



## Ohio Revised Code

### Section 901.21 Acquisition of real property used predominantly in agriculture and agricultural easements.

Effective: January 1, 2016

Legislation: House Bill 64 - 131st General Assembly

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(A) As used in this section and section 901.22 of the Revised Code:

(1) "Agricultural easement" has the same meaning as in section 5301.67 of the Revised Code.

(2) "Agriculture" means those activities occurring on land devoted exclusively to agricultural use, as defined in section 5713.30 of the Revised Code, or on land that constitutes a homestead.

(3) "Homestead" means the portion of a farm on which is located a dwelling house, yard, or outbuildings such as a barn or garage.

(B) The director of agriculture may acquire real property used predominantly in agriculture and agricultural easements by gift, devise, or bequest if, at the time an easement is granted, such an easement is on land that is valued for purposes of real property taxation at its current value for agricultural use under section 5713.31 of the Revised Code or that constitutes a homestead. Any terms may be included in an agricultural easement so acquired that are necessary or appropriate to preserve on behalf of the grantor of the easement the favorable tax consequences of the gift, devise, or bequest under the "Internal Revenue Act of 1986," 100 Stat. 2085, 26 U.S.C.A. 1, as amended. The director, by any such means or by purchase or lease, may acquire, or acquire the use of, stationary personal property or equipment that is located on land acquired in fee by the director under this section and that is necessary or appropriate for the use of the land predominantly in agriculture.

(C) The director may include, in an agricultural easement acquired under division (B) of this section, a provision to preserve a unique natural or physical feature on the land so long as the use of the land remains predominantly agricultural.

(D) The director may do all things necessary or appropriate to retain the use of real property acquired



in fee under division (B) of this section predominantly in agriculture, including, without limitation, performing any of the activities described in division (A)(1) or (2) of section 5713.30 of the Revised Code or entering into contracts to lease or rent the real property so acquired to persons or governmental entities that will use the land predominantly in agriculture.

(E)(1) When the director considers it to be necessary or appropriate, the director may sell real property acquired in fee, and stationary personal property or equipment acquired by gift, devise, bequest, or purchase, under division (B) of this section on such terms as the director considers to be advantageous to this state.

(2) An agricultural easement acquired under division (B) of this section may be extinguished under the circumstances prescribed, and in accordance with the terms and conditions set forth, in the instrument conveying the agricultural easement.

(F) There is hereby created in the state treasury the agricultural easement purchase fund. The fund shall consist of the proceeds received from the sale of real and personal property under division (E) of this section; moneys received due to the extinguishment of agricultural easements acquired by the director under division (B) of this section or section 5301.691 of the Revised Code; moneys received due to the extinguishment of agricultural easements purchased with the assistance of matching grants made under section 901.22 of the Revised Code; gifts, bequests, devises, and contributions received by the director for the purpose of acquiring agricultural easements; and grants received from public or private sources for the purpose of purchasing agricultural easements. The fund shall be administered by the director, and moneys in the fund shall be used by the director exclusively to purchase agricultural easements under division (A) of section 5301.691 of the Revised Code and provide matching grants under section 901.22 of the Revised Code to municipal corporations, counties, townships, soil and water conservation districts established under Chapter 940. of the Revised Code, and charitable organizations described in division (B) of section 5301.69 of the Revised Code for the purchase of agricultural easements. Money in the fund shall be used only to purchase agricultural easements on land that is valued for purposes of real property taxation at its current value for agricultural use under section 5713.31 of the Revised Code or that constitutes a homestead when the easement is purchased.

(G) There is hereby created in the state treasury the clean Ohio agricultural easement fund. Twelve



and one-half per cent of net proceeds of obligations issued and sold pursuant to sections 151.01 and 151.09 of the Revised Code shall be deposited into the fund. The fund shall be used by the director for the purposes of this section, section 901.22 of the Revised Code, and the provisions of sections 5301.67 to 5301.70 of the Revised Code governing agricultural easements. Investment earnings of the fund shall be credited to the fund and may be used to pay costs incurred by the director in administering those sections and provisions.

(H) The term of an agricultural easement purchased wholly or in part with money from the clean Ohio agricultural easement fund or the agricultural easement purchase fund shall be perpetual and shall run with the land.



## Ohio Revised Code

### Section 901.22 Matching grants for purchasing agricultural easements.

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(A) The director of agriculture, in accordance with Chapter 119. of the Revised Code, shall adopt rules that do all of the following:

(1) Establish procedures and eligibility criteria for making matching grants to municipal corporations, counties, townships, soil and water conservation districts established under Chapter 940. of the Revised Code, and charitable organizations described in division (B) of section 5301.69 of the Revised Code for the purchase of agricultural easements. With respect to agricultural easements that are purchased or proposed to be purchased with such matching grants that consist in whole or in part of moneys from the clean Ohio agricultural easement fund created in section 901.21 of the Revised Code, the rules shall establish all of the following:

(a) Procedures for all of the following:

(i) Soliciting and accepting applications for matching grants;

(ii) Participation by local governments and by the public in the process of making matching grants to charitable organizations;

(iii) Notifying local governments, charitable organizations, and organizations that represent the interests of farmers of the ranking system established in rules adopted under division (A)(1)(b) of this section.

