

## California PACE Enabling Laws

California Public Resources Code  
Cal. Pub. Res. Code §§ 10200-10277  
Current through the 2019 Regular Session

### § 10200. Citation of division

This division shall be known, and may be cited, as the ***California Farmland Conservancy Program Act***. Any other references in this division to the Agricultural Land Stewardship Program Act of 1995 shall hereafter mean the California Farmland Conservancy Program Act.

*History: Added by Stats. 1995, Ch. 931, § 1. Amended by Stats. 1999, Ch. 503, § 1. Effective January 1, 2000.*

### § 10201. Legislative findings and declarations

The Legislature hereby finds and declares all of the following:

- (a) The agricultural lands of the state contribute substantially to the state, national, and world food supply and are a vital part of the state's economy.
- (b) The growing population and expanding economy of the state have had a profound impact on the ability of the public and private sectors to conserve land for the production of food and fiber, especially agricultural land around urban areas.
- (c) Agricultural lands near urban areas that are maintained in productive agricultural use are a significant part of California's agricultural heritage. These lands contribute to the economic betterment of local areas and the entire state and are an important source of food, fiber, and other agricultural products. Conserving these lands is necessary due to increasing development pressures and the effects of urbanization on farmlands close to cities.
- (d) The long-term conservation of agricultural land is necessary to safeguard an adequate supply of agricultural land and to balance the increasing development pressures around urban areas.
- (e) A program to encourage and make possible the long-term conservation of agricultural lands is a necessary part of the state's agricultural land protection policies and programs, and it is appropriate to expend money for that purpose. A program of this nature will only be effective when used in concert with local planning and zoning strategies to conserve agricultural land.
- (f) Funding is necessary to better address the needs of conserving agricultural land near urban areas.

*History: Added by Stats. 1995, Ch. 931, § 1.*

### § 10202. Legislative intent

It is the intent of the Legislature, in enacting this division, to do all of the following:

- (a) Encourage voluntary, long-term private stewardship of agricultural lands by offering landowners financial incentives.
- (b) Protect farming and ranching operations in agricultural areas from nonfarm or nonranch land uses that may hinder and curtail farming or ranching operations.

(c) Encourage long—term conservation of productive agricultural lands in order to protect the agricultural economy of rural communities, as well as that of the state, for future generations of Californians.

(d) Encourage local land use planning for orderly and efficient urban growth and conservation of agricultural land.

(e) Encourage local land use planning decisions that are consistent with the state’s policies with regard to agricultural land conservation.

(f) Encourage improvements to enhance long—term sustainable agricultural uses.

*History: Added by Stats. 1995, Ch. 931, § 1.*

#### **§ 10210. Definitions for construction of division**

Unless the context otherwise requires, the definitions in this article govern the construction of this division.

*History: Added by Stats. 1995, Ch. 931, § 1.*

#### **§ 10211. “Agricultural conservation easement”; “Easement”**

“Agricultural conservation easement” or “easement” means an interest in land, less than fee simple, which represents the right to prevent the development or improvement of the land, as specified in Section 815.1 of the Civil Code, for any purpose other than agricultural production. The easement shall be granted for the California Farmland Conservancy Program by the owner of a fee simple interest in land to any of the organizations or entities specified in Section 815.3 of the Civil Code. It shall be granted in perpetuity as the equivalent of covenants running with the land.

*History: Added by Stats. 1995, Ch. 931, § 1. Amended by Stats. 2019, Ch. 469, § 7. (SB 785) Effective January 1, 2020.*

#### **§ 10212. “Applicant”**

“Applicant” means a city, county, nonprofit organization, resource conservation district, or a regional park or open—space district or regional park or open—space authority that has the conservation of farmland among its stated purposes, as prescribed by statute, or as expressed in the entity’s locally adopted policies, that applies for a grant authorized pursuant to this division.

*History: Added by Stats. 1995, Ch. 931, § 1. Amended by Stats. 2002, Ch. 616, § 3. Effective January 1, 2003.*

#### **§ 10213. “Agricultural land”**

(a) “Agricultural land” means prime farmland, farmland of statewide importance, unique farmland, farmland of local importance, and commercial grazing land as defined in the Guidelines for the Farmland Mapping and Monitoring Program, pursuant to Section 65570 of the Government Code.

(b) In those areas of the state where lands have not been surveyed for classification pursuant to subdivision (a), land shall meet the requirements of “prime agricultural land” as set forth in subdivision (c) of Section 51201 of the Government Code.

*History: Added by Stats. 1995, Ch. 931, § 1.*

**§ 10214. “Department”**

“Department” means the Department of Conservation.

*History: Added by Stats. 1995, Ch. 931, § 1.*

**§ 10215. “Director”**

“Director” means the Director of Conservation.

*History: Added by Stats. 1995, Ch. 931, § 1.*

**§ 10216. “Fund”**

“Fund” means the California Farmland Conservancy Program Fund created pursuant to Section 10230.

