

FARMLAND PROTECTION PROGRAMS

According to the American Farmland Trust, over 3.1 million acres of farmland have been lost to other uses in the U.S. since 1970. In southeastern Pennsylvania, only 23% of the agricultural lands sold in the last 10 years remained in agriculture according to a recent Penn State study. And yet Pennsylvania has one of the best farmland protection programs in the nation. For some farmers, placing a conservation easement on the land is a way of dealing with inflated land values and bringing the next generation into the farm business.

A conservation easement is a voluntary agreement between a landowner and public agency or nonprofit organization to restrict certain right of land ownership in order to protect the ecological, open space and/or agricultural values of the property. A conservation easement protects land from development and may reduce its market value. The holder of the conservation easement has the right to prevent development or improvement of the land for purposed other than agricultural production.

Pennsylvania's Purchase of Agricultural Conservation Easement (PACE) Program

In Pennsylvania, under provision of the Agricultural Security Area Law, county governments may establish a program to buy agricultural conservation easements from farmers in Agricultural Security Areas who voluntarily offer to sell easements. Long-term preservation of farmland is the goal, so easements are purchased in perpetuity. To sell an agricultural easement, your farmland must be at least 50 acres and located in an Agricultural Security Area. To determine if your township has an Agricultural Security Area, contact your local farmland preservation board or the Pennsylvania Department of Agriculture at (717) 783-3167.

Applications are ranked on quality of soils, use of conservation practices, proximity of farm to water and sewer lines, extent of development nearby, and the amount of agricultural use in the vicinity. An independent licensed real estate appraiser is selected by the county board to determine the market value and agricultural value of the land. The difference is the maximum value of the conservation easement. The county board has the option to offer a purchase price less than the value of the easement or the full value of the easement. Landowners have the right to hire their own appraiser if they disagree with the county board's offer. Difference in the two valuations is resolved by a formula in the Act.

Some development on a farm with an easement is permitted. Agricultural conservation easements do not prevent adding buildings for agricultural production or a single housing structure for seasonal or part-time workers, granting easements for water, sewer, telephone, or electric, leases for underground coal, oil, and gas exploration, and customary off-season rural enterprises.

Donation of Easements

Many conservancies in Pennsylvania accept donation of agricultural conservation easements

to preserve the land for future generations. They will provide individual one-on-one assistance to landholders to help them determine what tools they need to preserve their land. They will share information about the financial savings and tax advantages of a conservation easement donation. For information on a local conservancy in your area contact the Pennsylvania Land Trust Association (PALTA) at Dennis Collins 610-965-4397 ext. 19.

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Temporary Protection

1. *Clean and Green Act* – Act 319 is designed to provide a method for a landowner who makes use of his or her land in a particular way to have the value of the land for property tax assessment purposes determined on the basis of its fair market value. This approach often yields a lower assessed valuation resulting in a lower tax bill. The major consequence to a landowner that obtains this preferential assessment and then changes the use to a non-qualifying use or who transfers a portion of preferentially assessed land other than as part of a condemnation, is the imposition of a rollback tax. The roll back can cover up to seven years of tax plus interest.

2. *Long term leases* - Granting a long term lease to a farmer who would assure that the land is farmed may be a solution for landowners who want to continue to own the land, don't want to farm themselves, but want to see the land continue in farming. Please refer to the section on leases.

3. *Deed restrictions* – Restrictive covenants guiding the future use of a property may be placed on the deed at the time of transfer. This is similar to a conservation easement but has a few drawbacks, namely third party monitoring and the ability of a court to enforce the restrictions.

FARMLAND PROTECTION (continued)