

No. 254

AN ACT

HB 1234

Amending the act of January 13, 1966 (P.L.1292), entitled "An act enabling certain counties of the Commonwealth to covenant with land owners for preservation of land in farm, forest, water supply, or open space uses," redefining "farm land" and "open space land"; eliminating court approval; increasing the covenants to ten years; and requiring the assessment appeal board to take into consideration the restrictive covenant on the land.

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

Section 1. Clauses (1) and (4) of section 1 and section 2, act of January 13, 1966 (P.L.1292), entitled "An act enabling certain counties of the Commonwealth to covenant with land owners for preservation of land in farm, forest, water supply, or open space uses," are amended to read:

Section 1. Definitions.—For the purposes of this act the following definitions shall apply:

(1) "Farm land." Any tract or tracts of land in common ownership of at least **[fifty] twenty** acres in area, used for the raising of livestock or the growing of crops.

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(4) "Open space land." Any land, including farm, forest and water supply land, **[the use of which does not exceed, but may be less than, an intensity of three percent site coverage including structures, roads, and paved areas] in common ownership, of at least ten acres in area, in which site coverage by structures, roads and paved areas does not exceed three percent.** Open space land includes land the restriction on the use of which could (i) conserve natural or scenic resources, including but not limited to soils, beaches, streams, wetlands, or tidal marshes; (ii) enhance the value to the public of abutting or neighboring parks, forests, wildlife preserves, nature reservations, or other public open spaces; (iii) augment public recreation opportunities; (iv) preserve sites of historic, geologic, or botanic interest; **[or] (v) promote orderly urban or suburban development; or (vi) otherwise preserves open space without structures, roads and paved areas exceeding three percent of site coverage.**

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Section 2. Planning Requirements.—No land shall be subject to the provisions of this act unless designated as farm, forest, water supply, or open space land in a plan adopted following a public hearing by the planning commission of the municipality, county or region in which the land is located **[and unless it is within an area of concentrated population defined by the Federal government as an urban area].**

Section 2. Section 3 of the act, amended December 21, 1967 (P.L.882), is amended to read:

Section 3. Covenant for Farm, Forest, Water Supply or Open Space Uses.—All counties of the first, second, second A, third or fourth class are hereby authorized to enter into covenants with owners of land designated as farm, forest, water supply, or open space land on an adopted municipal, county or regional plan for the purpose of preserving the land [in the designated use.] *as open space*. Such covenants and extensions thereof shall take effect upon [approval of the court of quarter sessions of the county in which such land or the major part thereof lies] *recording in the office of recorder of deeds*. The land owner may voluntarily covenant for himself and his successors and assigns in right, title and interest that the land will remain in open space use as designated on the plan for a period of [five] *ten* years commencing with the date of the covenant. The county shall covenant that the real property tax assessment, for a period of [five] *ten* years commencing with the date of the covenant, will reflect the fair market value of the land as restricted by the covenant. *The board to which assessment appeals are taken shall take into consideration the covenant's restriction upon the land in fixing the assessment.*

Section 3. Section 4 of the act is amended to read:

Section 4. Renewal and Termination of Covenant.—Each year on the anniversary date of entering the covenant, it shall be extended for one year unless:

(1) At least thirty days prior to any anniversary date of entering the covenant the land owner notifies the county that he wishes to terminate the covenant at the expiration of [five] *ten* years from the anniversary date, or

(2) At least thirty days prior to an anniversary date of entering the covenant the county notifies the land owner that it wishes to terminate the covenant at the expiration of [five] *ten* years from the anniversary date, on the sole ground that the plan designating the land as farm, forest, water supply, or open space land has been amended officially so that the designation is no longer in accord with the plan.

Notification of the desire to terminate the covenant shall be by registered mail.

APPROVED—The 26th day of October, A. D. 1972.

MILTON J. SHAPP

The foregoing is a true and correct copy of Act of the General Assembly No. 254.



Secretary of the Commonwealth.