*History: Added by Stats. 1995, Ch. 931, § 1. Amended by Stats. 1999, Ch. 503, § 3. Effective January 1, 2000.*

**§ 10218. “Husbandry practices”**

“Husbandry practices” means agricultural activities, such as those specified in subdivision (e) of Section 3482.5 of the Civil Code, conducted or maintained for commercial purposes in a manner consistent with proper and accepted customs and standards, as established and followed by similar agricultural operations in the same locality.

*History: Added by Stats. 1995, Ch. 931, § 1. Amended by Stats. 1999, Ch. 83, § 167. Effective January 1, 2000.*

**§ 10219. “Local government”**

“Local government” means a city or county.

*History: Added by Stats. 1995, Ch. 931, § 1.*

**§ 10220. “Local government program”**

“Local government program” means the policies and implementation measures of a local government to conserve agricultural land.

*History: Added by Stats. 1995, Ch. 931, § 1.*

**§ 10221. “Nonprofit organization”**

“Nonprofit organization” means any private nonprofit organization which has among its purposes the conservation of agricultural lands, and holds a tax exemption as defined under Section 501(c)(3) of the Internal Revenue Code, and further qualifies as an organization under Section 170(b)(1)(A)(vi) or 170(h)(3) of the Internal Revenue Code.

*History: Added by Stats. 1995, Ch. 931, § 1.*

**§ 10222. “Program”**

“Program” means the California Farmland Conservancy Program established under this division.

*History: Added by Stats. 1995, Ch. 931, § 1. Amended by Stats. 1999, Ch. 503, § 4. Effective January 1, 2000.*

**§ 10223. “Secretary”**

“Secretary” means the Secretary of the Resources Agency.

*History: Added by Stats. 1995, Ch. 931, § 1.*

**§ 10224. “Resource conservation district”**

“Resource conservation district” means a resource conservation district established pursuant to Division 9 (commencing with Section 9000).

*History: Added by Stats. 1999, Ch. 503, § 5. Effective January 1, 2000.*

**§ 10225. Legislative findings and declarations**

The Legislature hereby finds and declares that, pursuant to Chapter 4 (commencing with Section 31150) of Division 21, the State Coastal Conservancy has responsibility for carrying out agricultural projects in the coastal zone, as defined in Section 30103. Nothing in this division shall be construed to alter the conservancy’s responsibility for the administration of state or federal funds that are allocated for the purpose of preserving coastal agricultural lands. For projects in the coastal zone, the department shall consult with the State Coastal Conservancy in developing its policies, priorities, and procedures for the allocation of those state and federal moneys.

*History: Added by Stats. 1995, Ch. 931, § 1.*

**§ 10226. Construction of division**

Nothing in this division shall be construed to overrule, rescind, or amend any of the requirements prescribed in Chapter 7 (commencing with Section 51200) of Division 1 of Title 5 of the Government Code.

*History: Added by Stats. 1995, Ch. 931, § 1.*

**§ 10227. Land development on property near protected property**

No local government shall, in any way, limit development on any land solely because of the land’s proximity to property that is protected by an agricultural conservation easement that is subject to this division.

*History: Added by Stats. 1995, Ch. 931, § 1.*

**§§ 10228, 10229. [Sections repealed 1965.]**

**§ 10230. California Farmland Conservancy Program Fund**

(a)

(1) The California Farmland Conservancy Program Fund is hereby created.

Except as provided in paragraph (2), the moneys in the fund shall, upon appropriation by the Legislature in the annual Budget Act, be used for the purposes of the program, which include the

purchase of agricultural conservation easements, fee title acquisition grants, land improvement and planning grants, technical assistance provided by the department, technology transfer activities of the department, and administrative costs incurred by the department in administering the program.

(2) Notwithstanding paragraph (1), moneys may be deposited into the fund from federal grants, and gifts and donations that are designated and required by the donor to be used exclusively for the purposes of the program, and notwithstanding Section 13340 of the Government Code, those moneys are hereby continuously appropriated to the department for expenditure for the purposes of this program.

(b) Not to exceed 10 percent of all grants made by the department pursuant to this division may be made for land improvement purposes and policy planning purposes. Not less than 90 percent of funds available for grants pursuant to this division shall be expended for the acquisition of interests in land.

*History: Added by Stats. 1995, Ch. 931, § 1. Amended by Stats. 2002, Ch. 616, § 4. Effective January 1, 2003.*

### **§ 10230.5. Purposes of grants**

Policy planning grants may be awarded pursuant to criteria established by the department for purposes including, but not limited to, the development and evaluation of local or regional land conservation strategies and potential agricultural conservation easement or fee title acquisition projects.

