

(Pub. L. 99-198, title XII, § 1265, as added Pub. L. 113-79, title II, § 2301(a), Feb. 7, 2014, 128 Stat. 731.)

REFERENCES IN TEXT

Sections 3837, 3838n, and 3838i of this title, referred to in subsec. (b)(1), were repealed by Pub. L. 113-79, title II, §§ 2703(a), 2704(a), 2705(a), Feb. 7, 2014, 128 Stat. 767, 768.

**§ 3865a. Definitions**

In this subchapter:

**(1) Agricultural land easement**

The term “agricultural land easement” means an easement or other interest in eligible land that—

(A) is conveyed for the purpose of protecting natural resources and the agricultural nature of the land; and

(B) permits the landowner the right to continue agricultural production and related uses subject to an agricultural land easement plan, as approved by the Secretary.

**(2) Eligible entity**

The term “eligible entity” means—

(A) an agency of State or local government or an Indian tribe (including a farmland protection board or land resource council established under State law); or

(B) an organization that is—

(i) organized for, and at all times since the formation of the organization has been operated principally for, 1 or more of the conservation purposes specified in clause (i), (ii), (iii), or (iv) of section 170(h)(4)(A) of title 26;

(ii) an organization described in section 501(c)(3) of title 26 that is exempt from taxation under section 501(a) of title 26; or

(iii) described in—

(I) paragraph (1) or (2) of section 509(a) of title 26; or

(II) section 509(a)(3) of title 26 and is controlled by an organization described in section 509(a)(2) of title 26.

**(3) Eligible land**

The term “eligible land” means private or tribal land that is—

(A) in the case of an agricultural land easement, agricultural land, including land on a farm or ranch—

(i) that is subject to a pending offer for purchase of an agricultural land easement from an eligible entity;

(ii)(I) that has prime, unique, or other productive soil;

(II) that contains historical or archaeological resources;

(III) the enrollment of which would protect grazing uses and related conservation values by restoring and conserving land; or

(IV) the protection of which will further a State or local policy consistent with the purposes of the program; and

(iii) that is—

(I) cropland;

(II) rangeland;

(III) grassland or land that contains forbs, or shrubland for which grazing is the predominant use;

(IV) located in an area that has been historically dominated by grassland, forbs, or shrubs and could provide habitat for animal or plant populations of significant ecological value;

(V) pastureland; or

(VI) nonindustrial private forest land that contributes to the economic viability of an offered parcel or serves as a buffer to protect such land from development;

(B) in the case of a wetland reserve easement, a wetland or related area, including—

(i) farmed or converted wetlands, together with adjacent land that is functionally dependent on that land, if the Secretary determines it—

(I) is likely to be successfully restored in a cost-effective manner; and

(II) will maximize the wildlife benefits and wetland functions and values, as determined by the Secretary in consultation with the Secretary of the Interior at the local level;

(ii) cropland or grassland that was used for agricultural production prior to flooding from the natural overflow of—

(I) a closed basin lake and adjacent land that is functionally dependent upon it, if the State or other entity is willing to provide 50 percent share of the cost of an easement; or

(II) a pothole and adjacent land that is functionally dependent on it;

(iii) farmed wetlands and adjoining lands that—

(I) are enrolled in the conservation reserve program;

(II) have the highest wetland functions and values, as determined by the Secretary; and

(III) are likely to return to production after they leave the conservation reserve program;

(iv) riparian areas that link wetlands that are protected by easements or some other device that achieves the same purpose as an easement; or

(v) other wetlands of an owner that would not otherwise be eligible, if the Secretary determines that the inclusion of such wetlands in a wetland reserve easement would significantly add to the functional value of the easement; or

(C) in the case of either an agricultural land easement or a wetland reserve easement, other land that is incidental to land described in subparagraph (A) or (B), if the Secretary determines that it is necessary for the efficient administration of an easement under the program.

**(4) Program**

The term “program” means the agricultural conservation easement program established by this subchapter.

