easements are located.

(x) To establish and publish the standards, criteria and requirements necessary for State board approval of county programs for purchasing agricultural conservation easements.

(xi) To review and certify and approve, or disapprove, county programs for purchasing agricultural conservation easements.

(xii) To exercise other discretionary powers as may be necessary and appropriate for the exercise and performance of its duties, powers and responsibilities under this act.

(xiii) To determine an annual easement purchase threshold.

*(xiv) To review and approve or disapprove for recertification each county program for the purchase of agricultural conservation easements.*

*(xv) To authorize the development of a guidebook defining all technical elements necessary for a complete application for purchase of an agricultural conservation easement. Such guidebook shall include model formats of the specific components of applications. Guidebooks shall be distributed to every county with an approved program for purchasing agricultural conservation easements.*

(4) The State board is authorized to:

(i) Take the actions necessary to qualify for Federal guarantees and interest rate assistance for agricultural easement purchase loans under Chapter 2 of the Food, Agriculture, Conservation, and Trade Act of 1990 (Public Law 101-624, 104 Stat. 3616).

(ii) Segregate from the Agricultural Conservation Easement Purchase Fund, into a Farms for the Future Trust Fund, funds necessary to qualify for the maximum amount of funding made available under the Federal act. There shall be deposited in this trust fund, and are appropriated for the purposes of this act, any interest rate assistance subsidies provided by participation in the Federal program. The State board is authorized to deposit interest accruing on moneys in the trust fund, in excess of the amounts needed to satisfy interest payments, in the Agricultural Conservation Easement Purchase Fund.

(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.

(1) The county board shall be composed of five, seven or nine members appointed by the county governing body. The chairman of the county governing body shall designate annually one member of the county board to serve as chairman of the county board. County board members shall be appointed from among the following groups: the number of farmers shall constitute one less than a majority of the board; one member shall be a current member of the governing body of a township or borough located within the county; one member shall be a commercial, industrial or residential building contractor; and the other members shall be selected at the pleasure of the county governing body. The county board membership of the member of the governing body of a township or borough located within the county shall be deemed vacant upon vacancy in, or the expiration of the term of, the township or borough office to which the member was elected. The term of the initial farmer appointees shall be three years, the initial term of the current member of the governing body of a township or borough shall be two years and the initial term of all other members shall be one year. Thereafter, the term of all members shall be three years.

(2) It shall be the duty and responsibility of the county board to exercise the following powers:

(i) To adopt rules and regulations for the administration of a countywide program for the purchase of agricultural conservation easements within agricultural security areas in accordance with the provisions of this act, including, but not limited to, rules and regulations governing the submission of applications by landowners, establishing standards and procedures for the appraisal of property eligible for purchase as an agricultural conservation easement and establishing standards and procedures for the selection or purchase of agricultural conservation easements.

(ii) To adopt rules of procedure and bylaws governing the operation of the county board and the conduct of its meetings.

(iii) To execute agreements to purchase agricultural conservation easements in the name of the county.

(iv) To purchase in the name of the county agricultural conservation easements within agricultural security areas.

(v) To use moneys appropriated by the county governing body from the county general fund to hire staff and administer the countywide program.

(vi) To use moneys appropriated by the county governing body from the county general fund or the proceeds of indebtedness incurred

by the county and approved by the county governing body for the purchase of agricultural conservation easements within agricultural security areas.

(vii) To establish and maintain a repository of records of farm lands which are subject to agricultural conservation easements purchased by the county and which are located within the county.

(viii) To record agricultural conservation easements purchased by the county in the office of the recorder of deeds of the county wherein the agricultural conservation easements are located and to submit to the State board a certified copy of agricultural conservation easements within 30 days after recording. The county board shall attach to all certified copies of the agricultural conservation easements submitted to the State board a description of the farm land subject to the agricultural conservation easements.

(ix) To submit to the State board for review the initial county program and any proposed revisions to approved county programs for purchasing agricultural conservation easements.

(x) To recommend to the State board for purchase by the Commonwealth agricultural conservation easements within agricultural security areas located within the county.

(xi) To recommend to the State board the purchase of agricultural conservation easements by the Commonwealth and the county jointly.

(xii) To purchase agricultural conservation easements jointly with the Commonwealth.

