

AE&RD No. 74

SUMMARY

THE AGRICULTURAL, FORESTY AND  
OPEN SPACE LAND ACT (OR "THE GREENBELT LAW")

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- I. The Tennessee General Assembly finds:
  - A. That the existence of much agricultural, open space and forest lands is threatened by pressure from urbanization, scattered residential and commercial development, and the system of property taxation. This pressure is the result of urban sprawl around urban and metropolitan areas which also brings about land use conflicts, creates high costs for public services, contributes to increased energy usage, and stimulates land speculation.
  - B. That the preservation of open space in or near urban areas contributes to:
    1. The use, enjoyment and economic value of surrounding residential, commercial, industrial or public use lands;
    2. The conservation of natural resources, water, air and wildlife;
    3. The planning and preservation of land in open condition for the general welfare;
    4. A relief from the monotony of continued urban sprawl;
    5. An opportunity for the study and enjoyment of natural areas by urban and suburban residents who might not otherwise have access to such amenities.
  - C. That many prime agricultural and forest lands in Tennessee, valuable for producing food and fiber for a hungry world, are being permanently lost for any agricultural purposes and that these lands constitute important economic, physical, social, and esthetic assets to the surrounding lands and to the people of Tennessee.

- D. That many landowners are being forced by economic pressures to sell such agricultural, forest, or open space land for premature development by the imposition of taxes based, not on the value of the land in its current use, but on its potential for conversion to another use.

## II. Definitions

- A. "Agricultural land" means a tract of land of at least fifteen (15) acres including woodlands and wastelands which form a contiguous part thereof, constituting a farm-unit engaged in or held for the production or growing of crops, plants, animals, nursery, or floral products. "Agricultural land" also means two or more tracts of land including woodlands and wasteland, one of which is greater than fifteen (15) acres and none of which is not less than ten (10) acres; such tracts may not be contiguous but shall constitute a farm-unit being held and used for the production or growing of agricultural products.
- B. "Gross agricultural income" means total income from crops, plants, animals, aquaculture products, nursery or floral products including rental income for these purposes and income from federal agriculture programs.
- C. "Forest land" means land constituting a forest unit engaged in the growing of tree under a sound program of sustained yield management of any tract of fifteen (15) or more acres having tree growth in such quantity and quality and so managed as to constitute a forest in the opinion of the State Forester.
- D. "Open space land" means any area of land other than agricultural and forest land, of not less than three (3) acres, characterized principally by open or natural condition, and whose preservation would tend to provide the public with one or more of the benefits enumerated in Section I, B and which is not currently in agricultural land or forest land use. This term includes greenbelt lands or lands primarily devoted to recreational use.
- E. "Open space easement" means a perpetual right in land of less than fee simple which (i) obligates the grantor and his heirs and assigns to certain restrictions constituted to maintain and enhance the existing open or natural character of the land; (ii) is restricted to the area defined in the easement deed; (iii) grants no right of physical access to the public except as provided for in the easement.
- F. "Present use value" means the value of land based on its current use as either agricultural, forest, or open space land and assuming that there is no possibility of the land being used for any other purpose.
- G. "Roll-back taxes" means the amount of back tax differential a land owner would be required to pay as a result of converting the use of the land from agricultural land, forest land, or open space land as classified under this Act to some other more intensive use.

### III. Provisions

- A. Any owner of land may apply for its classification as agricultural land or forest land by filing a written application with the county tax assessor.
  - 1. In determining whether any land is agricultural land, the tax assessor shall take into account, among other things, the acreage, productivity, and the portion in actual use for farming or held for farming or agricultural operation. The assessor may presume that a tract is being used for agriculture if it produces an average of at least \$1,500 per year in gross agricultural income over any three year period. Evidence that the property is used for agricultural purposes may rebut this presumption.
  - 2. If an application for the classification of land as agricultural land is denied, an owner has the same rights and remedies for appeal and relief as provided in the general statutes for taxpayers claiming to be aggrieved by the actions of tax assessors or boards of equalization.
  - 3. In determining whether any land is forest land the tax assessor shall take into account, among other things, the acreage of such land, the amount and type of timber on the land, the actual and potential growth rate of the timber and the management practices being applied to the land and to the timber on it. The tax assessor may request the advice of the State Forester in making the determination.
  - 4. Appeals related to denial of any application for designation as forest land go to the State Forester. Appeals to the decision of the State Forester must go to Chancery Court within ninety (90) days after the issuance of the determination by the State Forester.
- B. Qualifying for use value assessment as open space land is more involved than qualifying for agricultural or forest land classifications. The local planning commission (or State Planning Office in a municipality or county where a planning commission does not exist) may designate lands which are highly desirable to be preserved as open space land. These would be lands other than those currently in agriculture or forestry use. Owners of land that has been designated as open space land may apply for its classification as open space land by filing written application with the county tax assessor.
  - 1. Owners of land for which the state of Tennessee holds an open space easement may also apply for classification as open space land by tiling written application for the county tax assessor. The Commissioner of Environment and Conservation, in

consultation with the State Planning Office will act as the agent for the state in negotiating and executing open space easements.

- C. When a parcel of land has been classified by the tax assessor as agricultural, forest or open space land under the provisions of this act it shall be considered that its current use is its immediate most suitable economic use, and assessment shall be based upon its value in that current use, rather than on its value for some other use.
- D. In determining the current use value for agricultural or forest land, the tax assessor shall consider farm income, soil productivity or fertility, topography, susceptibility to flooding, rental value, replaceability as agricultural land for the production of food and fiber, and other factors which may serve to determine value for agricultural or timber production purposes.
- E. A maximum of 1500 acres per landowner is eligible for use value assessment in any one taxing jurisdiction to prevent adverse effects on a county's tax base and the disruption of needed services.
- F. After classification as agricultural, forest or open space land under this Act the tax assessor shall record it on a separate list.
  - 1. Taxes shall be assessed and paid based only on the basis of this classification and present use value.
  - 2. Taxes will also be computed based on market value assessment and will be maintained by the tax assessor to compute the rollback taxes.
  - 3. If land classified as agricultural, forest or open space is converted to another use, the tax assessor shall compute the amount of taxes saved by the difference in use-value assessment and market value assessment for the preceding three (3) years on agriculture and forest land and for the preceding five (5) years on open space land, The difference (taxes saved) shall be the roll-back taxes and will be collected on the first assessment roll after the conversion.
  - 4. If an open space easement is discontinued and the land is converted to another use, the roll back taxes will equal the difference between the taxes actually paid for the past ten (10) years and the fair market assessment as if the easement had not existed.
  - 5. If the conversion of land classified under this Act is the result of the sale of the property, the seller shall be liable for the roll back taxes unless otherwise provided for by written contract.
  - 6. The owner of land classified under this Act and taken eminent domain or other involuntary proceedings, except a tax sale, shall not be subject to the roll

back taxes. Rather, the agency or government body doing this taking shall be liable for the roll back taxes.

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