*History: Added by Stats. 2002, Ch. 616, § 5. Effective January 1, 2003.*

### **§ 10231. Utilization of money from fund**

Money available from the fund shall be utilized in accordance with the expenditures and distribution authorized, required, or otherwise provided in the program for grants for the acquisition of agricultural conservation easements or fee title. This includes direct costs incidental to the acquisition, as determined by the department, including costs associated with a loss in property tax revenues resulting from the acquisition of those agricultural conservation easements. Direct costs paid to the applicant shall have been incurred after the complete application was submitted to the department and no more than 180 days before the execution of the grant agreement or during the grant term, and shall not exceed 10 percent of the value of the easements for which the costs were incurred.

*History: Added by Stats. 1995, Ch. 931, § 1. Amended by Stats. 2007, Ch. 254, § 5. Effective September 26, 2007.*

### **§ 10231.5. Donations of funds**

The department may accept donations of funds if the department is the designated beneficiary of the donation and it agrees to use the funds for purposes of the program in a county specified by the donor. Any donation made to the department pursuant to this section is subject to the requirements of Sections 11005 and 16302 of the Government Code.

*History: Added by Stats. 1999, Ch. 503, § 8. Effective January 1, 2000.*

### **§ 10232. Local government acquisition through eminent domain**

The director shall not approve a grant if the local government requesting a grant has acquired, or proposes to acquire, the agricultural conservation easement through the use of eminent domain, unless requested by the owner of the land.

*History: Added by Stats. 1995, Ch. 931, § 1.*

### **§ 10233. Matching funds**

Each application for a grant pursuant to this division shall contain a matching funding component, as specified in this section, and may be provided in the form of cash or in-kind services, or any combination thereof, as determined by the department.

(a) Each application for a grant for the purchase of an agricultural conservation easement shall contain a matching component of not less than 5 percent of the value of the grant or a landowner donation of not less than 10 percent of the appraised fair market value of the agricultural conservation easement. In situations where both matching funds and donations of easement value are being combined, the combined match shall be not less than 10 percent of the appraised fair market value of the agricultural conservation easement. Up to 50 percent of contributions to an agricultural conservation easement monitoring endowment for the subject property may be provided as a component of a qualified grant match under this division, as determined by the department.

(b) Each application for a planning or land improvement grant pursuant to Section 10230 shall contain a matching funding component of not less than 10 percent of the proposal's total cost.

(c) Each application for a fee title acquisition grant shall contain a matching component of not less than 5 percent of the value of the grant.

*History: Added by Stats. 1995, Ch. 931, § 1. Amended by Stats. 2002, Ch. 616, § 7. Effective January 1, 2003.*

### **§ 10234. Certification of eligibility and approval**

Every applicant for a grant for the acquisition of fee title or an agricultural conservation easement shall provide by a resolution from the governing body of the local government in which the proposed project is located, and shall certify both of the following:

(a) The proposal meets the eligibility criteria set forth in Section 10251.

(b) The proposal has been approved by the appropriate local governmental governing body.

*History: Added by Stats. 1995, Ch. 931, § 1. Amended by Stats. 2002, Ch. 616, § 8. Effective January 1, 2003.*

### **§ 10235. Use of easement for stated purpose**

(a) The director shall not disburse any grant funds until the applicant agrees that any agricultural conservation easement acquired shall be used by the applicant only for the purpose for which the funds were requested and that no other use, sale, or other disposition of the easement shall be permitted unless approved by the director, or where the easement may be transferred to a public agency or nonprofit organization, for management purposes.

(b) If a local government or nonprofit organization holding the easement is dissolved, it shall be transferred to an appropriate public agency or nonprofit organization, as provided in this division.

(c) The easement, or any of its terms, may only be amended with the consent of all of the necessary parties to the easement, including the landowner, the easement holder, and the director. The director shall determine that the amendment is not inconsistent with this section before it may be amended.

*History: Added by Stats. 1995, Ch. 931, § 1. Amended by Stats. 2002, Ch. 616, § 9. Effective January 1, 2003.*

### **§ 10235.5. Payment system**

The department may establish a payment system for the purchase of an agricultural conservation easement that is mutually satisfactory to the department and the seller of the easement, provided that full payment for the easement is secured.

*History: Added by Stats. 1999, Ch. 503, § 10. Effective January 1, 2000.*

#### **§ 10236. Reimbursement**

If the funds are used for the acquisition of an agricultural conservation easement pursuant to a local transfer of development rights program, upon the sale of the easement and its attendant development rights, the entity that holds the easement shall reimburse the fund by an amount equal to the fair market value of the easement, as determined by an appraisal approved by the department.

*History: Added by Stats. 1995, Ch. 931, § 1. Amended by Stats. 2002, Ch. 616, § 10. Effective January 1, 2003.*

#### **§ 10237. Restriction on use of land**

The director shall not disburse any grant funds for easement or fee title acquisitions unless the applicant, and in the case of an easement acquisition grant, the seller, agrees to restrict the use of the land in perpetuity, subject to review after 25 years.

*History: Added by Stats. 1995, Ch. 931, § 1. Amended by Stats. 2002, Ch. 616, § 11. Effective January 1, 2003.*

#### **§ 10238. Restrictions on husbandry practices**

The director shall not disburse any grant funds to acquire agricultural conservation easements which restrict husbandry practices.

