

No. 1994-129

## AN ACT

SB 492

Establishing a program for sustainable agriculture and the Board of Sustainable Agriculture; defining the powers and duties of the Department of Agriculture and the Board of Sustainable Agriculture; and providing for sustainable agriculture loan and grant programs and for funding.

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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 Sustainable Agriculture Act.

Section 2. Legislative findings.

The General Assembly finds and declares as follows:

(1) Funding is needed to promote sustainable agriculture in this Commonwealth.

(2) The practice of sustainable agriculture is intended to offer the farmer the greatest return on his labor and capital by reducing operating expenses while enhancing the value of the end product.

(3) Sustainable agriculture emphasizes the practice of an agriculture that is ecologically beneficial, that would improve and ensure the quality

of soil and water for future generations and, at the same time, that would enable the farmer to earn a livelihood consistent with his capital investment and labor.

(4) Sustainable agriculture emphasizes farm practices that make the best use of on-farm labor and resources to reduce or eliminate the need for the purchase of off-farm inputs.

### Section 3. Definitions.

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

“Agricultural activity” or “farming.” The commercial production of agricultural crops, livestock or livestock products, poultry products, milk or dairy products or fruits and other horticultural products.

“Alternative crop.” Crops not normally grown on an annual or rotational basis in this Commonwealth. The term may include crops used to replenish soil nutrients, crops used for animal or human consumption or crops used to reduce reliance on fuel, agricultural chemicals or synthetic fertilizer.

“Board.” The Board of Sustainable Agriculture.

“Corporate farm.” A corporation formed for the purpose of engaging in agricultural activity or farming which is not a family farm corporation.

“Department.” The Department of Agriculture of the Commonwealth.

“Family farm corporation.” A corporation formed for the purpose of farming in which the majority of the voting stock is held by and the majority of the stockholders are natural persons or their spouses or other persons related to the natural persons or their spouses and at least one of the majority stockholders is residing on or actively operating or managing the farm and none of the stockholders of which are corporations.

“Family farm partnership.” A general partnership entered into for the purpose of farming, having no more than three unrelated members and having at least one member residing on or actively operating or managing the farm.

“Farm enterprise.” A natural person, family farm corporation, family farm partnership engaged in farming or a corporate farm or nonprofit educational organization.

“Farmland.” Land in this Commonwealth that is capable of supporting the commercial production of agricultural crops, livestock or livestock products, poultry products, milk or dairy products, fruit or other horticultural products.

“Fund.” The Sustainable Agriculture Fund.

“Nonprofit educational institution.” Any State-owned or State-related college or university in this Commonwealth or any nonprofit organization, association or group in this Commonwealth which:

- (1) has demonstrated a capacity to conduct agricultural research or education programs;
- (2) has experience in research or education in sustainable agricultural practices; and

(3) qualifies as a nonprofit organization under section 501(c) of the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 1 et seq.).

“Secretary.” The Secretary of Agriculture of the Commonwealth.

“Sustainable agriculture.” An integrated system of plant and animal production practices having a site-specific application that will over the long term:

- (1) Satisfy human food and fiber needs.
- (2) Enhance environmental quality and the natural resource base upon which the agricultural economy depends.
- (3) Make the most efficient use of nonrenewable resources and on-farm resources and integrate, where appropriate, natural biological cycles and controls.
- (4) Sustain the economic viability of farm operations.
- (5) Enhance the quality of life for farmers and society as a whole.

Section 4. Sustainable agriculture program.

(a) Establishment.—The department is hereby directed to establish a program to promote the practice of sustainable agriculture.

(b) Duties of department.—The department shall:

- (1) Make sustainable agriculture part of a policy to invigorate the farm economy, increase farm income and conserve natural resources.
- (2) Encourage nonprofit educational institutions to identify and develop sustainable agriculture practices.
- (3) Distribute funds appropriated by the General Assembly and received from other sources for loan and grant programs.
- (4) Provide a clearinghouse of sustainable agriculture information.
- (5) Disseminate information concerning sustainable agriculture practices, including the results of research projects funded by the sustainable agriculture loan and grant programs.
- (6) Administer the loan and grant programs and issue loans and grants from the funds appropriated by the General Assembly and awarded by the board.

(7) Appoint an executive director to advise the board. The executive director may be drawn from the department’s current staff and may use the services of other departmental employees, as directed by the secretary.

(c) Participation in Federal program.—On or before December 31, 1996, the department shall, in collaboration with the board, develop a State plan for submission to the United States Department of Agriculture’s Regional Administrative Council on sustainable agriculture for Commonwealth participation in the Federal-State matching grant program established pursuant to section 1623 of the Food, Agriculture, Conservation, and Trade Act of 1990 (Public Law 101-624, 7 U.S.C. § 5813).

Section 5. Duties of executive director of board.

The executive director shall:

- (1) Evaluate loan and grant applications submitted to the board.

(2) Identify agricultural practices that maintain productivity and minimize environmental and farmland degradation.

(3) Integrate and coordinate field experiments and on-farm research and educational efforts of cooperating individuals, agencies, institutions and organizations.

