

PENNSYLVANIA FARMLAND AND FOREST LAND ASSESSMENT ACT - RESPONSIBILITIES
OF COUNTY ASSESSORS, SPLIT-OFF, SEPARATION OR TRANSFER AND ROLL-BACK
TAXES AND SPECIAL CIRCUMSTANCES

Act of Oct. 27, 2010, No. 88

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No. 2010-88

SB 298

AN ACT

Amending the act of December 19, 1974 (P.L.973, No.319), entitled "An act 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," further providing for definitions, for general responsibilities of county assessors, for split-off, separation or transfer and for roll-back taxes and special circumstances.

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

Section 1. The definitions of "agricultural reserve," "agricultural use" and "forest reserve" in section 2 of the act of December 19, 1974 (P.L.973, No.319), known as the Pennsylvania Farmland and Forest Land Assessment Act of 1974, amended December 21, 1998 (P.L.1225, No.156) and December 8, 2004 (P.L.1785, No.235), are amended and the section is amended by adding definitions to read:

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:

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"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. **The term includes any land devoted to the development and operation of an alternative energy system, if a majority of the energy annually generated is utilized on the tract.**

"Agricultural use." Land which is used for the purpose of producing an agricultural commodity or is devoted to and meets 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. The term includes :

- (1) any farmstead land on the tract[. The term includes] ;
- (2) a woodlot [and] ;
- (3) **any** land which is rented to another person and used

for the purpose of producing an agricultural commodity ; and

(4) any land devoted to the development and operation of an alternative energy system, if a majority of the energy annually generated is utilized on the tract .

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"Alternative energy." Electricity, heat or other usable form of energy generated from a Tier I energy source.

"Alternative energy system." A facility or energy system that utilizes a Tier I energy source to generate alternative energy. The term includes a facility or system that generates alternative energy for utilization onsite or for delivery of the energy generated to an energy distribution company or to an energy transmission system operated by a regional transmission organization.

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"Forest reserve." Land, ten acres or more, stocked by forest trees of any size and capable of producing timber or other wood products. The term includes any land devoted to the development and operation of an alternative energy system, if a majority of the energy annually generated is utilized on the tract.

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"Tier I energy source." A Tier I alternative energy source, as defined in section 2 of the act of November 30, 2004 (P.L. 1672, No.213), known as the "Alternative Energy Portfolio Standards Act."

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Section 1.1. Section 5 of the act, amended December 8, 2004 (P.L.1785, No.235), is amended to read:

Section 5. Responsibilities of the County Assessor in General.--(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, the land use category and the number of acres enrolled in each land use category, the use value under section 4.2 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, the land use category and the number of acres enrolled in each land use category, the use value under section 4.2 and the preferentially assessed value of such properties.

(2) To notify in writing the appropriate taxing bodies and landowner of any preferential assessments granted or terminated for each parcel, including the land use category and the number of acres enrolled in each land use category, within their taxing jurisdiction and of the reason for termination within five days of such change. There shall be a right of appeal as provided by section 9.

(3) To notify in writing 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, the land use category and the number of acres enrolled in each land use

category, the use value under section 4.2 or the preferentially assessed value within five days of such change. There shall be a right of appeal as provided for in section 9.

(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.

(5) By January 31 of each year, to report to the department for the previous year the number of acres enrolled in each land use category, the number of acres terminated in each land use category, the dollar amount received as roll-back taxes and the dollar amount received as interest on roll-back taxes.

(b) It shall be the duty of the county assessor, as set forth under section 8(c), to calculate roll-back taxes, give notice of the amounts due to landowners and interested parties and to file liens for unpaid roll-back taxes.

(b.1) With respect to the development of an alternative energy system which continues to meet the definition of agricultural use, agricultural reserve or forest reserve, the land devoted to that development and operation shall retain the same land use category for preferential assessment as was approved for the land before the devotion took place.

