

No. 2004-235

AN ACT

HB 657

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," providing for the definitions of "agritainment," "county commissioners" and "recreational activity"; and further providing for the definition of "forest reserve," for land devoted to agricultural use, agricultural reserve and/or forest reserve, for responsibilities of county assessor and for roll-back taxes and special circumstances.

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

Section 1. The definition of "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), is 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:

* * *

"Agritainment." *Farm-related tourism or farm-related entertainment activities, which are permitted or authorized by a landowner in return for a fee on agricultural land for recreational or educational purposes. The term includes, but is not limited to, corn mazes, hay mazes, farm tours and hay rides. The term does not include activities authorized under section 8(d).*

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"County commissioners." *The board of county commissioners or other similar body in home rule charter counties.*

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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 farmstead land on the tract.]

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"Recreational activity." *Includes, but is not limited to:*

- (1) Hunting.***
- (2) Fishing.***
- (3) Swimming.***
- (4) Access for boating.***
- (5) Animal riding.***
- (6) Camping.***

(7) Picnicking.

(8) Hiking.

(9) Agritainment activities.

(10) Operation of nonmotorized vehicles.

(11) Viewing or exploring a site for aesthetic or historical benefit or for entertainment.

(12) Operation of motorized vehicles if the operation is:

(i) over an existing lane and incidental to an activity described in paragraphs (1) through (10); or

(ii) necessary to remove an animal which has been hunted under paragraph (1).

* * *

Section 2. Section 3 of the act is amended by adding subsections to read:

Section 3. Land Devoted to Agricultural Use, Agricultural Reserve, and/or Forest Reserve.—* * *

(f) A tract of land enrolled in either the agricultural use or forest reserve land use category and otherwise eligible for preferential assessment under this section shall not be deemed ineligible because the owner of the tract of land permits or authorizes or has permitted or authorized a recreational activity on the tract pursuant to section 8(f).

(g) (1) The county commissioners may adopt an ordinance to include farmstead land in the total use value for land in agricultural reserve. Any ordinance adopted pursuant to this subsection shall be applied uniformly to all land in agricultural reserve in the county.

(2) The county commissioners may adopt an ordinance to include farmstead land in the total use value for land in forest reserve. Any ordinance adopted pursuant to this subsection shall be applied uniformly to all land in forest reserve in the county.

Section 3. Sections 4.2 and 5 of the act, amended or added December 21, 1998 (P.L.1225, No.156), are amended to read:

Section 4.2. Responsibilities of County Assessor in Establishing Use Values.—(a) For each application for preferential assessment, the county assessor shall establish a total use value for land in agricultural use, **including farmstead land**, and **for land in agricultural reserve**[, **including farmstead land**.] by considering available evidence of the capability of the land for its particular use utilizing the USDA-NRCS Agricultural Land Capability Classification system and other information available from USDA-ERS, The Pennsylvania State University and the Pennsylvania Agricultural Statistics Service. Contributory value of farm buildings shall be used.

(b) For each application for preferential assessment, the county assessor shall establish a total use value for land in forest reserve[, **including farmstead land**.] by considering available evidence of capability of the land for its particular use. Contributory value of farm buildings shall be used.

(c) A county assessor may establish use values which are less than the values provided by the department under section 4.1, but lesser values shall be applied uniformly to all land in the county eligible for preferential assessment.

(d) For purposes of this section:

(1) Farmstead land located within an area enrolled as agricultural use shall be assessed at agricultural use value.

(2) Farmstead land located within an area enrolled as agricultural reserve or forest reserve shall be assessed at agricultural use value if either:

(i) a majority of land in the application for preferential assessment is enrolled as agricultural use land; or

(ii) in the circumstance that noncontiguous tracts of land are enrolled under one application, a majority of land on the tract where the farmstead land is located is enrolled as agricultural use land.

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.

(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 4. Section 8 of the act is amended by adding a subsection to read:
Section 8. Roll-Back Taxes; Special Circumstances.—* * *

(f) No roll-back taxes shall be due and no breach of preferential assessment shall be deemed to have occurred if the owner of a tract of land that is subject to preferential assessment permits or authorizes or has permitted or authorized to be performed on the tract or any portion of the tract any recreational activity, regardless of whether or not the landowner imposes a fee or charge to perform the recreational activity, provided that:

(1) the tract of land in question is enrolled in either the agricultural use or forest reserve land use categories; and

(2) the recreational activity performed does not render the land incapable of being immediately converted to agricultural use on agricultural use land and does not permanently render the land incapable of producing timber or other wood products on forest reserve land.

Section 5. This act shall take effect in 60 days.

APPROVED—The 8th day of December, A.D. 2004.

EDWARD G. RENDELL