(b) A ranking system for applications for the matching grants that is based on the soil type, proximity of the land or other land that is conducive to agriculture as defined by rules adopted under this section and that is the subject of an application to other agricultural land or other land that is conducive to agriculture as defined by rules adopted under this section and that is already or is in the process of becoming permanently protected from development, farm stewardship, development pressure, and, if applicable, a local comprehensive land use plan involved with a proposed



agricultural easement. The rules shall require that preference be given to proposed agricultural easements that involve the greatest proportion of all of the following:

- (i) Prime soils, unique or locally important soils, microclimates, or similar features;
  - (ii) Land that is adjacent to or that is in close proximity to other agricultural land or other land that is conducive to agriculture as defined by rules adopted under this section and that is already or is in the process of becoming permanently protected from development, by agricultural easement or otherwise, so that a buffer would exist between the land involving the proposed agricultural easement and areas that have been developed or likely will be developed for purposes other than agriculture;
  - (iii) The use of best management practices, including federally or state approved conservation plans, and a history of substantial compliance with applicable federal and state laws;
  - (iv) Development pressure that is imminent, but not a result of current location in the direct path of urban development;
  - (v) Areas identified for agricultural protection in local comprehensive land use plans.
- (c) Any other criteria that the director determines are necessary for selecting applications for matching grants;
- (d) Requirements regarding the information that must be included in the annual monitoring report that must be prepared for an agricultural easement under division (E)(2) of section 5301.691 of the Revised Code, procedures for submitting a copy of the report to the office of farmland preservation in the department of agriculture, and requirements and procedures governing corrective actions that may be necessary to enforce the terms of the agricultural easement.

(2) Establish provisions that shall be included in the instrument conveying to a municipal corporation, county, township, soil and water conservation district, or charitable organization any agricultural easement purchased with matching grant funds provided by the director under this section, including, without limitation, all of the following provisions:



(a) A provision stating that an easement so purchased may be extinguished only if an unexpected change in the conditions of or surrounding the land that is subject to the easement makes impossible or impractical the continued use of the land for the purposes described in the easement, or if the requirements of the easement are extinguished by judicial proceedings;

(b) A provision requiring that, upon the sale, exchange, or involuntary conversion of the land subject to the easement, the holder of the easement shall be paid an amount of money that is at least equal to the proportionate value of the easement compared to the total value of the land at the time the easement was acquired;

(c) A provision requiring that, upon receipt of the portion of the proceeds of a sale, exchange, or involuntary conversion described in division (A)(2)(b) of this section, the municipal corporation, county, township, soil and water conservation district, or charitable organization remit to the director an amount of money equal to the percentage of the cost of purchasing the easement it received as a matching grant under this section.

Moneys received by the director pursuant to rules adopted under division (A)(2)(c) of this section shall be credited to the agricultural easement purchase fund created in section 901.21 of the Revised Code.

(3) Establish a provision that provides a charitable organization, municipal corporation, township, county, or soil and water conservation district with the option of purchasing agricultural easements either in installments or with a lump sum payment. The rules shall include a requirement that a charitable organization, municipal corporation, township, county, or soil and water conservation district negotiate with the seller of the agricultural easement concerning any installment payment terms, including the dates and amounts of payments and the interest rate on the outstanding balance. The rules also shall require the director to approve any method of payment that is undertaken in accordance with the rules adopted under division (A)(3) of this section.

(4) Establish any other requirements that the director considers to be necessary or appropriate to implement or administer a program to make matching grants under this section and monitor those grants.



(B) The director may develop guidelines regarding the acquisition of agricultural easements by the department of agriculture and the provisions of instruments conveying those easements. The director may make the guidelines available to public and private entities authorized to acquire and hold agricultural easements.

(C) The director may provide technical assistance in developing a program for the acquisition and monitoring of agricultural easements to public and private entities authorized to hold agricultural easements. The technical assistance may include, without limitation, reviewing and providing advisory recommendations regarding draft instruments conveying agricultural easements.

(D)(1) The director may make matching grants from the agricultural easement purchase fund and the clean Ohio agricultural easement fund to municipal corporations, counties, townships, soil and water conservation districts, and charitable organizations to assist those political subdivisions and charitable organizations in purchasing agricultural easements. Application for a matching grant shall be made on forms prescribed and provided by the director. The matching grants shall be made in compliance with the criteria and procedures established in rules adopted under this section. Instruments conveying agricultural easements purchased with matching grant funds provided under this section, at a minimum, shall include the mandatory provisions set forth in those rules.

Matching grants made under this division using moneys from the clean Ohio agricultural easement fund created in section 901.21 of the Revised Code may provide up to seventy-five per cent of the value of an agricultural easement as determined by a general real estate appraiser who is certified under Chapter 4763. of the Revised Code or as determined through a points-based appraisal system established under division (D)(2) of this section. Not less than twenty-five per cent of the value of the agricultural easement shall be provided by the recipient of the matching grant or donated by the person who is transferring the easement to the grant recipient. The amount of such a matching grant used for the purchase of a single agricultural easement shall not exceed one million dollars.