**(5) Wetland reserve easement**

The term “wetland reserve easement” means a reserved interest in eligible land that—

(A) is defined and delineated in a deed; and  
(B) stipulates—

- (i) the rights, title, and interests in land conveyed to the Secretary; and
- (ii) the rights, title, and interests in land that are reserved to the landowner.

(Pub. L. 99-198, title XII, §1265A, as added Pub. L. 113-79, title II, §2301(a), Feb. 7, 2014, 128 Stat. 732.)

### § 3865b. Agricultural land easements

#### (a) Availability of assistance

The Secretary shall facilitate and provide funding for—

- (1) the purchase by eligible entities of agricultural land easements in eligible land; and
- (2) technical assistance to provide for the conservation of natural resources pursuant to an agricultural land easement plan.

#### (b) Cost-share assistance

##### (1) In general

The Secretary shall protect the agricultural use, including grazing, and related conservation values of eligible land through cost-share assistance to eligible entities for purchasing agricultural land easements.

##### (2) Scope of assistance available

###### (A) Federal share

An agreement described in paragraph (4) shall provide for a Federal share determined by the Secretary of an amount not to exceed 50 percent of the fair market value of the agricultural land easement, as determined by the Secretary using—

- (i) the Uniform Standards of Professional Appraisal Practice;
- (ii) an areawide market analysis or survey; or
- (iii) another industry-approved method.

###### (B) Non-federal share

###### (i) In general

Under the agreement, the eligible entity shall provide a share that is at least equivalent to that provided by the Secretary.

###### (ii) Source of contribution

An eligible entity may include as part of its share under clause (i) a charitable donation or qualified conservation contribution (as defined by section 170(h) of title 26) from the private landowner if the eligible entity contributes its own cash resources in an amount that is at least 50 percent of the amount contributed by the Secretary.

#### (C) Exception

##### (i) Grasslands

In the case of grassland of special environmental significance, as determined by the Secretary, the Secretary may provide an amount not to exceed 75 percent of the fair market value of the agricultural land easement.

##### (ii) Cash contribution

For purposes of subparagraph (B)(ii), the Secretary may waive any portion of the el-

igible entity cash contribution requirement for projects of special significance, subject to an increase in the private landowner donation that is equal to the amount of the waiver, if the donation is voluntary and the property is in active agricultural production.

### (3) Evaluation and ranking of applications

#### (A) Criteria

The Secretary shall establish evaluation and ranking criteria to maximize the benefit of Federal investment under the program.

#### (B) Considerations

In establishing the criteria, the Secretary shall emphasize support for—

- (i) protecting agricultural uses and related conservation values of the land; and
- (ii) maximizing the protection of areas devoted to agricultural use.

#### (C) Bidding down

If the Secretary determines that 2 or more applications for cost-share assistance are comparable in achieving the purpose of the program, the Secretary shall not assign a higher priority to any of those applications solely on the basis of lesser cost to the program.

### (4) Agreements with eligible entities

#### (A) In general

The Secretary shall enter into agreements with eligible entities to stipulate the terms and conditions under which the eligible entity is permitted to use cost-share assistance provided under this section.

#### (B) Length of agreements

An agreement shall be for a term that is—

- (i) in the case of an eligible entity certified under the process described in paragraph (5), a minimum of five years; and
- (ii) for all other eligible entities, at least three, but not more than five years.

#### (C) Minimum terms and conditions

An eligible entity shall be authorized to use its own terms and conditions for agricultural land easements so long as the Secretary determines such terms and conditions—

- (i) are consistent with the purposes of the program;
- (ii) permit effective enforcement of the conservation purposes of such easements;
- (iii) include a right of enforcement for the Secretary, that may be used only if the terms of the easement are not enforced by the holder of the easement;
- (iv) subject the land in which an interest is purchased to an agricultural land easement plan that—

(I) describes the activities which promote the long-term viability of the land to meet the purposes for which the easement was acquired;

(II) requires the management of grasslands according to a grasslands management plan; and

(III) includes a conservation plan, where appropriate, and requires, at the