

Clean and Green

Pennsylvania's Preferential Tax Assessment Program



Clean and Green, established by the Pennsylvania Farmland and Forest Land Assessment Act, provides for lower property tax assessments of land capable of producing agricultural products and timber or providing open space for public use.

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Introduction

Much of the land in Pennsylvania that is ideal for agricultural production, forestry, and recreation is also well-suited for development purposes. When the market value of this land rises, real estate taxes also increase. Since the property tax a landowner owes is based on the value of their land rather than the amount of money they earn using the land, the tax does not take into account a landowner's ability to pay. This can create special hardships for farmers and others with large amounts land but relatively low cash flow generated from that land.

Increased tax assessments can have a significant impact on a farmer's bottom line, possibly tempting them to sell their land to reduce taxation and take advantage of the land's increased value. To mitigate this problem, the [Pennsylvania Farmland and Forest Land Assessment Act \(Act 319\)](#), referred to as the Clean and Green Act, was signed into law in 1974. The intent of the act is to protect farmland, forest, and open space by allowing for land taxation according to its use-value rather than the prevailing market value. Act 319 applies to all counties in Pennsylvania. Each county assessor's office is responsible for administering the program within its jurisdiction.

As of 2015, counties reported 178,720 parcels enrolled in the Clean and Green program, covering more than 9 million acres.

Eligible Lands

The following three land use types are eligible for preferential assessment under Clean and Green:

- Agricultural
- Agricultural Reserve
- Forest Reserve.

Agricultural

Land that has been producing an agricultural commodity or has been devoted to a soil conservation program under an agreement with the federal government for at least three years preceding the application for preferential assessment, and meets one of the following descriptions:

- Is comprised of at least 10 contiguous acres, including any farmstead land and woodlot.
- Has an anticipated yearly gross income of at least \$2,000 from the production of an agricultural commodity.

- Is devoted to the development and operation of an alternative energy system, if a majority of the energy generated annually is utilized on the tract.

Agricultural Reserve

Land comprised of at least 10 contiguous acres, including any farmstead land and woodlot, that is free and open to the public on a nondiscriminatory basis for outdoor recreation or the enjoyment of scenic or natural beauty.

Forest Reserve

Land comprised of at least 10 contiguous acres, including any farmstead land, that is stocked by forest trees of any size and capable of producing timber or other wood products. Forest reserve land includes land that is rented to another person for the purpose of producing timber or other wood products.

Application

Landowners apply for the Clean and Green program through the assessor's office of the county where the land is located. If the land is located in multiple counties, the application should be filed in the county to which the landowner pays property taxes. A standardized form is used across the state. Applications must be received by June 1 for the landowner to enroll in the program for the following tax year. A county board for assessment appeals may impose a fee of no more than \$50 for processing an application.

Landowners are not required to reside on the land or live in the same county to which they submit their application. The person applying for preferential assessment must own all the land listed in the application; they may include contiguous tracts that would not qualify is considered individually. A landowner cannot apply to have only a portion of the land in a single tract qualify for the Clean and Green program. However, there can be separate eligible land uses on one tract, as long as the acreage identified for each particular land use meets the minimum criteria for that land use category.

Methods of Assessment

Clean and Green enables eligible land to be assessed at its use value instead of market value. Use value is a property's value based only on the income the land would typically generate if used for agricultural, woodland, or pastureland purposes; it does not consider all of the property's potential uses. The Clean and Green law states that the use value must reflect the potential production of the individual parcel, based upon soil capability. Use value will likely result in a lower tax assessment value than valuation on a fair market value basis.

The Department of Agriculture supplies county assessment offices with annual county-specific use values. The county has the option of implementing these values, or establishing its own values. If the county-established values are lower, the county may apply the lower use values. The Department of Agriculture uses the following system to determine use-values:

- Agricultural use and agricultural reserve values are based upon the income approach for land appraisal. The formula takes into consideration the state crop profit margin percentage for corn production, an average value of crop receipts per acre by county, a Soil Index Factor, and an average capitalization rate.
- Forest reserve values are based on the average value of timber in a particular county, or the average value of six timber types by county. The Pennsylvania Department of Conservation and Natural Resources calculates this value annually.

Based on [annual reports](#) conducted by the Pennsylvania Department of Agriculture, the average reduction in fair market assessed value for enrollees is nearly 50 percent.

Leaving the Program

A landowner may remove their land from Clean and Green. In doing so, the landowner will be subject to 7 years of rollback taxes at 6% interest per year. The rollback tax is the difference between what was paid under Clean and Green versus what would have been

paid had the property not been enrolled, plus 6% simple interest per year. Land that is removed from the program in this manner is not eligible to be subsequently re-enrolled by the same landowner.