(xiii) To exercise other powers which are necessary and appropriate for the exercise and performance of its duties, powers and responsibilities under this act.

*(xiv) To submit to the State board applications for agricultural conservation easements in accordance with the guidebook authorized under subsection (a)(3)(xv).*

(3) The county may incur debt pursuant to the act of July 12, 1972 (P.L.781, No.185), known as the "Local Government Unit Debt Act," for the purchase of agricultural conservation easements.

*(4) County programs for the purchase of agricultural conservation easements originally approved by the State board on or before December 31, 1994, shall be reviewed by the State board and approved or disapproved for recertification by December 31, 1996, and every seventh year thereafter. County programs for the purchase of agricultural conservation easements originally approved by the State board after December 31, 1994, shall be reviewed by the State board and approved or disapproved for recertification by December 31 of the seventh year after the date of original approval and every seventh year thereafter. On or before December 31, 1995, and the end of such other seven-year periods thereafter, the county board shall submit to the State board any proposed revisions to the county program for the purchase of*

*agricultural conservation easements. County programs subject to State board review and recertification under this paragraph shall be approved or disapproved in accordance with the requirements of subsection (d), provided that the State board shall give priority to determining that county programs are in compliance with applicable provisions of law, regulations and guidelines. After December 31, 1996, and the end of such other seven-year periods, the State board shall not approve a county board's recommendation to purchase until the county program has been approved for recertification, provided that the State board may postpone the deadline for recertification of any county's program by up to 12 months and, during such period of postponement, may approve a county board's recommendation to purchase.*

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

(1) The term of an agricultural conservation easement shall be perpetual [or for a term of 25 years].

(2) [An] *Unless otherwise authorized in accordance with subsection (i), an* agricultural conservation easement shall not be sold, conveyed, extinguished, leased, encumbered or restricted in whole or in part for a period of 25 years beginning on the date of purchase of the easement.

(3) [If] *Unless otherwise authorized in accordance with subsection (i), if* the land subject to the agricultural conservation easement is no longer viable agricultural land, the Commonwealth, subject to the approval of the State board, and the county, subject to the approval of the county board, may sell, convey, extinguish, lease, encumber or restrict an agricultural conservation easement to the current owner of record of the farmland subject to the easement after the expiration of 25 years from the date of purchase of the easement for a purchase price equal to the value at the time of resale determined pursuant to subsection (f) at the time of conveyance. A conveyance by the Commonwealth pursuant to this subsection shall not be subject to the requirements of Article XXIV-A of the act of April 9, 1929 (P.L.177, No.175), known as "The Administrative Code of 1929." The purchase price shall be payable to the Commonwealth and the county as their respective legal interests in the agricultural conservation easement appear, and a separate payment shall be made to the Commonwealth and the county accordingly at the time of settlement. Any payment received by the Commonwealth pursuant to this provision shall be paid into the fund.

(4) Instruments and documents for the purchase, sale and conveyance of agricultural conservation easements shall be approved by the State board or the county board, as the case may be, prior to execution and delivery. Proper releases from mortgage holders and lienholders must be obtained and executed to insure that all agricultural conservation easements are purchased free and clear of all encumbrances.

(5) Whenever any public entity, authority or political subdivision exercises the power of eminent domain and condemns land subject to an agricultural conservation easement, the condemnor shall provide just compensation to the owner of the land in fee and to the owner of the easement as follows:

(i) The owner of the land in fee shall be paid the full value which would have been payable to the owner but for the existence of an agricultural conservation easement less the value of the agricultural conservation easement at the time of condemnation.

(ii) The owner of the easement shall be paid the value of the easement at the time of condemnation.

(6) An agricultural conservation easement shall not prevent:

(i) The granting of leases, assignments or other conveyances or the issuing of permits, licenses or other authorization for the exploration, development, storage or removal of coal by underground mining methods, oil and gas by the owner of the subject land or the owner of the underlying coal by underground mining methods, oil and gas or the owner of the rights to develop the underlying coal by underground mining methods, oil and gas, or the development of appurtenant facilities related to the removal of coal by underground mining methods, oil or gas development or activities incident to the removal or development of such minerals.

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

(iii) Construction and use of structures on the subject land necessary for agricultural production.

(iv) Construction and use of structures on the subject land *for the landowner's principal residence or* for the purpose of providing necessary housing for seasonal or full-time employees: Provided, That only one such structure may be constructed on no more than two acres of the subject land during the term of the agricultural conservation easement.

