

FARM MANAGEMENT

AGRICULTURAL CONSERVATION EASEMENTS

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(Third in a series on farmland preservation.)

The 1988 Amendment to the Pennsylvania Agricultural Security Area Law (Act 43 of 1981) authorized a statewide program to purchase agricultural conservation easements from landowners who had joined an Agricultural Security Area (ASA).

The purchase of an agricultural conservation easement (ACE) provides an option to farmers who want to continue farming, but whose farm's property values have risen because of development pressure.

Chosen applicants for the ACE program will be paid the difference between fair market value and "farmland value." The land must then be maintained in farming.

The ACE program aims to pre-

serve thousands of acres of prime Pennsylvania farmland, while making it easier to transfer the property to the next generation.

What is an agricultural conservation easement?

Property ownership is often compared to a "bundle of legal rights" with each "stick" in the bundle representing a separate, divisible right.

Included in this "bundle" are the rights to sell, will, lease, mortgage, and cultivate; along with the surface, mineral, air, and water rights; and easements of access and development rights. As divisible rights, they can be disposed of separately. In Pennsylvania it is common for landowners to separate and sell coal and other mineral rights.

Similarly, ACE's are purchased by the county and/or the state who then have the right to prevent development or improvement of land for any purpose, except agricultural production.

Selling one's ACE would not prevent the construction of new buildings used for agricultural pro-

duction, including structures for housing seasonal or full-time workers.

ACE Program administration
Under provisions of the Agricultural Security Area Law, many county governments have already established a county program to purchase, in conjunction with the state, ACEs from farmers in ASAs. The program's goal is the long-term preservation of farmland, so easements are purchased either for 25 years or forever.

Participating counties must set up county Agricultural Land Preservation Boards which consist of 5, 7, or 9 members. Boards must have representation from agriculture, development, local government, and citizens. One less than the majority of the board shall be resident farmers of the county.

The county's governing body, usually the county commissioners, will appoint the board, whose role is to establish local priorities for buying easements through a ranking system for objectively evaluating farms, select competent appraiser(s), and administer purchases.

The 17-member State Agricultural Land Preservation Board has been created to oversee the ACE Program. This board has adopted guidelines for administering the statewide effort and standards for certifying county boards. Annually, the board will determine the funding level, distribute funds to the counties, and monitor the program by approving state-funded

easement purchases.

Who is eligible?

The land *must* be located in an ASA to be eligible to sell the ACE. Additional requirements for purchase include consideration of quality and quantity of the farmland, stewardship of the land, and likelihood of conversion to non-farm use.

To meet the minimum state guideline for easement purchase, the farms must be capable of generating gross receipts of \$25,000 annually.

At least half of the tract must be either harvested cropland, pasture, or grazing land, and it must contain at least 50 percent of soils in the Soil Conservation Service identified capability classes of I-IV.

Applicants must also have demonstrated conservation and best management practices.

County rating system

Each county must develop a detailed list of rating factors to score and select farms from which easements will be purchased.

Location and site factors, and agricultural productivity factors, are the two classifications of the ranking system. Location and site factors in the ranking system may include the extent of non-agricultural development in the area, proximity to planned development, proximity to farmland protected by perpetual easements or restrictive covenants, buffering of parks, environmentally sensitive areas, historical structures or districts, soil and water conservation practices, size of the farm parcel, proximity to sewer service, and cost (or percent donation of appraised easement value).

Agricultural productivity factors relate to the productivity of the soil types and crops grown on the farm.

In selecting farms for easement purchase, county boards may decide to consider easement costs (Bucks County has placed a \$10,000/acre limit on easement purchases), and whether to target purchases in keeping with the county comprehensive land use map. Some counties may elect to target funds to areas of most intense development pressure while others may place higher priority on locations with less development pressure where large farm acreage blocks can be protected.

Determining the value of the easement

The difference between the fair market value and the "farmland use" value is the ACE value, as in the example below.

Example: \$5,000 Market Value/
Acre

• \$1,400 "Eased Value" or "Farmland Value"/acre

• \$3,600 Agriculture Conservation Easement Value/acre

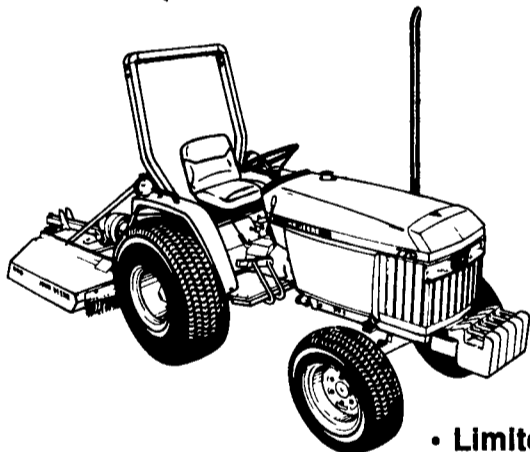
Fair market value as defined by the act is the price as of an evaluation date for the highest and best use of a property. The "farmland use" value, also called the "agricultural value" in the act, must be determined by appraisal.

A seller who disagrees with the county board's approved appraisals may retain another licensed appraiser. Any differences in the two valuations are resolved by a simple formula contained in the act.

Landowners who sell perpetual easements receive full conservation easement value. Easements for 25 years pay only 1/10th of the full easement value, or in the example above, \$360/acre.

(Next week: The complex issues of "agricultural value.")

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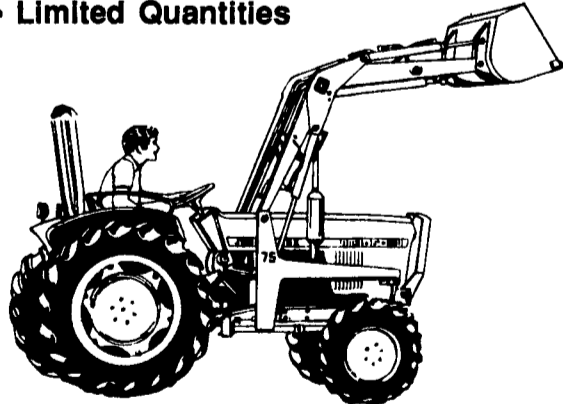
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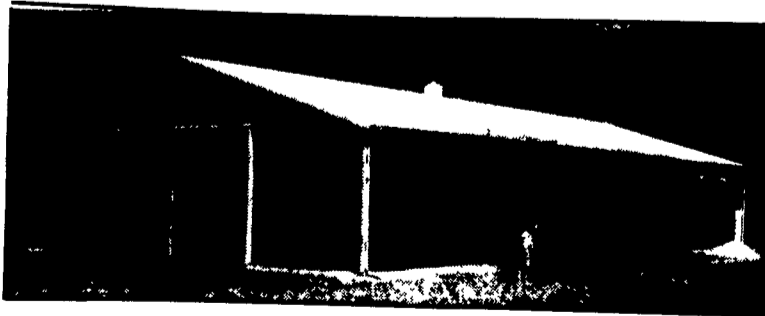
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