*History: Added by Stats. 1995, Ch. 931, § 1.*

#### **§ 10239. Funds for acquisition of fee title to agricultural land**

The director shall disburse funds to an applicant for a grant for the acquisition of fee title to agricultural land only if the applicant agrees to all of the following conditions:

- (a) Upon acquisition of the property, treat the property as encumbered by an agricultural conservation easement subject to this division and approved by the department.
- (b) Sell the fee title subject to an agricultural conservation easement approved by the department to a private landowner within three years of the acquisition of the fee title.
- (c) Reimburse the fund directly from escrow within 30 days after the sale of the restricted fee title by an amount equal to the department's proportional share of the net proceeds of the sale.
  - (1) The "net proceeds of the sale" is defined as the fair market value of the land less the value of the easement and associated transaction costs.
  - (2) The department's proportional share of the net proceeds of the sale shall be calculated using a factor reflecting the department's proportional share of the purchase price paid by the applicant in the original acquisition of fee title, taking into account contributions from all sources toward that original purchase price.

*History: Added by Stats. 1995, Ch. 931, § 1. Amended by Stats. 2007, Ch. 254, § 6. Effective September 26, 2007.*

#### **§ 10240. Rules and regulations**

(a) The department shall adopt rules and regulations for the implementation of this division.

(b) Rules or regulations adopted by the department pursuant to this section shall be adopted in accordance with the rulemaking provisions of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code).

*History: Added by Stats. 1995, Ch. 931, § 1. Amended by Stats. 2002, Ch. 616, § 13. Effective January 1, 2003.*

#### **§ 10241. Criteria for approval of grant applications**

The department shall adopt the criteria necessary for its approval of grant applications.

*History: Added by Stats. 1995, Ch. 931, § 1. Amended by Stats. 2002, Ch. 616, § 14. Effective January 1, 2003.*

#### **§ 10242. Applications for acquisition of easements or fee title**

The director shall review, and approve or disapprove, grant applications from applicants for the acquisition of agricultural conservation easements on agricultural land or the acquisition of fee title to agricultural land pursuant to Section 10239.

*History: Added by Stats. 1995, Ch. 931, § 1. Amended by Stats. 1999, Ch. 503, § 15. Effective January 1, 2000.*

#### **§ 10243. Allocation of state funds**

The department shall allocate available state funds to applicants for the acquisition of agricultural conservation easements. However, no governmental agency shall condition the issuance of an entitlement to use on a landowner's granting of a fee interest or less than a fee interest in property pursuant to this chapter.

*History: Added by Stats. 1995, Ch. 931, § 1. Amended by Stats. 1999, Ch. 503, § 16. Effective January 1, 2000.*

#### **§ 10244. Eligibility requirements**

To be eligible to receive funds pursuant to this division for the acquisition of either agricultural conservation easements or fee title interests, qualified applicants shall submit to the department documentation of the applicable local government's adopted general plan that demonstrates a long-term commitment to agriculture and agricultural land conservation, including a summary of goals, objectives, and policies and implementation measures that support that commitment.

*History: Added by Stats. 1995, Ch. 931, § 1. Amended by Stats. 2002, Ch. 616, § 15. Effective January 1, 2003.*

#### **§ 10245. Reimbursement to school districts**

The program shall reimburse any school district which requests reimbursement for any net loss of property tax revenues occurring as a result of the program.

*History: Added by Stats. 1995, Ch. 931, § 1.*

#### **§ 10246. Grants for land improvements; Evaluation**

Grants may be made for land improvements. Use of these grants shall be limited to the improvement of lands protected by agricultural conservation easements under the program, or of lands protected by



other qualified conservation easement programs, if the improvement will directly benefit the lands protected by agricultural conservation easements under the program. An application for a land improvement grant shall be evaluated with respect to the extent to which it satisfies one or more of the following criteria:

- (a) The improvement will enhance the agricultural value of the land protected by the easement, and promote its long-term sustainable agricultural use such as water supply development and revegetation of eroding streambanks.
- (b) The improvement will increase the compatibility of agricultural operations with sensitive natural areas.
- (c) The improvement will demonstrate new and innovative best management practices which have the potential for wide application.
- (d) The proposed improvement includes the financial and technical involvement of other agencies, such as resource conservation districts, the Wildlife Conservation Board, the United States Farm Services Agency, and the United States Natural Resources Conservation Service.
- (e) The improvement is part of a coordinated watershed management plan or the equivalent.
- (f) The application satisfies other relevant criteria established by the department.

*History: Added by Stats. 1995, Ch. 931, § 1. Amended by Stats. 2002, Ch. 616, § 16. Effective January 1, 2003.*

#### **§ 10250. Review of applications**

In reviewing applications pursuant to this division, the department shall determine whether the proposed project meets the applicable requirements set forth in this division and conforms with any rules or regulations adopted by the department pursuant to this division.