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

***(7) Land subject to an agricultural conservation easement shall not be subdivided for any purpose which may harm the economic viability of the farmland for agricultural production. Land may be subdivided prior to the granting of an agricultural conservation easement, provided that subdividing will not harm the economic viability for agricultural production of the land subject to the easement.***



(8) Nothing in this act shall prohibit a member of the State board or county board or his or her family from selling a conservation easement under this program, provided that all decisions made regarding easement purchases be subject to the provisions of section 3(j) of the act of October 4, 1978 (P.L.883, No.170), referred to as the Public Official and Employee Ethics Law.

(d) Program approval.—

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

(i) The quality of the farmlands subject to the proposed easements, including soil [~~classifications~~] *classification* and [~~productivity.~~] *soil productivity ratings. Farmland considered should include soils which do not have the highest soil classifications and soil productivity ratings but which are conducive to producing crops unique to the area.*

(ii) The likelihood that the farmlands would be converted to nonagricultural use unless subject to an agricultural conservation easement. [~~Priority for the purchase of an agricultural conservation easement shall be given to farmlands most likely to be converted to nonagricultural use.~~] *Areas in the county devoted primarily to agricultural use where development is occurring or is likely to occur in the next 20 years should be identified.* For purposes of considering the likelihood of conversion, the existence of a zoning classification of the land shall not be relevant, but the market for nonfarm use or development of farmlands shall be relevant.

*(ii.1) Proximity of the farmlands subject to proposed easements to other agricultural lands in the county which are subject to agricultural conservation easements.*

(iii) The stewardship of the land and use of conservation practices and best land management practices, including, but not limited to, soil erosion and sedimentation control and nutrient management.

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

(2) The State board shall act on a county's program for purchasing agricultural conservation easements within 60 days of its receipt, and shall notify immediately the county in writing of approval or disapproval of its program in accordance with the criteria set forth in this subsection. Failure of the State board to act on the submission of a county program under this provision within 60 days of its receipt shall be deemed to constitute approval of the county program by the State board.

(e) Easement purchase.—

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

(i) The recommendation does not comply with a county program certified and approved by the State board for purchasing agricultural conservation easements.

(ii) Clear title cannot be conveyed.

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

(iv) The allocation of a county established pursuant to subsection (h) is exhausted or is insufficient to pay the purchase price.

(v) Compensation is not provided to owners of surface-mineable coal disturbed or affected by the creation of such easement.

(2) The State board shall act to approve [or], disapprove *or table* the recommendation by a county for purchase of an agricultural conservation easement within 60 days of its receipt[.] *unless the following conditions delay such action:*

*(i) The occurrence of a catastrophic event which precludes the convening of the State board. Any natural disaster, including, but not limited to, fire, flood, excessive wind, snow or earthquake shall constitute a catastrophic event.*

*(ii) The issue of a subdivision causes further questions by the State board.*

*(iii) Legal actions or court decisions are pending which would affect the recommendation in question.*

*(iv) The State board passes a resolution directing that an independent hearing examiner conduct an administrative hearing on any issue relating to the recommendation submitted by the county. In such an occurrence, the 60-day period shall be extended to 120 days. The 60-day period shall be extended until all issues set forth in this paragraph are resolved to the satisfaction of the State board, whereby the State board shall act at the next scheduled meeting on the recommendation of the county board. Decisions delayed due to catastrophic events shall be determined in as reasonable an amount of time as possible.*

(3) If the State board disapproves the recommendation by a county for purchase of an agricultural conservation easement, the county shall be given written notice of the disapproval within ten days of the decision of the State board. The written notice shall state the reason for the State board's disapproval of the recommendation.

(4) A decision of the State board issued under the authority of this subsection shall be an adjudication subject to the provisions of 2 Pa.C.S. (relating to administrative law and procedure).

