



Ohio Revised Code

Section 929.05 Appropriation of agricultural land.

Effective: June 29, 1982

Legislation: Senate Bill 78 - 114th General Assembly

(A) No public or private agency, as defined in section 163.01 of the Revised Code, shall appropriate more than ten acres or ten per cent of an individual property under one ownership and currently used in agricultural production in an agricultural district, whichever is greater, except as provided in this section. No state agency, municipal corporation, county, township, or other political subdivision or taxing authority, or any other public entity, and no person shall advance a grant, loan, interest subsidy, or other distribution of public funds within an agricultural district for the construction of housing, or commercial or industrial facilities to serve nonagricultural uses of land, except as provided in this section.

(B) A public or private agency desiring to appropriate land in an agricultural district and a public entity or person desiring to make a distribution of public funds as provided in division (A) of this section shall, not fewer than thirty days before commencing proceedings or taking the action, give written notice of the intent to the department of agriculture unless the agency, public entity, or person has received the approval of an environmental document that includes consideration of the impact on agricultural land from an appropriate federal agency and the department of agriculture is listed among the agencies for coordination of the document. The notice shall be accompanied by a report justifying the proposed action, including an evaluation of alternatives that would not require the action within the agricultural district. The department shall review the proposed action to determine its effect on agricultural production in the district and on the policies, plans, objectives, and programs of other state or local government agencies. After considering the need for the proposed action and its necessity to protect, promote, or enhance the public health, safety, peace, or welfare of some or all inhabitants of the state, if the director of agriculture has reason to believe that the proposed action would have an unreasonably adverse effect on the district or on the policies, plans, objectives, or programs that would outweigh the protection, promotion, or enhancement of the public health, safety, peace, or welfare, he shall inform the governor within thirty days after having received the written notice. The governor shall issue an order that the proposed action shall not be taken for sixty days. During the sixty-day period the director shall immediately publish, in a newspaper of general circulation in the district, one notice of a public hearing to be held on the



matter at a convenient location in or as near as possible to the district on a specified date from twenty to thirty days after publication of the notice and send personal notice by certified mail to any municipal corporation whose territory includes any part of the district and to any public or private agency, public entity, or person seeking to appropriate the land or make the distribution of funds. After the hearing and before the end of the sixty-day period, the director shall make final findings and recommendations in the matter in writing and deliver copies of the findings and recommendations to the agency, entity, or person seeking to appropriate the land or make the distribution, to any public agency having authority to review or approve the appropriation or distribution, and by publication in a manner conducive to the wide dissemination of the findings and recommendations to the public. A public agency having authority to review or approve the appropriation or distribution shall use the findings and recommendations to reach its final determination.

(C) The director of agriculture may institute a civil action to enjoin any prohibited appropriation within an agricultural district until the department makes its final findings and recommendations under division (B) of this section. It is not necessary to the granting of such an injunction that the director prove that the injury threatened is irreparable.

(D) This section does not apply to any lines or other facilities used to transmit or distribute electricity, to any gas or oil pipeline or other facilities used for exploration, production, storage, transmission, or distribution of natural gas, synthetic gas, or oil, to any telephone lines, or to any activity or facility under the jurisdiction of the Ohio power siting board.

(E) This section does not apply to any emergency project immediately necessary for the preservation of the public health, safety, or general welfare.

(F) This section does not apply to a lot in an agricultural district that the owner sells or transfer to his son, daughter, brother, sister, mother, or father for the purpose of constructing a dwelling in which the relative will reside for at least three years.