*History: Added by Stats. 1995, Ch. 931, § 1. Amended by Stats. 2002, Ch. 616, § 17. Effective January 1, 2003.*

#### **§ 10251. Eligibility criteria**

Applicants for an agricultural conservation easement or fee acquisition grant shall meet all of the following eligibility criteria:

- (a) The parcel proposed for conservation is expected to continue to be used for, and is large enough to sustain, commercial agricultural production. The land is also in an area that possesses the necessary market, infrastructure, and agricultural support services, and the surrounding parcel sizes and land uses will support long-term commercial agricultural production.
- (b) The applicable city or county has a general plan that demonstrates a long-term commitment to agricultural land conservation. This commitment shall be reflected in the goals, objectives, policies, and implementation measures of the plan, as they relate to the area of the county or city where the easement acquisition is proposed.
- (c) Without conservation, the land proposed for protection is likely to be converted to nonagricultural use in the foreseeable future.

*History: Added by Stats. 1995, Ch. 931, § 1. Amended by Stats. 2002, Ch. 616, § 18. Effective January 1, 2003.*

#### **§ 10252. Selection criteria**

The director shall evaluate a proposal for a fee title or agricultural conservation easement acquisition grant based upon the overall value of the project, taking into consideration the goals and objectives for this program, and the extent to which the proposed project satisfies the following selection criteria:

(a) The quality of the agricultural land, based on land capability, farmland mapping and monitoring program definitions, productivity indices, and other soil, climate, and vegetative factors.

(b) The proposal meets multiple natural resource conservation objectives, including, but not limited to, wetland protection, wildlife habitat conservation, and scenic open-space preservation.

(c) The city or county demonstrates a long-term commitment to agricultural land conservation as demonstrated by the following:

(1) The general plan and related land use policies of the city or county.

(2) Policies of the local agency formation commission.

(3) California Environmental Quality Act policies and procedures.

(4) The existence of active local agricultural land conservancies or trusts.

(5) The use of an effective right-to-farm ordinance.

(6) Applied strategies for the economic support and enhancement of agricultural enterprise, including water policies, public education, marketing support, and consumer and recreational incentives.

(7) Other relevant policies and programs.

(d) If the land is in a county that participates in the Williamson Act (Chapter 7 (commencing with Section 51200) of Part 1 of Division 1 of Title 5 of the Government Code), the land proposed for protection is within a county or city designated agricultural preserve.

(e) The land proposed for conservation is within two miles outside of the exterior boundary of the sphere of influence of a city as established by the local agency formation commission.

(f) The applicant demonstrates fiscal and technical capability to effectively carry out the proposal. Technical capability may be demonstrated by agricultural land conservation expertise on the governing board or staff of the applicant, or through partnership with an organization that has that expertise.

(g) The proposal demonstrates a coordinated approach among affected landowners, local governments, and nonprofit organizations. If other entities are affected, there is written support from those entities for the proposal and a willingness to cooperate. The support of neighboring landowners who are not involved in the proposal shall be considered.

(h) The conservation of the land supports long-term private stewardship and continued agricultural production in the region.

(i) The proposal demonstrates an innovative approach to agricultural land conservation with a potential for wide application in the state.

(j) The amount of matching funds and in-kind services contributed by local governments and other sources toward the acquisition of the fee title or agricultural conservation easement, or both.

(k) The price of the proposed acquisition is cost-effective in comparison to the fair market value.

(l) Other relevant considerations established by the director.

*History: Added by Stats. 1995, Ch. 931, § 1. Amended by Stats. 2002, Ch. 616, § 19. Effective January 1, 2003.*

**§ 10252.5. Grants; Disbursements of moneys; Agricultural conservation easement funded by grant; Requirements; Farm, Ranch, and Watershed Account established**

(a) Notwithstanding any other provision of this division and subject to subdivision (b), the director may make a grant, and disburse moneys for that grant from a source other than the fund, to an applicant for the acquisition of an agricultural conservation easement, if the director determines that the grant meets the purposes of this division and upon appropriation by the Legislature with regard to state funds from a source other than the fund.

(b) An agricultural conservation easement that is funded by a grant issued pursuant to subdivision (a) shall meet all of the following requirements:

(1) The primary purpose for which the easement is being sought is consistent with continuing agricultural use of the easement property.

(2) The easement does not, and will not, substantially prevent agricultural uses on the easement property.

(3) Any restriction on the current or reasonably foreseeable agricultural use of the easement property would only be imposed to restrict those areas of the easement property that are not in cultivation.

(4) If the easement property has characteristics or qualities that meet the original purpose of the funding source as cultivated land, the easement property may continue to be commercially cultivated with the minimum restrictions necessary to meet the original funding source requirements.

(5) The nonagricultural qualities that will be protected by the easement are inherent to the easement property.

(6) The easement will require that a subsequent easement or deed restriction placed on the easement property will be subordinate to the agricultural conservation easement and require approval of the director.