(2) The director shall establish a points-based appraisal system for the purposes of division (D)(1) of this section. The director may include any or all of the following factors in the system:

(a) Whether the applicable county auditor has determined that the land is land that is devoted



exclusively to agriculture for the purposes of sections 5713.30 to 5713.38 of the Revised Code;

(b) Changes in land values following the completion of the applicable county auditor's reappraisal or triennial update;

(c) Soil types and productivity;

(d) Proximity of the land to land that is already subject to an agricultural easement, conservation easement created under sections 5301.67 to 5301.70 of the Revised Code, or similar land-use limitation;

(e) Proximity of the land to water and sewer lines, road interchanges, and nonagricultural development;

(f) Parcel size and roadway frontage of the land;

(g) Existence of an agreement entered into under division (D) of section 940.06 of the Revised Code or of an operation and management plan developed under division (A) of section 939.03 of the Revised Code;

(h) Existence of a comprehensive plan that is adopted under section 303.02 or 519.02 of the Revised Code or that is adopted by the planning commission of a municipal corporation under section 713.06 of the Revised Code;

(i) Any other factors that the director determines are necessary for inclusion in the system.

(E) An agricultural easement acquired as a result of a matching grant awarded under division (D) of this section may include a provision to preserve a unique natural or physical feature on the land so long as the use of the land remains predominantly agricultural.

(F) For any agricultural easement purchased with a matching grant that consists in whole or in part of moneys from the clean Ohio agricultural easement fund, the director shall be named as a grantee on the instrument conveying the easement, as shall the municipal corporation, county, township, soil





and water conservation district, or charitable organization that receives the grant.

(G)(1) The director shall monitor and evaluate the effectiveness and efficiency of the agricultural easement program as a farmland preservation tool. On or before July 1, 1999, and the first day of July of each year thereafter, the director shall prepare and submit a report to the chairpersons of the standing committees of the senate and the house of representatives that consider legislation regarding agriculture. The report shall consider and address the following criteria to determine the program's effectiveness:

- (a) The number of agricultural easements purchased during the preceding year;
- (b) The location of those easements;
- (c) The number of acres of land preserved for agricultural use;
- (d) The amount of money used by a municipal corporation, township, county, or soil and water conservation district from any fund to purchase the agricultural easements;
- (e) The number of state matching grants given to purchase the agricultural easements;
- (f) The amount of state matching grant moneys used to purchase the agricultural easements.

(2) The report also shall consider and include, at a minimum, the following information for each county to determine the program's efficiency:

- (a) The total number of acres in the county;
- (b) The total number of acres in current agricultural use;
- (c) The total number of acres preserved for agricultural use in the preceding year;
- (d) The average cost, per acre, of land preserved for agricultural use in the preceding year.



## Ohio Revised Code

### Section 901.23 Farmland preservation advisory board.

Effective: March 23, 2016

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(A) There is hereby created the farmland preservation advisory board consisting of twelve voting members appointed by the director of agriculture as follows:

(1) One member who is a county commissioner or a representative of a statewide organization that represents county commissioners;

(2) One member who is a township trustee or a representative of a statewide organization that represents township trustees;

(3) One representative of an Ohio university;

(4) One representative of a nonprofit organization dedicated to the preservation of farmland;

(5) One representative each of development, environmental, planning, and soil and water conservation interests;

(6) One farmer from each of the state's four quadrants.

Terms of office shall be staggered and shall be for three years, with each term ending on the same day of the same month as did the term that it succeeds. Each member shall hold office from the date of appointment until the end of the term for which the member was appointed, except that the term of any member who is a county commissioner or township trustee shall end when the member ceases to serve as a county commissioner or township trustee.

Members may be reappointed. Vacancies shall be filled in the manner provided for original appointments. Any member appointed to fill a vacancy occurring prior to the expiration date of the term for which the member was appointed shall serve for the remainder of that term. A member shall continue to serve subsequent to the expiration date of the member's term until the member's



successor takes office or until a period of sixty days has elapsed, whichever occurs first. Members shall serve at the pleasure of the director.

The executive director of the office of farmland preservation in the department of agriculture or another employee of the department who is designated by the director shall serve as the nonvoting chairperson of the board. The director annually shall designate one member of the board to serve as its vice-chairperson. The board may adopt bylaws governing its operation and shall meet at a time when the director, or the director's designee, considers it appropriate in order for the board to provide advice as required under division (B) of this section.

(B) The board shall provide advice to the director regarding all of the following:

(1) The design and implementation of an agricultural easement purchase program;

(2) The selection of applications that will be awarded matching grants under division (D) of section 901.22 of the Revised Code for the purchase of agricultural easements;

(3) The design and implementation of any other statewide farmland protection measures that the director considers appropriate.

(C) Serving as a member of the board does not constitute holding a public office or position of employment under the laws of this state and does not constitute grounds for removal of public officers or employees from their offices or positions of employment.

(D) A board member shall be reimbursed for actual and necessary expenses incurred in the discharge of duties as a board member.