(5) Failure of the State board to act on a recommendation by a county for purchase of an agricultural conservation easement within 60 days of its receipt shall be deemed to constitute approval by the State board *unless one or more of the conditions under paragraph (2) exist.*

(f) Valuation.—The State board or the county board, as the case may be, shall select and retain an independent [licensed] *State-certified general* real estate appraiser to determine market value and farmland value. If the seller disagrees with the appraisal made by the State or county board's appraiser, the seller shall have the right to select and retain a separate independent [licensed] *State-certified general* real estate appraiser within 30 days of receipt of the appraisal of the State or county board's appraiser to determine market value and farmland value. The State board or the county board shall establish the agricultural value and the nonagricultural value of the property subject to the agricultural conservation easement. *The State board may provide for a periodic review by a State-certified general real estate appraiser of appraisals submitted by counties in order to assure that the appraisals were performed in accordance with the standards of appraisal practice.*

(1) The agricultural value shall equal the sum of:

(i) the farmland value determined by the seller's appraiser; and

(ii) one-half of the difference between the farmland value determined by the State or county board's appraiser and the farmland value determined by the seller's appraiser if the farmland value determined by the State or county board's appraiser exceeds the farmland value determined by the seller's appraiser.

(2) The nonagricultural value shall equal the sum of:

(i) the market value determined by the State or county board's appraiser; and

(ii) one-half of the difference between the market value determined by the seller's appraiser and the market value determined by the State or county board's appraiser, if the market value determined by the seller's appraiser exceeds the market value determined by the State or county board's appraiser.

(3) *The entire acreage of the farmland shall be included in the determination of the value of an agricultural conservation easement, less the value of any acreage which was subdivided prior to the granting of such easement. The appraiser shall take into account the potential increase in the value of the subdivided acreage because of the placement of the easement on the remaining farmland.*

(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.] *However, under no circumstances shall the price paid for*

*purchase of an agricultural conservation easement in perpetuity exceed \$10,000 per acre of State funds.* 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 shall be made within, and no later than, five years from the date the agricultural conservation easement purchase agreement was executed.

(h) Allocation of State moneys.—[The] *By March 1 of each year, the State board shall make an annual allocation among counties, except counties of the first class, for the purchase of agricultural conservation easements.*

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

(i) “Adjusted weighted transfer tax revenues.” An amount equal to the weighted transfer tax revenues of a county divided by the sum of the weighted transfer tax revenues of all counties except counties of the first class.

(ii) “Annual agricultural production.” The total dollar volume of sales of livestock, crops and agricultural products according to the most recent Annual Crop and Livestock Summary published by the Pennsylvania Agricultural Statistics Service.

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

(iv) “Average realty transfer tax revenues.” The total annual realty transfer tax revenues collected in all counties, except counties of the first class, divided by 66.

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

(vi) “Weighted transfer tax revenues.” An amount equal to the total annual realty transfer tax revenues collected in a county divided by the sum of the total annual realty transfer tax revenues collected in all counties except counties of the first class which does not exceed three times the average realty transfer tax revenues.

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

(3) If the aggregate annual allocation under this paragraph to all [eligible] counties, *except counties of the first class*, does not exceed 50% of the annual easement purchase threshold, an additional annual allocation

from 50% of the annual easement purchase threshold shall be made to a county, except a county of the first class, at the beginning of the county fiscal year for the joint purchase of agricultural conservation easements by the Commonwealth and a county. The additional annual allocation under this paragraph shall equal the sum of:

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

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

(4) If the aggregate annual allocation under paragraph (3) to all [eligible] counties, *except counties of the first class*, would exceed 50% of the annual easement purchase threshold, paragraph (3) shall not apply, and an additional annual allocation shall be made under this paragraph at the beginning of the county fiscal year for the joint purchase of agricultural conservation easements by the Commonwealth and a county, except a county of the first class. The additional annual allocation to a county under this paragraph shall equal 50% of the annual easement purchase threshold multiplied by a percentage equal to the annual appropriation of local moneys appropriated by the county for the purchase of agricultural conservation easements divided by the aggregate of local moneys appropriated by all [eligible] counties, *except counties of the first class*, for the purchase of agricultural conservation easements and in all cases shall not exceed the average annual allocation under paragraph (2) multiplied by four.

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

(i) An additional annual allocation shall be made for the joint purchase of agricultural conservation easements by the Commonwealth and a county which equals six-tenths of the amount by which 50% of the annual easement purchase threshold exceeds the total allocations made under paragraph (3) or (4), as the case may be, multiplied by a percentage equal to the annual appropriation of local moneys appropriated by the county for the purchase of agricultural conservation easements divided by the aggregate of local moneys appropriated by all [eligible] counties, *except counties of the first class*, for the purchase of agricultural conservation easements.