(c)

(1) In enacting this provision, it is the intent of the Legislature that moneys other than those appropriated to the fund be used to provide grants to implement this section.

(2) The Farm, Ranch, and Watershed Account is hereby established within the Soil and Conservation Fund. Moneys in that account shall be used to provide grants to implement this section.

*History: Added by Stats. 2010, Ch. 323, § 1. (SB 1142) Effective January 1, 2011.*

**§ 10253. Authority to affect local policy or land use decisions**

Nothing in this chapter shall grant any new authority to the department to affect local policy or land use decision-making.

*History: Added by Stats. 1995, Ch. 931, § 1.*

**§ 10254. Requirement of public notice**

Before an application for an agricultural conservation easement or fee title acquisition grant is approved by the department pursuant to the program, the entity that is applying for the grant shall provide public notice to parties reasonably likely to be interested in the property, including the county and city in

which the property is located, conservation, agricultural, and development organizations, adjacent property owners, and the general public. Written notice shall be provided as follows:

(a) Notice shall be provided to adjacent landowners as indicated in the county tax rolls not less than 30 days prior to the expected date of the local government's consideration of the resolution required pursuant to subdivision (b) of Section 10234.

(b) The notice to the county and city shall be provided not less than 30 days before the entity applies for the grant to acquire an agricultural conservation easement.

*History: Added by Stats. 1995, Ch. 931, § 1. Amended by Stats. 2002, Ch. 616, § 20. Effective January 1, 2003.*

#### **§ 10255. Conditions required prior to disbursement of funds for easements or fee title acquisitions**

Prior to the disbursement of grant funds for easements or fee title acquisitions under this division, all of the following conditions shall be met:

(a) The proposed agricultural conservation project shall be deemed by the department to be compatible with the applicable city or county general plan.

(b) The governing body of the applicable city or county approves the easement proposal by resolution.

(c) For land within a city's sphere of influence, the proposed agricultural conservation project shall be deemed by the department to be compatible with both the applicable county and city general plans. In addition, both the applicable county and city shall have adopted resolutions approving the easement proposal.

*History: Amended by Stats. 2002, Ch. 616, § 22. Effective January 1, 2003.*

#### **§ 10260. Determination of value of easement**

(a) In determining the amount of funding to be provided for an agricultural conservation easement or fee acquisition grant, the department shall take reasonable steps to ensure that the total purchase price of the agricultural conservation easement or, in the case of a fee title acquisition, the total purchase price of the subject property does not exceed fair market value, taking into consideration the funding from all sources. The determination of fair market value shall be accomplished, as follows:

(1) An applicant shall select and retain an independent real estate appraiser to determine the value of the subject property, including any proposed agricultural conservation easement.

(2) The department shall review and consider an applicant's appraisal and may, at its sole discretion, require or obtain an additional appraisal.

(3) The easement value shall be calculated by determining the difference between the fair market value and the restricted value of the property.

(b) The department may conditionally approve grant applications prior to completion of final appraisals, provided an acceptable appraisal and all other requirements of this division are met before any disbursement of grant funds.

(c) The department shall have final authority to determine the acceptability of an appraisal pursuant to this division.

*History: Added by Stats. 1995, Ch. 931, § 1. Amended by Stats. 2002, Ch. 616, § 21. Effective January 1, 2003.*

#### **§ 10260.5. Recordation of easement**

For purposes of this division, an agricultural conservation easement shall be recorded in the county recorder's office in each county in which the real property affected is located. Once recorded, the easement shall attach to the real property in perpetuity.

*History: Added by Stats. 1999, Ch. 503, § 20. Amended by Stats. 2002, Ch. 616, § 23. Effective January 1, 2003.*

#### **§ 10261. Just compensation to owners for condemnation**

(a) Whenever any entity exercises the power of eminent domain to acquire land subject to an agricultural conservation easement under this program, the condemnor shall pay just compensation to the owner of the land in fee and to the owner of the easement as follows:

(1) The owner of the land in fee shall be paid the full value that would have been payable to the owner but for the existence of the easement less the fair market value of the easement, as determined by an independent appraisal, at the time of condemnation.

(2) The program, and any other contributing parties if so provided in the easement, shall be paid the value of the easement at the time of condemnation.

(b) The director may provide, by regulation, or, pursuant to the terms of the easement, that in the case of acquisition of the easement by a federal agency, that the agency shall agree to the amount of compensation paid for the easement that is determined pursuant to subdivision (a), or pay the current fair market value of the land subject to an agricultural easement. The director shall distribute the proceeds of a land sale that is made in accordance with the conditions set forth in subdivision (a).

