

**PART V-C. FARMLAND AND FOREST LAND**

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**Authority**

The provisions of this Part V-C issued under the Pennsylvania Farmland and Forest Land Assessment Act of 1974 (72 P. S. § 5490.11), unless otherwise noted.

**Source**

The provisions of this Part V-C adopted August 8, 1975, effective August 9, 1975, 5 Pa.B. 2025; amended June 19, 1981, effective June 20, 1981, 11 Pa.B. 2111, unless otherwise noted.

**CHAPTER 136. SEWER AND WATER LINE ASSESSMENT  
EXEMPTION**

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**Authority**

The provisions of this Chapter 136 issued under act of May 28, 1976 (P. L. 148, No. 71) (53 P. S. §§ 1241—1243), unless otherwise noted.

**Source**

The provisions of this Chapter 136 adopted December 11, 1981, effective December 12, 1981, 11 Pa.B. 4259, unless otherwise noted.

**§ 136.1. Definitions.**

The following words and terms, when used in this chapter, have the following meanings, unless the context clearly indicates otherwise.

*Act*—The act of May 28, 1976 (P. L. 148, No. 71) (53 P. S. §§ 1241—1243).

*Agricultural commodity*—An agricultural, horticultural, viticultural, and dairy products, livestock and the products thereof, ranch-raised fur bearing animals and the products thereof, the products of poultry and bee raising, foresting and forestry products and products raised or produced on farms intended for human consumption and the processed or manufactured products thereof intended for human consumption, transported or intended to be transported in commerce. Reference should be made to the Pennsylvania Agricultural Commodities Marketing Act of 1968 (3 P. S. §§ 1001—1013).

*Assessing authority*—A municipality or authority empowered to install water or sewer lines and to assess landowners for the costs thereof.

*Cemetery*—A place for the disposal or burial of deceased human beings, by cremation or in a grave, mausoleum, vault, columbarium or other receptacle.

*Department*—The Department of Agriculture of the Commonwealth of Pennsylvania, 2301 North Cameron Street, Harrisburg, Pennsylvania 17110.

*Farm product*—An agricultural, horticultural, vegetable, fruit and floricultural product of the soil, livestock and meats, wool, hides, poultry, eggs, dairy products, nuts, mushrooms and honey. Reference should be made to 1 Pa.C.S. § 1991 (relating to definitions). Livestock products include equine and other livestock that are produced and bred for commercial purposes.

*Land devoted to agricultural use*—That land used for the purpose of producing an agricultural commodity or any farm product.

*Land devoted to cemetery use*—That land used or being held for cemetery purposes and land contiguous to a cemetery which is being held by the cemetery owner for cemetery use.

*Secretary*—The Secretary of the Department.

**Source**

The provisions of this § 136.1 adopted December 11, 1981, effective December 12, 1981, 11 Pa.B. 4259.

**§ 136.2. General provisions.**

(a) The owner of land certified by the Secretary as land primarily devoted to agricultural use or as land devoted to cemetery use is not liable for the cost of the installation of water or sewer lines so long as the landowner does not use the lines and the land continues to be devoted to agricultural or cemetery use.

(b) If a landowner uses the services provided by the lines, either voluntarily or as required by law, but continues to meet the eligibility requirements set forth in §§ 136.3 and 136.4 (relating to eligibility requirements for agricultural use; and eligibility requirements for cemetery use), the landowner shall be liable for the cost of installation of the lines, but only on that amount of the property that is benefited by the use of the lines.

**Source**

The provisions of this § 136.2 adopted December 11, 1981, effective December 12, 1981, 11 Pa.B. 4259.

**§ 136.3. Eligibility requirements for agricultural use.**

(a) If the land is more than 10 contiguous acres, it is eligible if it is presently devoted to agricultural use and was devoted to such use for 3 years prior to the installation of water or sewer lines and up until the present time.

(b) If the land is less than ten contiguous acres, it is eligible if it is presently devoted to agricultural use and was devoted to such use for 3 years prior to the installation of water or sewer lines and up until the present time and if it can be shown that the use of the land produces an anticipated gross income of \$2,000 per year from the sale of agricultural commodities or farm products.

**Source**

The provisions of this § 136.3 adopted December 11, 1981, effective December 12, 1981, 11 Pa.B. 4259.

**Cross References**

This section cited in 7 Pa. Code § 136.2 (relating to general provisions).

**§ 136.4. Eligibility requirements for cemetery use.**

The land is eligible if it is presently devoted to or being held for cemetery use and was devoted to such use for 3 years prior to the installation of water or sewer lines and up until the present time.

**Source**

The provisions of this § 136.4 adopted December 11, 1981, effective December 12, 1981, 11 Pa.B. 4259.

**Cross References**

This section cited in 7 Pa. Code § 136.2 (relating to general provisions).

**§ 136.5. Application procedures.**

(a) Application forms for certification of agricultural or cemetery land are available from the Department.

(b) The landowner shall have received a notice of an assessment for water or sewer lines in a right-of-way fronting on or crossing the land before the application is submitted.

