

Farmland Preservation Options for Landowners



Government and Private Approaches to Conservation Easements in Pennsylvania

Fifty-eight Pennsylvania counties have agricultural land preservation boards that purchase agricultural conservation easements. Sixty-eight private, charitable land trusts accept donations of conservation easements or, less commonly, purchase them. These two paths to farmland preservation differ in many ways.

In Pennsylvania, farm owners can permanently preserve their farmland with the help of [private, charitable land trusts](#) or through the [Agricultural Conservation Easement Purchase Program](#) (ACEPP), jointly administered by the state and county agricultural land preservation boards. Both private and public approaches have long-standing and proven records of preserving farmland. However, they have distinctly different features. There are pros and cons associated with each alternative, and landowners will need to explore them to understand which approach will best meet their needs and goals.

Some of the most successful conservation efforts involve using both the local land trust and the government program. For example, a farmer might seek to sell an agricultural conservation easement covering three-quarters of their farm—and containing all or most of the farm’s most productive soils—to the county because that portion of the farm will rank much higher in the county’s purchase priority system than if the farmer sought to preserve the whole farm with the county; the farmer couples

this with a donation of a second easement on the farm’s woodlands, which have lower quality soils but are still desirable for protection.

The table below provides general comparisons of the alternatives. When reviewing it, *keep in mind that each county and land trust is different*. Some answers are the same for all; some vary. The State/County Program descriptions address the most typical situations: where state funding will be applied to the purchase and where, even if state funding isn’t being used, the county program adheres to the state rules including using the standard state easement document. Some counties take their own path for projects that don’t involve state funding, and in these cases, the answers may vary from what is presented below. You will have to contact the individual county program to get a clear answer. Likewise, you will have to contact an individual land trust to get more precise answers to many of the questions.

Feature	State/County Program	Land Trusts
Can the landowner be paid for placing restrictions on the farm?	Yes, if the farm scores high enough in the county’s ranking system.	Usually not, but it depends on the locality and the financial resources available to the particular land trust.

How much is paid?	Each county adopts policies regarding whether it pays market value, limits payment to a percentage of market value, or places a cap on the amount paid per acre.	(See previous answer.)
How long does it take?	Most counties have long backlogs of qualified farms seeking to be placed under easement. The highest ranked farms are protected first, and lower-ranked farms may have to wait years or decades to be protected. Once a farm ranks high enough for funding, there is a multi-month, sometimes multi-year, process of completing the transaction.	Generally, a few months for donated easements. The amount of time will vary depending on whether an appraisal or other preparation work are needed.
Are there federal income tax deductions available for easement donations and bargain sales?	The deed language required for easements purchased using state money does not conform with federal requirements for qualified conservation contributions. (If a county is not using state money, flexibility might exist to better address tax issues.)	Yes, if structured properly.
What is the purpose or objective of the conservation easement?	The law establishing the program describes it as preventing development or improvement for any purpose other than agricultural production.	Mutually agreed to by landowner and land trust. Protection of soil resources is a typical objective. Objectives might also include protecting scenic views, water quality, and other natural resources.
What are the restrictions on the use of the property in support of the purpose?	All activities and improvements on the land must be related to agricultural production (with some exceptions).	Mutually agreed to by the landowner and land trust.
How much flexibility is there in crafting the restrictions and other terms of the easement?	Little to none.	Can be tailored to the land, the landowners' needs, and particular conservation objectives.
Does the easement allow natural gas infrastructure?	Yes.	Depends on what is mutually agreed to by the landowner and land trust.
Does the easement allow subdivision?	Rules vary by county.	Depends on what is mutually agreed to by the landowner and land trust.
Can the landowner build an additional residence on the eased land?	In addition to structures existing on the land on the date the easement is granted, landowners can build one additional residential structure as the principal residence for the landowner or to house farm employees.	Depends on what is mutually agreed to by the landowner and land trust.