*History: Added by Stats. 1995, Ch. 931, § 1. Amended by Stats. 2002, Ch. 616, § 24. Effective January 1, 2003.*

#### **§ 10262. Permissible grants and uses of land**

An agricultural conservation easement shall not prevent any of the following:

(a) The granting of leases, assignments, or other conveyances, or the issuing of permits, licenses, or other authorization, for the exploration, development, storage, or removal of oil and gas by the owner of the subject land, or for the development of related facilities or for the conduct of incidental activities, as long as the agricultural productivity of the subject land and any multiple uses that made the acquisition a priority for selection under the program, are not thereby significantly impaired.

(b) The granting of rights-of-way by the owner of the subject land in and through the land for the installation, transportation, or use of water, sewage, electric, telephone, gas, oil, or oil products lines, stock water development and storage, energy generation, and fencing, provided that the agricultural productivity of the land and any multiple uses that made the acquisition a priority for selection under the program, are not significantly impaired by those activities.

(c) The construction and use of structures on the subject land that are necessary for agricultural production and marketing, including, but not limited to, barns, shops, packing sheds, cooling facilities, greenhouses, roadside marketing stands, stock water development and storage, energy generation, and fencing, provided that the agricultural productivity of the land and any multiple uses that made the acquisition a priority for selection under the program, are not significantly impaired by those activities.

(d) Customary part time or off season rural enterprises or activities, including, but not limited to, hunting and fishing, wildlife habitat improvement, predator control, timber harvesting, and firewood production, provided that the agricultural productivity of the land and any multiple uses that made the acquisition a priority for selection under the program, are not significantly impaired by those activities.

*History: Added by Stats. 1995, Ch. 931, § 1. Amended by Stats. 2002, Ch. 616, § 25. Effective January 1, 2003.*

### **§ 10262.1. Restrictive easements**

Except as provided in Section 10238, an easement may, at the request of the landowner, establish provisions that are more restrictive than those restrictions prescribed in this division.

*History: Added by Stats. 1999, Ch. 503, § 22. Effective January 1, 2000.*

### **§ 10262.2. Additional easement provisions**

An agricultural conservation easement may provide for either or both of the following:

- (a) Construction and use of additional residences for the immediate family members, as defined in subdivision (c) of Section 51230.1 of the Government Code, of the landowner.
- (b) Construction and use of structures on the subject land for the purpose of providing necessary housing for seasonal or full-time employees of the agricultural operation.

*History: Amended by Stats. 2002, Ch. 616, § 26. Effective January 1, 2003.*

### **§ 10262.5. Public access**

The granting of an agricultural conservation easement under this division shall not be interpreted to convey any rights of public access to the subject property.

*History: Amended by Stats. 2002, Ch. 616, § 27. Effective January 1, 2003.*

### **§ 10263. Time for action on application; Notification**

- (a) The department shall act on an application for a grant within 180 days after the department determines that it is complete.
- (b) If the department disapproves a grant application, the applicant shall be given written notice of the disapproval within 10 days of the department's decision. The written notice shall state the reason for the disapproval of the application.

*History: Added by Stats. 1995, Ch. 931, § 1. Amended by Stats. 2002, Ch. 616, § 28. Effective January 1, 2003.*

### **§ 10264. Grounds for disapproval of application**

The director shall disapprove the application for a grant for the acquisition of an agricultural conservation easement or fee title in any of the following circumstances:

- (a) The application does not satisfy the eligibility criteria set forth in Section 10251.
- (b) The department has determined that clear title to the agricultural conservation easement cannot be conveyed.
- (c) There is insufficient money in the fund to carry out the acquisition.
- (d) Other acquisitions have a higher priority.

*History: Added by Stats. 1995, Ch. 931, § 1. Amended by Stats. 2002, Ch. 616, § 29. Effective January 1, 2003.*

### **§ 10265. [Section repealed 2002.]**

**§§ 10266–10268. [Sections repealed 1965.]**

**§ 10270. Review for possible termination**

Twenty–five or more years from the date of sale of the agricultural conservation easement, the landowner may make a request to the department that the easement be reviewed for possible termination. Upon receipt of a request, the department shall immediately notify the affected local government to initiate a local government inquiry pursuant to Section 10271.

*History: Added by Stats. 1995, Ch. 931, § 1. Amended by Stats. 2002, Ch. 616, § 31. Effective January 1, 2003.*

**§ 10271. Inquiry prior to termination**

(a) To terminate the agricultural conservation easement, the local government in which the subject land is located shall undertake an inquiry to determine the feasibility of profitable farming on the subject land.

(1) The local government inquiry shall include onsite inspection of the subject land, the holding of a public hearing in the county in which the subject land is located, held after adequate public notice of the hearing has been given and the preparation of a report documenting the findings of the local government.

(2) The inquiry shall be concluded and a report submitted to the department within 150 days of the department notifying the local government of the request pursuant to Section 10270.

(b) The department shall make a decision as to the request within 195 days after notifying the local government of the request or within 45 days after receiving the local government report summarizing the results of its inquiry, whichever occurs later.