(c) The preferential use assessments granted under this act shall be considered by the State Tax Equalization Board in determining the market value of taxable real property for school subsidy purposes. The State Tax Equalization Board shall not reflect the individual school district market value decrease, as it relates to agricultural land, when certifying the Statewide market value to the Department of Education.

Section 2. Section 6 heading and (a.1) of the act, amended December 21, 1998 (P.L.1225, No.156), are amended and the section is amended by adding subsections to read:

Section 6. Split-off, Separation or Transfer ; **Leasing for Wireless Service; Utilization of Land or Conveyance of Rights for Exploration or Extraction of Gas, Oil or Coal Bed Methane; Utilization of Land for Commercial Alternative Energy Generation; Death of Landowner; Temporary Leases** .--(a.1) (1)

The split-off of a part of land which is subject to preferential assessment under this act shall subject the land so split off and the entire tract from which the land was split off to roll-back taxes as set forth in section 5.1 , **except as provided in this subsection** . [The landowner changing the use of the land to one inconsistent with this act] **The landowner who conducts the split-off** shall be liable for payment of roll-back taxes. [The landowner of land which continues to be eligible for preferential assessment shall not be liable for any roll-back taxes triggered as a result of a change to an ineligible use by the owner of the split-off tract. Roll-back] **If one of the following provisions apply, roll-back** taxes under section 5.1 shall [not] **only** be due [if one of the following provisions applies] **as provided in this subsection** :

(i) The tract **or tracts** split off [does] **do** not exceed two acres annually, except that a maximum of the minimum residential lot size requirement annually may be split off if the property is situated in a local government unit which requires a minimum residential lot size of two to three acres; the tract **or tracts**

split off [is] **are** used only for agricultural use, agricultural reserve or forest reserve or for the construction of a residential dwelling to be occupied by the person to whom the land is conveyed; and the total tract or tracts so split off do not exceed the lesser of ten acres or ten percent (10%) of the entire tract subject to preferential assessment.

(ii) The split-off occurs through a condemnation.

(2) Each tract which has been split off under **and meets the provisions of** paragraph (1)(i) shall be subject to roll-back taxes for such a period of time as provided in section 5.1. The landowner [changing the use of the land] **who conducts the split-off** shall be liable for payment of roll-back taxes , **which shall only be due with respect to the split-off portion of land. If the owner of the tract which has been split off under paragraph (1)(i) subsequently changes the use of that land to an ineligible use, the owner of the original tract which continues to be eligible for preferential assessment shall not be liable for any roll-back taxes triggered as a result.**

(2.1) No roll-back taxes shall be due for a split-off described in paragraph (1)(ii) .

(3) The split-off of a tract of land which meets the provisions of paragraph (1) shall not invalidate the preferential assessment on any land retained by the landowner which continues to meet the provisions of section 3.

(4) Payment of roll-back taxes by the liable landowner shall not invalidate the preferential assessment on any land which continues to meet the provisions of section 3.

(5) Any person may bring an action in equity to enjoin use of the land inconsistent with the use provided in this subsection.

(6) Land which has been split off shall be deemed to be used for residential use, agricultural use, agricultural reserve or forest reserve unless it is demonstrated that the owner of the split-off parcel is actively using the tract in a manner which is inconsistent with residential use, agricultural use, agricultural reserve or forest reserve.

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(c.1) The following apply:

(1) Land subject to preferential assessment may be leased or otherwise devoted to the exploration for and removal of gas and oil, including the extraction of coal bed methane, and the development of appurtenant facilities, including new roads and bridges, pipelines and other buildings or structures, related to exploration for and removal of gas and oil and the extraction of coal bed methane.

(2) Portions of land subject to preferential assessment may be used for exploration for and removal of gas and oil, including the extraction of coal bed methane, and the development of appurtenant facilities, including new roads and bridges, pipelines and other buildings or structures, related to those activities.

