FARMLAND INFORMATION CENTER

FACT SHEET

PURCHASE OF AGRICULTURAL CONSERVATION EASEMENTS

American Farmland Trust

FARMLAND INFORMATION CENTER
One Short Street, Suite 2
Northampton, MA 01060
(800) 370-4879
www.farmlandinfo.org

NATIONAL OFFICE
1200 18th Street, NW, Suite 800
Washington, DC 20036
(202) 331-7300
www.farmland.org

DESCRIPTION

Purchase of agricultural conservation easement (PACE) programs compensate property owners for restricting the future use of their land. PACE is known as Purchase of Development Rights (PDR) in many locations.

PACE programs are based on the concept that property owners have a bundle of different rights, including the right to use land; lease, sell and bequeath it; borrow money using it as security; construct buildings on it and mine it; or protect it from development, subject to reasonable local land use regulations. Some or all of these rights can be transferred or sold to another person. When a landowner sells property, generally all the rights are transferred to the buyer. PACE programs enable landowners to separate and sell their right to develop land from their other property rights. The buyer, however, does not acquire the right to build anything on the land, but only the right and responsibility to prevent development. After selling an easement, the landowner retains all other rights of ownership, including the right to farm the land, prevent trespass, sell, bequeath or otherwise transfer the land.

Landowners voluntarily sell agricultural conservation easements to a government agency or private conservation organization. The agency or organization usually pays them the difference between the value of the land as restricted and the value of the land for its "highest and best use," which is generally residential or commercial development. The easement price is established by appraisals or a local easement valuation point system. Typically, PACE programs consider soil quality, threat of development and future agricultural viability when selecting farms for protection.

Easements give qualified public agencies and private organizations the right to prohibit land uses and activities that could interfere with present or future agricultural use.

Terms may permit the construction of new farm buildings and housing for farm employees and family members. Easements "run with the land," binding all future owners unless the document establishing the easement provides that the covenant may be terminated for cause or at the end of a specified period of time.

HISTORY

Suffolk County, New York, created the nation's first PACE program in the mid-1970s. Following Suffolk County's lead, Maryland and Massachusetts authorized PACE programs in 1977, Connecticut in 1978 and New Hampshire in 1979. Concern about regional food security and the loss of open space were motivating forces behind these early PACE programs. The number of state-level programs continued to grow during the 1980s with the addition of Rhode Island in 1981, New Jersey in 1983, Vermont in 1987 and Pennsylvania in 1988. The creation of the federal Farmland Protection Program (FPP) in 1996, which provided matching funds to tribal, state and local governments to buy easements on agricultural land, spurred additional public activity. The 2002 Farm Bill expanded the program to non-governmental organizations and encouraged participation by land trusts and soil and water conservation districts. The 2008 Farm Bill authorized $743 million for the FPP through fiscal year 2012, a historic high, which may result in new state and local efforts.

FUNCTIONS AND PURPOSES

PACE compensates landowners for permanently limiting non-agricultural land uses. Selling an easement allows farmers to cash in a percentage of the equity in their land, thus creating a financially competitive alternative to development.

Permanent easements prevent development that would effectively foreclose the possibility of farming. Because non-agricultural development on one farm can cause problems for neighboring agricultural operations, PACE may help protect their economic viability as well.

Removing the development potential from farmland generally reduces its future market value. This may help facilitate farm transfer to the children of farmers and make the land more affordable to beginning farmers and others who want to buy it for agricultural purposes. The reduction in market value may also reduce property taxes and help prevent them from rising.

PACE provides landowners with liquid capital that can enhance the economic viability of individual farming operations and help perpetuate

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The FIC is a public/private partnership between the USDA Natural Resources Conservation Service and American Farmland Trust.

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For additional information on farmland protection and stewardship contact the Farmland Information Center. The FIC offers a staffed answer service, online library, program monitoring, fact sheets and other educational materials.

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family tenure on the land. For example, the proceeds from selling agricultural conservation easements may be used to reduce debt, expand or modernize farm operations, invest for retirement or settle estates. The reinvestment of PACE funds in equipment, livestock and other farm inputs may also stimulate local agricultural economies.

Finally, PACE gives communities a way to share the costs of protecting farmland with landowners. Non-farmers have a stake in the future of agriculture for a variety of reasons, including keeping locally grown food available and maintaining scenic and historic landscapes, open space, watersheds and wildlife habitat. PACE allows them to "buy into" the protection of farming and be assured that they are receiving something of lasting value.

ISSUES TO ADDRESS

The effectiveness of PACE programs depends on how jurisdictions address several core issues, which include:

- What is the stated purpose of the program;
- What kind of farmland to protect, which areas to target and how to set priorities;
- What restrictions to put on the use of the land;
- How to determine the value of easements;
- How to raise purchase funds;
- How to distribute state funds among local jurisdictions;
- How to administer PACE programs; and
- How to monitor and enforce easements.

BENEFITS

- PACE protects farmland permanently, while keeping it in private ownership.
- Participation in PACE programs is voluntary.
- PACE can be implemented by state or local governments, or by private organizations.
- PACE provides farmers with a financially competitive alternative to development, giving them cash to help address the economic challenges of farming in urban-influenced areas.
- PACE programs can protect ecological as well as agricultural resources.
- PACE may make agricultural land relatively more affordable to farmers.
- PACE programs involve the non-farming public in farmland protection.

DRAWBACKS

- PACE is expensive.
- PACE can rarely protect enough land to eliminate development pressure on unrestricted farms.
- PACE programs are generally unable to keep up with farmer demand to sell easements. This results in long waiting lists and missed opportunities to protect land.
- Purchasing easements is time-consuming.
- The voluntary nature of PACE programs means that some important agricultural lands are not protected.
- Monitoring and enforcing easements requires an ongoing investment of time and resources.