*History: Added by Stats. 1995, Ch. 931, § 1. Amended by Stats. 2002, Ch. 616, § 32. Effective January 1, 2003.*

**§ 10272. Approval of city council or board of supervisors**

An agricultural conservation easement may be terminated only with the approval of the city council of the city in which the subject land is located, or of the board of supervisors if the land is located in an unincorporated area.

*History: Added by Stats. 1995, Ch. 931, § 1.*

**§ 10273. Requisite findings for termination**

(a) For the department to approve the termination of the agricultural conservation easement, all of the following findings shall be made:

(1) The termination is consistent with the purposes of this division.

(2) The termination is in the public interest.

(3) The termination is not likely to result in the removal of adjacent lands from commercial agricultural production.

(4) The termination is for an alternate use which is consistent with the applicable provisions of the city or county general plan.

(5) The termination will not result in discontinuous patterns of urban development.

(6) The conservation purposes, as defined in the agricultural conservation easement, can no longer be achieved.

(7) There is no land that is available and suitable for the use to which it is proposed that the restricted land be put to, or that development of the restricted land would provide more contiguous patterns of urban development than development of proximate unrestricted land.

(b) As used in subdivision (a), the following terms have the following meaning:

(1) "Proximate unrestricted land" means land that is not restricted by an easement and which is sufficiently close to land that is restricted so that it can serve as a practical alternative for the use that is proposed for the restricted land.

(2) "Suitable for the use" means that the salient features of the proposed use can be served by land not restricted by an easement. The nonrestricted land may be a single parcel or may be a combination of discontinuous parcels.

(c) The department shall request from the easement holder, and shall consider the easement holder's assessment of, information regarding the continuing value and viability of the subject property for the conservation purposes for which the easement was originally created. The department may consider the easement holder's investment in, or experience with, the subject property in evaluating the proposed termination.

*History: Added by Stats. 1995, Ch. 931, § 1. Amended by Stats. 2002, Ch. 616, § 33. Effective January 1, 2003.*

#### **§ 10274. Character of existing agricultural use; Exceptions to requisite findings**

The uneconomic character of existing agricultural use shall not by itself be sufficient reason for termination of the agricultural conservation easement, unless the director determines there is no other reasonable or comparable agricultural use for the land, and the conservation purposes, as defined in the agricultural conservation easement, can no longer be achieved. If the director determines that the existing use is uneconomic, that there is no other reasonable or comparable agricultural use of the land, and the conservation purposes as defined in the agricultural conservation easement can no longer be achieved, termination of the easement may be approved by the secretary without making a finding pursuant to paragraph (6) of subdivision (a) of Section 10273.

*History: Added by Stats. 1995, Ch. 931, § 1. Amended by Stats. 2002, Ch. 616, § 34. Effective January 1, 2003.*

#### **§ 10275. Proposal for alternative use**

(a) The landowner's request for termination shall be accompanied by a proposal for a specified alternative use of the land. The proposal for the alternative use shall list those governmental agencies known by the landowner to have permit authority related to the proposed alternative use.

(b) The landowner requesting a termination shall be required to pay the total amount of the costs incurred by the local government responsible for the administration of proceedings related to the landowner's request for termination, if requested by the local government.

*History: Added by Stats. 1995, Ch. 931, § 1.*

#### **§ 10276. Repurchase of easement by landowner**



(a) If the termination of the agricultural conservation easement is approved pursuant to this division or pursuant to a judicial proceeding in a court of competent jurisdiction, the landowner shall repurchase the easement by paying to the fund and, if so provided in the easement, to any other contributing parties, the difference, at that time, between the fair market value and the restricted value. That difference shall be determined by an appraisal approved by the state and conducted at the landowner's expense.

(b) If the landowner fails to complete the termination process by repurchasing the agricultural conservation easement within one year from the date of the department's approval of the termination of the easement, the termination approval shall lapse and the landowner shall wait at least one year before reapplying to terminate the easement.

(c) Money received from the repurchase of agricultural conservation easements shall be deposited in the fund and shall be available, upon appropriation, for the purposes set forth in this division, except as provided in subdivision (d).

(d) Where an easement was originally purchased with moneys from sources other than the program, the easement may require that moneys received from the repurchase of the easement be divided proportionally between the fund and any other funding source, including nonprofit organizations, in amounts that are proportional to the original contribution made by each party that contributed to that purchase. If provided in an easement, a nonprofit organization that contributed indirect costs and services to the purchase of an easement may recoup the actual amount of its contribution, plus an amount not exceeding 3 percent of the total amount of the contribution for administrative costs of ongoing easement monitoring and enforcement. Those contributions shall be deducted from the total proceeds prior to the proportional division defined herein.

*History: Added by Stats. 1995, Ch. 931, § 1. Amended by Stats. 2002, Ch. 616, § 35. Effective January 1, 2003.*

#### **§ 10277. Reapplication for termination**

If the termination of the agricultural conservation easement is not approved, the landowner may reapply for termination not sooner than one year after the submittal of the denied application.

*Added by Stats. 1995, Ch. 931, § 1.*

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