(ii) An additional annual allocation shall be made for the purchase of agricultural conservation easements by the Commonwealth which

equals four-tenths of the amount by which 50% of the annual easement purchase threshold exceeds the total allocations made under paragraph (3) or (4), as the case may be, multiplied by the adjusted weighted transfer tax revenues of the county for the preceding calendar year.

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

[(7) The first annual allocation to a county under paragraphs (3), (4) and (5)(i) shall continue for three county fiscal years occurring after the effective date of this act, and the second and third such annual allocations shall each continue for two county fiscal years occurring after the effective date of this act. Thereafter each such annual allocation shall be for one county fiscal year. Such annual allocations which have not been expended or encumbered at the end of the period for which they were allocated shall be reallocated in the subsequent county fiscal year to a county which used at least 90% of the allocation made to the county at the start of the period. An annual allocation shall be considered to be encumbered and shall not be reallocated if, by December 31 of the year in which that annual allocation was made to the county, the department has received an agreement executed by the landowner and the county to purchase a specific agricultural conservation easement as part of the county board's recommendation for purchase. The reallocation to a county under this paragraph shall be the total amount of the annual allocation available for reallocation under this paragraph multiplied by a percentage equal to the annual appropriation of local moneys appropriated by the county for the purchase of agricultural conservation easements at the start of the county fiscal year in which the annual allocation was made divided by the aggregate of local moneys appropriated by all eligible counties for the purchase of agricultural conservation easements at the start of the county fiscal year in which the annual allocation was made. Money reallocated to a county under this paragraph shall be available for one county fiscal year. Money reallocated to a county under this paragraph that has not been spent or encumbered at the conclusion of one county fiscal year shall be restored to the fund. Such money shall be considered to be

encumbered and shall not be restored to the fund if, by December 31 of the year in which a reallocation was made to the county, the department has received an agreement executed by the landowner and the county to purchase a specific agricultural conservation easement as part of the county board's recommendation for purchase.

(8) Initial allocations to counties under paragraphs (2) and (5)(ii) shall continue until the end of the fourth county fiscal year occurring after the effective date of this act. The sum of the total annual allocations of all counties under paragraphs (2) and (5)(ii) which have not been expended or encumbered by the end of the fourth county fiscal year, and every county fiscal year thereafter, occurring after the effective date of this act shall be reallocated in the subsequent county fiscal year to a county which used at least 90% of the allocation made to the county at the start of the period. An annual allocation shall be considered to be encumbered and shall not be reallocated if, by December 31 of the year in which that annual allocation was made to the county, the department has received an agreement executed by the landowner and the county to purchase a specific agricultural conservation easement as part of the county board's recommendation for purchase. For purposes of determining eligibility for reallocation of funds and the amounts of reallocation, funds allocated to counties will be segregated and accounted for on a county fiscal year basis. Fifty percent of the amount available for allocation under this paragraph shall be reallocated in the manner set forth in paragraph (2), and 50% of the amount available for allocation under this paragraph shall be reallocated in the manner set forth in paragraphs (3), (4) and (5). For purposes of reallocating funds in the manner set forth in paragraph (2), realty transfer tax revenues used to calculate weighted transfer tax revenues shall correspond to the year for which funds are being reallocated and weighted transfer tax revenues shall be calculated only for counties eligible under this paragraph. Money reallocated to a county under this paragraph shall be available for one county fiscal year. Money reallocated to a county under this paragraph that has not been spent or encumbered at the conclusion of one county fiscal year shall be restored to the fund. Such money shall be considered to be encumbered and shall not be restored to the fund if, by December 31 of the year in which a reallocation was made to the county, the department has received an agreement executed by the landowner and the county to purchase a specific agricultural conservation easement as part of the county board's recommendation for purchase.]

