

PROCEDURE TO RECORD AGRICULTURAL SECURITY AREAS ESTABLISHED BY AUTHORITY OF ACT 43 OF 1981, AS AMENDED BY ACT 149 OF 1988

This procedure has been developed by the Pennsylvania Recorder of Deeds Association in cooperation with the Pennsylvania Department of Agriculture. Its purpose is to provide a uniform procedure which can be used throughout Pennsylvania to meet minimum recording requirements of Act 43. The Act does not specify use of specific recording procedure, but does address the purpose of recording and lists some items which must be included.

AUTHORIZATION AND CREATION OF AGRICULTURAL SECURITY AREAS

Creation of Agricultural Security Areas is authorized by Act 43 of 1981, as amended by Act 149 of 1988. The purpose is to protect farming operations from incompatible non-farm land uses that may render farming impracticable. Land in security areas receives exemption from local nuisance ordinances directed at normal farming operations. Land cannot be condemned for projects of state, county or local agencies or governments without prior approval for one or more review boards.

Landowners who wish to be in an area must petition their local government(s) to create the area. The Pennsylvania Department of Agriculture provides a form which can be used as the landowners' proposal form, the local government's description of the area, and as the list to be recorded with the Recorder of Deeds. This form lists owners' names and signatures, addresses, tax parcel numbers and acreage. Use of this form is not required, but alternate forms should include, as a minimum, the information required in the Act for a description, plus a place for landowners to sign a certification requesting inclusion in the area.

Areas must have the approval of the local governing body to be adopted, except that if the local government does not act on a proposal within 180 days it is considered to be approved. The local government has the option to remove parcels from a proposed area before approving it, but cannot add land without landowners consent.

Agricultural security areas are reviewed by local government every seven years, at which time they can be continued without change, modified or eliminated. Land can be added to the area at any time during the seven years. In some cases, security areas can be terminated or modified during the seven year lifespan.

RECORDING REQUIREMENT

Section 8(c) of the Act requires the local government to file a description of the agricultural security area with the Recorder of Deeds within ten days of its creation. The Recorder "shall record the filing . . . filing shall be done in a manner which is sufficient to give notice to all persons who have, may acquire or may seek to acquire an interest in land in, or adjacent to, the created agricultural security area . . ."

In addition to the original recording, local governments should have any modifications or deletions to an agricultural security area recorded by the Recorder of Deeds.

DESCRIPTION OF THE AREA

The Act defines the Description as "a complete and accurate list of the name or names of the owner or owners of each parcel of land . . . the tax parcel number or account number . . . the number or account number of acres (including partial acres, to the nearest thousandth) contained in each parcel . . . [which] shall use county tax map references for determining boundaries of each parcel."

Maps are not required to be included in the Description.

SIGNATURE REQUIREMENTS

A signature of a local government representative must be provided to certify any adoption, modification or deletion of land in an agricultural security area.

Land may be included in agricultural security areas only if the owner requests it. Owners' consent must be indicated by their signature on a proposal form any time land is being proposed for inclusion.

Owner's signatures are not required to be obtained by the local government to remove land from an agricultural security area.

Signatures of landowners do not have to be individually notarized, unless required by local government.

FILING BY THE LOCAL GOVERNMENT UNIT

Upon adopting or adding land to the agricultural security area, the local government should give the recorder a Description of the area, with signatures for each landowner. Upon deleting land or terminating the area, the local government should give the Recorder a Description of the parcel(s) deleted. A notarized Acknowledgement by a local government representative should certify the authenticity of the Description and signatures, and verify the creation and/or changes of the agricultural security area as provided for in the law.

Land from different governmental jurisdictions should not be included on the same proposal.

RECORDING

In order to record the Agricultural Security Area in the Recorder of Deeds Office, each landowner's name must be printed along with a signature, address, tax parcel number and total acreage owned in the area. If the property is jointly owned, all owners must sign. The description of the area must be acknowledged by the municipality, and the Resolution should be attached.

Every property owner should be indexed as grantor and the municipality (township or borough) indexed as grantee. This simplifies the process of retrieving the information (in actual practice it is the local government which is granting benefits to the landowner).

Agricultural security area status can be indicated by including a comment such as "Act 43" for each parcel. This alerts interested persons that the land has special legislation associated with it, which should be considered when dealing with that parcel. This meets the intent of the recording requirement in section 8(c) of the Act.

This procedure was developed and approved by:

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