Changing land from one land use classification to another does not trigger rollback taxes.

Sale or Division of Enrolled Land

Clean and Green allows for two types of divisions or conveyances: "Split-offs" and "Separations."

Split-off

The division, by conveyance or other action of the owner, of land into two or more tracts. When a split-off tract meets the following criteria, rollback taxes and interest are only due on the split-off tract, and are not due with respect to the remainder:

- Generally, no more than 2 acres may be split-off per year. Cumulative split-offs from subsequent years may never exceed the lesser of 10 acres or 10 percent of the total land originally enrolled.
- The remaining parcel must meet the Clean and Green requirements.
- The split-off tract may be used for agricultural, agricultural reserve, or forest reserve use or for the construction of a residential dwelling to be occupied by the person to whom the land is conveyed.

Separation

The division, by conveyance or other action of the owner, of land into two or more tracts of land that continue to be in agricultural, agricultural reserve, or forest reserve use. The tracts must generally be 10 acres in size and continue to meet the requirements for Clean and Green eligibility. No rollback taxes are due, unless one of the tracts is converted so that it no longer meets program requirements.

Non-Agricultural and Recreational Use of Land

An owner of enrolled land may apply up to 2 acres of enrolled land toward direct commercial sales of agri-

culturally related products and activities, or toward a rural enterprise incidental to the operational unit. These acres include land used for access roads and parking for the enterprise. Only the acres used for this enterprise would be subject to rollback taxes and interest if both of the following apply:

1. The commercial activity or rural enterprise does not permanently impede or otherwise interfere with the production of an agricultural commodity on the remainder of the enrolled land.
2. The commercial activity is owned and operated by the landowner or people who are Class A beneficiaries of the landowner for inheritance tax purposes, or by a legal entity owned or controlled by the landowner or people who are Class A beneficiaries of the landowner for inheritance tax purposes.

Recreational activities or agritainment activities are allowed on forest reserve and agricultural land. Agritainment is farm-related tourism or farm-related entertainment activities for recreation or educational purposes. These activities are authorized by the landowner in return for a fee. Agritainment includes (but is not limited to) corn mazes, hay mazes, farm tours, and hay rides. Recreational activity includes (but is not limited to):

- Hunting
- Fishing
- Swimming
- Access for boating
- Animal riding
- Camping
- Picnicking
- Hiking
- Agritainment activities
- Operation of nonmotorized vehicles.
- Viewing or exploring a site for aesthetic or historical benefit or for entertainment
- Operation of motorized vehicles, if the operation is on an existing road and incidental to an activity

described above, or necessary to remove a hunted animal.

Public Access

Land enrolled as *agricultural reserve* must remain open to the public and free of charge for passive recreational uses on a nondiscriminatory basis. However, a landowner may place reasonable restrictions on this. For example, a landowner need not allow access after dark, the carrying of firearms, or the use of motorized vehicles.

Farmsteads

Farmstead land is any curtilage (the immediate, enclosed area surrounding a house or dwelling) and land situated under a residence, farm building, or other building that supports a residence, including a residential garage or workshop. Farmstead land located within an area enrolled as agricultural use qualifies for preferential assessment.

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

- a majority of land in the application for preferential assessment is enrolled as agricultural use land; or
- 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.

County commissioners may adopt an ordinance to allow the preferential assessment of a farmstead on land that is enrolled as agricultural or forest reserve.

Option to Accept or Forgive Rollback Taxes

If enrolled land is granted or donated to one of the following entities, the taxing body in which the land is located may accept or forgive rollback taxes:

- School district.
- Municipality.

- County.
- Volunteer fire company.
- Volunteer ambulance service.
- 501(c)(3) nonprofit corporation, if prior to accepting ownership of the land, the corporation enters into an agreement with the municipality where the land is located guaranteeing the land will be used exclusively for recreational purposes, all of which shall be available to the general public free of charge. If the corporation does not follow this agreement, it will be liable for all rollback taxes and accrued interest previously forgiven.
- Religious organization, if it uses the land only for construction or regular use as a place of worship, including meeting facilities, parking facilities, housing facilities, and other facilities which further the religious purposes of the organization.

The taxing body may not forgive the interest on rollback taxes.

Energy Development

Marcellus Shale Drilling

[Act 88 of 2010](#) protects landowners who participate in Pennsylvania's Clean and Green program from rollback taxes due to the development of a gas well or pipeline on their property. Under Act 88, land subject to preferential assessment may be used for exploration for, and removal of, gas and oil. This includes the development of appurtenant facilities, including new roads and bridges, pipelines, and other buildings or structures related to those activities. Rollback taxes will be imposed upon only those portions of land actually devoted to these activities, excluding land devoted to subsurface transmission or gathering lines. A rollback tax may only be levied on the portion of the land filed under the [well restoration report](#) and on land which is incapable of being immediately used for agricultural use, agricultural reserve, or forest reserve.