(4) Develop an information system, utilizing the expertise of experienced farmers and agencies, institutional and agribusiness specialists, that offers farmers practical advice, addresses farmers' specific questions and refers farmers to other experts in the field.

(5) Cooperate with The Pennsylvania State University in promoting sustainable agriculture practices.

**Section 6. Board of Sustainable Agriculture.**

(a) Establishment.—There is hereby established the Board of Sustainable Agriculture to review grant and loan applications and issue loans and grants in accordance with the general considerations and eligibility criteria set forth in this act.

(b) Composition.—The board shall be composed of the chairman and minority chairman of the Agriculture and Rural Affairs Committee of the Senate or their designees and the chairman and the minority chairman of the Agriculture and Rural Affairs Committee of the House of Representatives or their designees. In addition, the board will include the following members appointed by the Secretary of Agriculture:

(1) The Secretary of Agriculture or his designee who shall serve as chairman.

(2) One Commonwealth lender with agricultural experience.

(3) One representative from the Penn State Cooperative Extension Service.

(4) One Commonwealth resident from an organization that conducts agriculture research and promotes sustainable agriculture.

(5) One Commonwealth resident from an organic crop certification organization.

(6) Two Commonwealth resident farmers who use sustainable agriculture methods.

(7) One representative from the agribusiness industry.

(8) One agronomist.

(9) Three Commonwealth residents from Statewide agricultural associations representing farmers.

(c) Quorum.—A majority of the members appointed to the board shall constitute a quorum for purposes of conducting meetings and official actions pursuant to authority given to the board under this act.

(d) Expenses of board members.—The members of the board shall not be entitled to compensation for their services as members, but members of the board appointed pursuant to subsection (b)(2), (3), (4), (5), (6), (7), (8) and (9) shall be entitled to reimbursement for all necessary expenses incurred in connection with the performance of their duties as members of the board.

(e) Powers of board.—The board shall have the power to review and accept or reject loan and grant applications.

(f) Application of member.—A member of the board may apply for a loan or grant provided all decisions regarding the loan or grant application are 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.

#### Section 7. Sustainable Agriculture Fund.

The fund shall receive all revenues and appropriations and pay all costs, except administrative expenses, related to the sustainable agriculture program.

#### Section 8. Loan program.

The department shall establish a sustainable agriculture loan program to provide loans that enable farmers to adopt practices that emphasize sustainable agriculture in this Commonwealth.

#### Section 9. Revolving loan account.

There is hereby created within the fund a revolving loan account to be funded by appropriations made by the General Assembly and interest earned on the account and interest from loan repayment.

#### Section 10. Eligibility for loans and limitations.

(a) Applicant eligibility criteria.—To be eligible for a sustainable agriculture loan, an applicant must demonstrate all of the following:

(1) That the applicant is a resident of this Commonwealth or that its principal operating or managing members or shareholders, in the case of either a family farm partnership or a family farm corporation, are Commonwealth residents or show sufficient evidence that he or they intend to become a resident or residents.

(2) That the applicant will use the proceeds of the loan for eligible sustainable agriculture purposes, as defined by this act, and that the farmland or farm enterprise for which the loan is acquired is located in this Commonwealth. Corporate farm applicants must demonstrate that the farming enterprise owns or leases farmland in this Commonwealth and that the proceeds of the loan will be used for sustainable agricultural purposes in Commonwealth farming operations only.

(3) That the applicant is creditworthy based on the applicant's net worth, cash flow projections, credit rating and the type of farmland or farm enterprise involved.

(b) Loan eligibility criteria.—Applications for sustainable agriculture loans shall be reviewed and ranked using the following criteria:

(1) The ability of the applicant to meet and satisfy all debt service as it becomes due and payable.

(2) The relevant criminal and credit history and ratings of the applicant as determined from credit reporting services and other sources.

(3) The payment to date of all tax obligations due and owing by the applicant to the Commonwealth or any political subdivisions thereof.

(4) The manner in which loan proceeds will be utilized in furthering sustainable agriculture in this Commonwealth.

(5) The amount of the loan.

(6) The intent to use practices that would improve soil fertility, lower the cost of production, cause the optimum and environmentally compatible use of off-farm inputs, such as chemical or synthetic fertilizers, insecticides and herbicides, or otherwise promote sustainable agriculture. Practices that promote sustainable agriculture could include, but not be limited to, practices that involve using on-farm labor and resources, such as animal and plant manure to enrich soil, planting a diverse array of crops, rotating crops, planting cover crops to defend against insects and weeds and using mechanical tillage to control weeds and relying on natural systems, such as biological controls and natural predators.

(c) Loan limitations.—Loans may not exceed \$15,000 for farm enterprises which are not corporate farms or \$25,000 for corporate farms. The loan repayment period shall be based on the stated purpose for the loan, the amount of the loan and the nature of the farmland or farm enterprise involved, but in no event shall the repayment period exceed seven years. Interest on the loans shall be calculated using simple interest at the percentage rate that was equal to the Federal Reserve discount rate at the time the loan was made.

#### Section 11. Award of loans.

(a) Form of application.—Applications for loans shall be made to the board on the form and in the manner it prescribes.