*(8.1) Beginning with the annual allocation under paragraphs (2), (3), (4) and (5) made by March 1, 1995, and for each annual allocation thereafter, money allocated to counties which are not eligible counties shall be immediately reallocated to eligible counties. Fifty percent of the*

*money available for reallocation under this paragraph shall be reallocated to eligible counties on the basis of the annual agricultural production in each eligible county as a percentage of the total annual agricultural production in all those eligible counties. Twenty-five percent of the money available for reallocation under this paragraph shall be reallocated to eligible counties on the basis of the realty transfer tax revenues for the last fiscal year in each of the eligible counties as a percentage of the total realty transfer tax revenues for the last fiscal year in all those eligible counties. Twenty-five percent of the money available for reallocation under this paragraph shall be reallocated to eligible counties on the basis of the local moneys appropriated by eligible counties for the purchase of agricultural conservation easements for the current county fiscal year in each of the eligible counties as a percentage of the total of local moneys appropriated for the purchase of agricultural conservation easements for the current county fiscal year in all those eligible counties.*

*(8.2) The total annual allocation made to an eligible county by March 1 of the county's fiscal year for the purchase of agricultural conservation easements and the total annual reallocation made to an eligible county under paragraph (8.1) may be spent over a period of two consecutive county fiscal years. Money allocated or reallocated to a county under this subsection which has not been expended or encumbered by such county at the conclusion of the second county fiscal year shall be restored to the fund. Such money shall not be restored to the fund if by December 31 of the second fiscal year the department has received an agreement executed by the landowner and the county to purchase a specific agricultural conservation easement as part of the county board's recommendation for purchase.*

(9) The allocation made to a county under this subsection shall be used for the purchase of agricultural conservation easements in perpetuity[: Provided, That no more than 30% of such allocation may be used at the option of a county for the purchase of agricultural conservation easements for a term of 25 years in the manner provided for in this act].

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

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

(i) *Subdivision of land after easement purchase.—*



**(1) Each county program shall specify the conditions under which the subdivision of land subject to an agricultural conservation easement may be permitted. In no case, however, shall a county program permit a subdivision which will:**

**(i) harm the economic viability of the farmland for agricultural production; or**

**(ii) convert land which has been devoted primarily to agricultural use to another primary use, except that a county program may permit one subdivision for the purpose of the construction of a principal residence for the landowner or an immediate family member.**

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

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

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

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

**(iv) If the application to subdivide is rejected by the county board, the application shall be returned to the landowner with a written statement of the reasons for such rejection. Within 30 days after the receipt of the statement of rejection, the landowner may appeal the rejection 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).**

**(j) Change of ownership.—**

*(1) Whenever interest in land subject to an agricultural conservation easement is conveyed or transferred to another person, the deed conveying or transferring such land shall recite in verbatim the language of the easement as set forth in the deed executed in connection with the purchase of the agricultural conservation easement.*

*(2) The person conveying or transferring land subject to an agricultural conservation easement shall within 30 days of change in ownership notify the county board and the department of the name and address of the person to whom the subject land was conveyed or transferred and the price per acre or portion thereof received by the landowner from such person.*

*(3) Notwithstanding any other provisions of law to the contrary, the restrictions set forth in a deed executed in connection with the purchase of an agricultural conservation easement shall be binding on any person to whom subsequent ownership of the land subject to the easement is conveyed or transferred.*

Section 3. Section 14.3(e) of the act is repealed.

Section 4. Section 15 of the act is amended to read:

Section 15. Rules and regulations.

The Secretary of the Department of Agriculture shall promulgate rules and regulations necessary to promote the efficient, uniform and Statewide administration of the act. *From January 1, 1995, through December 31, 1997, the Secretary of Agriculture shall have the power and authority to promulgate, adopt and use guidelines to implement the provisions of this act. The guidelines shall be published in the Pennsylvania Bulletin but shall not be subject to review pursuant to section 205 of the act of July 31, 1968 (P.L.769, No.240), referred to as the Commonwealth Documents Law, sections 204(b) and 301(10) of the act of October 15, 1980 (P.L.950, No.164), known as the "Commonwealth Attorneys Act," or the act of June 25, 1982 (P.L.633, No.181), known as the "Regulatory Review Act." All such guidelines shall expire no later than December 31, 1997, and shall be replaced by regulations which shall have been promulgated, adopted and published as provided by law.*

Section 5. The amendment of section 14.1(c)(6)(iv) of the act shall be retroactive to June 30, 1981.

Section 6. This act shall take effect as follows:

(1) The amendment of section 14.1(h)(7) and (8) of the act shall take effect January 1, 1996.

(2) The remainder of this act shall take effect January 1, 1995.

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

ROBERT P. CASEY