No rollback tax will 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, when conducted by a party other than the

landowner that holds the rights to conduct such activities. This applies if the transfer of rights occurred before the land was enrolled in Clean and Green before December 26, 2010 (the effective date of Act 88).

Alternative Energy

Act 88 also allows for the development and use of Tier I alternative energy on any land use category to remain under preferential assessment as long as more than half of the energy annually generated is used on the tract of land. Examples of Tier I energy include solar photovoltaic, solar thermal, wind power, low impact hydropower, geothermal energy, biologically derived methane gas, fuel cells, biomass energy, and coal mine methane.

[Act 109 of 2010](#) allows landowners who participate in the Clean and Green program to use their land for commercial wind production in situations where more than half of the produced energy is sold and used away from the tract of land. The portions of the land used for wind production are subject to rollback taxes. This differs from the provisions of Act 88, which allows for wind power production with no rollback taxes if more than half of the produced energy is used on the tract.

Use of Rollback Taxes

Act 319 requires that all the interest received on rollback taxes must be combined with other local money appropriated by an eligible county for the purchase of agricultural conservation easements. If the county does not participate in the easement program, the interest must be forwarded to the state agricultural conservation easement purchase program fund.

Conservation Implications

Impermanence

Clean and Green does not deliver permanent protection to lands enrolled. While there are financial penalties for removing land from the program, these penalties are generally insufficient to stop land conversions as development pressures rise. Landowners pay millions of dollars in rollback taxes each year as

they move to develop their land and remove it from the program.

Clean and Green's immediate impact is the reallocation of tax burdens away from landowners who own lands that fit into one of the three categories and giving individual landowners who otherwise would be pressured by high taxes to sell their land for development the financial ability to keep their land in its agricultural, forest, or open space status.

Provides Conservation Window and Incentive

By forestalling some landowners from selling for development, Clean and Green increases the window of opportunity for a conservation organization to work with a landowner to permanently protect the land. If land enrolled in the program is put up for sale, a conservation organization could have a modest advantage over a developer, since development of the land would result in a financial penalty to the landowner and a sale to a conservation organization would likely not.

Incentivizes Sprawling Land Development

Clean and Green allows those not engaged in farming to qualify for preferential assessment under agricultural reserve and forest reserve designations, which can incentivize the sprawling development of 10-acre mini-estates. The law partially addresses this by disallowing preferential assessment of farmsteads (often referred to as base acres) within agricultural and forest reserve lands, but landowners still can receive preferential assessment on the rest of their property. While some might view 10-acre mini-estates as beneficial open space, many others do not due to, among other factors, the resulting habitat fragmentation, absence of agricultural production or good forestry, and sprawling infrastructure necessary to support these mini-estates. (The fact that other landowners must share the tax burden of which landowners enrolled in Clean and Green are relieved causes additional controversy surrounding mini-estates.)

History of the Act

Since it was first passed, Clean and Green has been amended at various times, including significant

amendments in 1998, 2004, and 2010. Act 156 of 1998 amended the law to help bring about uniform interpretation throughout Pennsylvania. The law was amended again in 2004 through Act 235, which provides for the market value assessments of farmstead lands enrolled in the Agricultural Reserve and Forest Reserve categories. Counties retain the ability to adopt an ordinance to continue assessing agricultural reserve and forest reserve farmstead lands at use value. This change occurred because Act 156 apparently caused a significant reduction in the property tax bases in many rural taxing jurisdictions and resulted in an increase of mini-estates. Act 235 also provides for the recreational leasing of enrolled land. In 2010, Act 88 modified the law to allow land enrolled in the program to be used for exploration and removal of gas and oil. Act 88 also allows land with renewable energy development to remain in preferential assessment as long as more than half the energy produced is used on the tract.

Resources at ConservationTools.org

To find experts and other information on the topics covered by this guide, see the right-hand column of the online addition at

<http://conservationtools.org/guides/44>

Submit Comments

Help improve the next edition of this guide. Email your suggestions to the Pennsylvania Land Trust Association at aloza@conserveland.org. Thank you.

Acknowledgments

Large portions of the text of this tool were excerpted and adapted from the Pennsylvania Local Government Commission's publication, "[Pennsylvania Legislator's Municipal Deskbook, Fourth Edition, Clean and Green](#)," 2014.

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