(b) Review of application.—Applications for sustainable agriculture loans shall be submitted to the executive director. The executive director shall review, evaluate and submit loan applications to the board. The board shall review and approve, approve with special conditions or reject applications on the basis of the eligibility criteria set forth in this act.

(c) Award of loans.—The department shall award loans to applicants according to the decision of the board.

#### Section 12. Grant programs.

The department shall establish the following grant programs:

(1) A sustainable agriculture grant program to provide grants that enable farmers and nonprofit educational institutions to adopt practices that emphasize sustainable agriculture in this Commonwealth.

(2) An alternative crop grant program to provide grants that enable farmers and nonprofit educational institutions to adopt practices that emphasize the use of alternative crops and sustainable agriculture in this Commonwealth.

#### Section 13. Eligibility for grants and limitations.

(a) Applicant eligibility criteria.—To be eligible for a grant under this act, an applicant must demonstrate:

(1) That he is a resident of this Commonwealth, that its principal operating or managing members or shareholders, in the case of either a

family farm partnership or a family farm corporation, are Commonwealth residents or show sufficient evidence that he or they intend to become a resident or residents or that they are a nonprofit educational institution operating within this Commonwealth.

(2) That the applicant will use the grant for eligible purposes, as defined in this act.

(3) That the farmland or farm enterprise for which the grant is acquired is located in this Commonwealth.

(b) Grant eligibility criteria.—Applications for grants under this act shall be reviewed and ranked using the following criteria:

(1) The ability of the applicant to meet and satisfy all outstanding debt service incurred as it becomes due and payable.

(2) The relevant criminal and credit history and ratings of the applicant as determined from credit reporting services and other sources.

(3) The payment to date of all tax obligations due and owing by the applicant to the Commonwealth or any political subdivisions thereof.

(4) The manner in which grant proceeds will be utilized in this Commonwealth.

(5) The amount of the grant.

(6) The environmental benefit.

(7) Farm profitability.

(8) The applicability of the techniques or technology to other farm enterprises.

(9) The effectiveness of the project as a demonstration, where applicable.

(10) The intent to use practices that would improve soil fertility, lower the cost of production, cause the optimum and environmentally compatible use of off-farm inputs, such as chemical or synthetic fertilizers, insecticides and herbicides, or otherwise promote sustainable agriculture. Practices that promote sustainable agriculture could include, but not be limited to, practices that involve using on-farm labor and resources, such as animal and plant manure to enrich soil, planting a diverse array of crops, rotating crops, planting cover crops to defend against insects and weeds and using mechanical tillage to control weeds and relying on natural systems, such as biological controls and natural predators.

(c) Grant limitations.—Grants may not exceed \$25,000 except as provided in this subsection. An additional amount of up to \$25,000 may be granted if the grantee matches that additional amount dollar for dollar so that an individual grant may not exceed \$50,000 in one calendar year.

Section 14. Award of grants.

(a) Form of application.—Applications for grants shall be made to the board on the form and in the manner it prescribes.

(b) Review of application.—Applications for sustainable agriculture grants and alternative crop grants shall be submitted to the executive director. The executive director shall review, evaluate and submit grant applications to the

board. The board shall review and approve, approve with special conditions or reject applications on the basis of the eligibility criteria set forth in this act. The board may exercise its judgment in selecting applicants for grants and in determining the amount of each grant so that the widest practicable distribution of funds is achieved and the widest possible audience is acquainted with the principles of sustainable agriculture.

(c) Grant awards.—The department shall issue grants to applicants according to the decision of the board.

#### Section 15. Rules and regulations.

The department shall have the following powers and duties:

- (1) To adopt rules and regulations under this act.
- (2) To promulgate, adopt, publish and use guidelines for the implementation of this act for a period of two years immediately following the effective date of this act. Such guidelines shall be published in the Pennsylvania Bulletin. 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 section 205 of the act of July 31, 1968 (P.L.769, No.240), referred to as the Commonwealth Documents Law, and sections 204(b) and 301(10) of 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. After the expiration of the two-year period, the guidelines shall expire and shall be replaced by regulations which shall have been promulgated, adopted and published as provided by law.

#### Section 16. Acceptance of gifts and grants.

The fund may receive gifts, grants, bequests or devises from any source, including funds from the Federal Government and the State government.

#### Section 17. Funding.

Sustainable agriculture loans and grants and alternative crop grants shall be made to the extent that funds are made available. Funding for this act may be obtained as follows:

- (1) The Department of Agriculture is authorized to use moneys appropriated to it for agricultural research, agricultural promotion and education, moneys specifically appropriated by the General Assembly for sustainable agriculture and any other moneys, contributions or payments which may be made available to the department by the Federal Government or by any public or private source for the purpose of implementing the provisions of this act.
- (2) The department is authorized to submit eligible projects to the Department of Commerce for funding from moneys appropriated to the Ben Franklin/IRC Partnership Fund.



Section 18. Effective date.

This act shall take effect in 60 days.

APPROVED—The 12th day of December, A.D. 1994.

ROBERT P. CASEY