(3) Roll-back taxes shall be imposed upon those portions of land actually devoted to activities set forth in paragraph (2), excluding land devoted to subsurface transmission or gathering lines, which shall not be subject to roll-back tax. The portion

of land subject to roll-back tax shall be the restored well site and land which is incapable of being immediately used for the agricultural use, agricultural reserve or forest reserve activities required under section 3, as measured from the well site restoration report approved by the Department of Environmental Protection as required by 25 Pa. Code 78.65 (relating to site restoration) or its subsequent version. A copy of this report shall be submitted by the Department of Environmental Protection to the county assessor within ten days of its approval. The fair market value of the restored well site and land which is incapable of being immediately used for the agricultural use, agricultural reserve or forest reserve activities required under section 3 shall be adjusted retroactively to the date a permit was approved under section 201 of the act of December 19, 1984 (P.L.1140, No.223), known as the "Oil and Gas Act." Roll-back taxes shall become due upon the filing of the approved well site restoration report with the county assessor. The utilization of a portion of land for activities set forth in paragraph (2) shall not invalidate the preferential assessment of the land which is not so utilized and the land shall continue to receive preferential assessment if it continues to meet the requirements of section 3.

(4) Notwithstanding paragraph (3), no roll-back tax shall be imposed upon a landowner for activities related to the exploration for or removal of oil or gas, including the extraction of coal bed methane, conducted by parties other than the landowner that hold the rights to conduct such activities pursuant to an instrument, conveyance or other vesting of the rights if the transfer of the rights occurred:

(i) before the land was enrolled for preferential assessment under this act; and

(ii) before the effective date of this section.

(c.2) (Reserved).

(c.3) The owner of property subject to preferential assessment may temporarily lease a portion of the land for pipe storage yards, provided, however, that roll-back taxes shall be imposed upon those portions of land subject to preferential assessment that are temporarily leased or otherwise devoted for pipe storage yards and the fair market value of those portions of land shall be adjusted accordingly. The imposition of roll-back taxes on portions of land temporarily leased or devoted for pipe storage yards shall not invalidate the preferential assessment of land which is not so leased or devoted, and that land shall continue to be eligible for preferential assessment if it continues to meet the requirements of section 3. Only one lease under this subsection is permitted to a landowner, and a copy of the lease shall be provided to the county assessor within ten days of its signing by the landowner. The lease shall not exceed two years and shall not be extended or renewed. Following the expiration of the lease, the land shall be restored to the original use which qualified it for preferential assessment.

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Section 3. Section 8(b) of the act, amended December 21, 1998 (P.L.1225, No.156), is amended to read:

Section 8. Roll-Back Taxes; Special Circumstances.--

(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 on the date a well site restoration report is filed with the county assessor under section 6(c.1)(3)**, 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 to the taxing bodies wherein the property is located. Nothing in this section shall be construed to require the taxing body of a taxing district in which land enrolled in preferential use is situated to accept the roll-back taxes due and payable to that taxing district if the use of the land is changed for the purpose of granting or donating such land to:

- (1) a school district;
- (2) a municipality;
- (3) a county;
- (4) a volunteer fire company;
- (5) a volunteer ambulance service;

(6) a not-for-profit corporation, tax exempt under section 501(c)(3) of the Internal Revenue Code of 1954 (68A Stat. 3, 26 U.S.C. § 501(c)(3)), provided that, prior to accepting ownership of the land, such corporation enters into an agreement with the municipality wherein the subject land is located guaranteeing that it will be used exclusively for recreational purposes, all of which shall be available to the general public free of charge. In the event the corporation changes the use of all or a portion of the land or charges admission or any other fee for the use or enjoyment of the facilities, the corporation shall immediately become liable for all roll-back taxes and accrued interest previously forgiven pursuant hereto; or

(7) a religious organization for construction or regular use as a church, synagogue or other place of worship, including meeting facilities, parking facilities, housing facilities and other facilities which further the religious purposes of the organization.

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Section 4. This act shall take effect in 60 days.

APPROVED--The 27th day of October, A. D. 2010.

EDWARD G. RENDELL