Does the easement allow wind turbines or solar panels <i>for commercial energy production</i> (in other words, for sale)?	No. One could exclude an area containing a wind turbine from the area to be placed under conservation easement in order to comply with the rules.	Depends on what is mutually agreed to by the landowner and land trust.
Does the easement allow wind turbines or solar panels for energy production <i>for use on the farm</i> ?	Yes, if the energy generated is primarily for use on the farm.	Depends on what is mutually agreed to by the landowner and land trust.
Must the farmer have and implement a conservation plan?	This is a requirement of the county programs.	Depends on what is mutually agreed to by the landowner and land trust.
To what extent will the easement protect the farm's soil or waterways?	This will vary with the design and actual implementation of the conservation plan.	Depends on what is mutually agreed to by the landowner and land trust. Protection of soil and water resources are oftentimes key agreed-to objectives along with providing for continuing agricultural production.
How often will the county or land trust visit the farm to ensure compliance with the conservation easement?	At least once every two years (the minimum required by law).	Typically, once a year (the minimum required by Land Trust Standards and Practices).
Will the county or land trust want to conserve a particular farm?	The farm must be part of an Agricultural Security Area . Each county has a scoring system to rank farms for potential inclusion in the program. Highest ranked farms receive offers first.	Land trusts usually have project selection and prioritization guidelines used for considering potential conservation projects.
What if the farm has large, wooded areas?	Woodlands can be included. However, landowners can improve their farm's ranking by excluding woodlands from the proposed easement purchase. A county sometimes partners with a land trust: the county purchases an easement on the actively farmed area and the landowner donates to the land trust a conservation easement on the woodland.	Land trusts work with landowners to identify the most appropriate conservation objectives for the land, whether farm, forest, or otherwise.
What are some of the rules that specifically guide the conservation process?	Act 43, the Agricultural Area Security Act , as well as the associated state regulations and county programs approved by the state.	Most land trusts have voluntarily adopted Land Trust Standards and Practices , the national guidelines for ethical charitable operations. (Act 29 of 2001 provides statutory authority for conservation easements not covered by Act 43 but does not require any particular process.)
How many acres have been protected in Pennsylvania?	More than 600,000 acres (6,000 farms), greater than any other state program in the nation, through 2022.	Land trusts have conserved more than 300,000 acres with conservation easements through 2022. (No data exists

		regarding what portion of that acreage is farmland compared to forest and other conservation lands.)
How long has this been going on?	The state program was created in 1989. Lancaster County pioneered county purchases in 1983.	Land trusts first used conservation easements in southeastern Pennsylvania in the 1960s. The 1980s saw expanded use across the Commonwealth.
In what areas of Pennsylvania do the county boards or land trusts operate?	58 of Pennsylvania's 67 counties participate in the program.	68 land trusts hold easements —some organizations focused on a single municipality, county, or watershed, some with much larger service areas.
Where can I go for more information?	The Pennsylvania Bureau of Farmland Preservation at 717-783-3167. Also, many counties have descriptions of their programs on their official county websites.	The library at WeConservePA.org . Land trusts working in your area can be identified at WeConservePA's Find a Group .

Farmland Preservation Resources

Related Guides

[Agriculture Conservation Easement Purchase Program](#)

[Conservation Easements: An Introduction for Private Landowners](#)

[What Is a Land Trust?](#)

[Why Preserve Farmland?](#)

Organizations

[Pennsylvania Department of Agriculture](#)

[PA Dept. of Agriculture's farmland preservation page](#)

[WeConservePA](#)

Stories of Farmland Preservation

[In Their Own Words](#) (landowner essays on their conservation choices)

[Leaving a Legacy](#)

[Christmas Trees and Conservation](#)



[Andy Loza](#) authored this guide.

WeConservePA offers this guide thanks to support from the Colcom Foundation, the William Penn Foundation, and the Community Conservation Partnerships Program, Environmental Stewardship Fund, under the administration of the Pennsylvania Department of Conservation and Natural Resources, Bureau of Recreation and Conservation.

Nothing contained in this document is intended to be relied upon as legal advice or to create an attorney-client relationship. The material presented is generally provided in the context of Pennsylvania law and, depending on the subject, may have more or less applicability elsewhere. There is no guarantee that it is up to date or error free.

© 2023, 2017 WeConservePA

Text may be excerpted and reproduced with acknowledgement of WeConservePA.

v. 2023.01.31