(c) If the land is in agricultural use, the application shall include documentation sufficient to establish that the land to be certified has been devoted to agricultural use for 3 years prior to the installation of lines and up until the present time. The documentation may include, but is not limited to:

- (1) Records of production of or income from agricultural commodities or farm products.
- (2) Evidence of assessment under the Pennsylvania Farmland and Forest Land Assessment Act (72 P. S. §§ 5490.1—5490.13).
- (3) Covenants prepared under the act of January 13, 1966 (P. L. (1965) 292, No. 515) (16 P. S. §§ 11941—11947).
- (4) Voluntary crop and livestock reports.

(d) If the land is in cemetery use, the application shall include documentation sufficient to establish that the land to be certified has been devoted to cemetery use for 3 years prior to the installation of lines and up until the present time. The documentation may include but is not limited to:

- (1) Articles of incorporation or charter.
- (2) Perpetual care fund.
- (3) Burial records.
- (4) Pre-need sales records.

(e) If the agricultural land is not 10 acres in area, the application shall include documentation sufficient to establish the fact. The documentation may include but is not limited to:

- (1) Copy of owner's deed.
- (2) County tax map.
- (3) Professional land surveyor's map.

(f) If the agricultural land is less than 10 acres in area but produces anticipated yearly gross income of at least \$2,000, the application shall include documentation sufficient to establish the fact. The documentation may include, but is not limited to:

- (1) Soil surveys and calculations.
- (2) Farm schedules from income tax records.
- (3) Receipts and invoices.

#### **§ 136.6. Duties of the landowner.**

(a) The landowner shall complete the application and submit it to the Department along with the required documentation.

(b) If the land is certified by the Secretary, the landowner shall submit one copy of the certification to the assessing authority for a permanent record.

(c) The owner of certified agricultural land shall notify the assessing authority in writing within 60 days following a change of use from agricultural use.

(d) The owner of certified cemetery land shall notify the assessing authority in writing within 60 days following a change of use from cemetery use. The owner of certified cemetery land does not have to notify the assessing authority when he applies land held in reserve for cemetery use to active cemetery use.

(e) If the use of certified land is changed to an ineligible use, the owner at the time of change shall be liable for the original cost of installation of the lines.

#### Source

The provisions of this § 136.6 adopted December 11, 1981, effective December 12, 1981, 11 Pa.B. 4259.

#### Cross References

This section cited in 7 Pa. Code § 136.8 (relating to duties of the assessing authority).

### § 136.7. Duties of the Department.

(a) The Department will provide the application forms.

(b) The Department will ensure that the application is properly completed and executed with a notarized signature of the landowner.

(c) An agent of the Department will conduct an on-site inspection of the premises to confirm the information contained in the application.

(d) The Department will return two copies of the certification to the landowner when land is certified.

#### Source

The provisions of this § 136.7 adopted December 11, 1981, effective December 12, 1981, 11 Pa.B. 4259.

### § 136.8. Duties of the assessing authority.

(a) The assessing authority shall not hold the owner of certified land liable for the cost of installation of water or sewer lines so long as the landowner does not use the lines and the land continues to be devoted to agricultural or cemetery use.

(b) The assessing authority shall file with the Recorder of Deeds in the county in which the land is located a notice of record, a certification signed and acknowledged by the landowner and indexed in the owner's name, indicating that the lines were installed and that if the current or any subsequent owner of the land uses the lines or changes the land use to an ineligible use, the owner shall be liable for the payment of the original assessment.

(c) If the use of certified land is changed to an ineligible use, the assessing authority may place a lien against the property in the amount of the original assessment and collectible according to the act of May 16, 1923 (P. L. 207, No. 153) (53 P. S. §§ 7101—7505).

(d) If the owner of certified land fails to notify the assessing authority within 60 days of a change of use as required by § 136.6(c) and (d) (relating to duties

of the landowner), the assessing authority may charge as a penalty 10% of the original assessment plus interest at the rate of 8% from the date of change.

**Source**

The provisions of this § 136.8 adopted December 11, 1981, effective December 12, 1981, 11 Pa.B. 4259.

**§ 136.9. Appeals procedure.**

(a) The applicant or the assessing authority shall have the right of appeal from the certification or noncertification by the Department. This appeal must be in writing to the Secretary, and it must be filed within 30 days of the notice of action by the Department.

(b) Where the Department undertakes, on its own initiative or on the written request of the assessing authority, a review of a previous certification, the affected parties shall have a right of appeal, in writing, within 30 days of the notice of action by the Department in accordance with subsection (a).

(c) The Department will only consider one appeal annually from its certification decision.

(d) All appeals from the Department's certification decisions shall be in accordance with Part V-A (relating to rules of administrative practice and procedure). To the extent that this chapter expands the time period to perfect appeals beyond that granted in Chapter 131 (relating to rules of practice and procedure), this chapter will be deemed controlling.

**Source**

The provisions of this § 136.9 adopted December 11, 1981, effective December 12, 1981, 11 Pa.B. 4259.

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