

109TH CONGRESS
2^D SESSION

S. 3720

To amend the Food Security Act of 1985 to improve the protection of farm and ranch land.

IN THE SENATE OF THE UNITED STATES

JULY 25, 2006

Mr. SANTORUM introduced the following bill; which was read twice and referred to the Committee on Agriculture, Nutrition, and Forestry

A BILL

To amend the Food Security Act of 1985 to improve the protection of farm and ranch land.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Farm and Ranch Land
5 Protection Flexibility Act of 2006”.

6 **SEC. 2. FARMLAND PROTECTION PROGRAM.**

7 (a) DEFINITIONS.—Section 1238H of the Food Secu-
8 rity Act of 1985 (16 U.S.C. 3838h) is amended—

9 (1) in paragraph (1)(B)—

10 (A) in clause (iii), by striking “or”;

1 (B) in clause (iv), by striking the period at
2 the end and inserting “; or”; and

3 (C) by adding at the end the following:

4 “(v) meets certification requirements
5 described in paragraph (6)(B).”;

6 (2) by striking paragraph (2) and inserting the
7 following:

8 “(2) ELIGIBLE LAND.—The term ‘eligible land’
9 means land on a farm or ranch that is—

10 “(A) cropland;

11 “(B) rangeland;

12 “(C) grassland;

13 “(D) pasture land; or

14 “(E) forest land that is an incidental part
15 of an agricultural operation, as determined by
16 the Secretary, including woodlots, wooded cor-
17 ners, and forested riparian areas that may com-
18 prise up to 50 percent of the offered acreage.”;

19 (3) by redesignating paragraph (4) as para-
20 graph (5);

21 (4) by inserting after paragraph (3) the fol-
22 lowing:

23 “(4) PERMANENT CONSERVATION EASEMENT.—
24 The term ‘permanent conservation easement’ means

1 a conservation easement or other interest in eligible
2 land that—

3 “(A) is for the primary purpose of pro-
4 tecting the agricultural production capacity of
5 the eligible land; and

6 “(B) is permanent or for the maximum du-
7 ration allowed under State law.”; and

8 (5) by adding at the end the following:

9 “(6) QUALIFIED STATE OR LOCAL ENTITY.—

10 The term ‘qualified State or local entity’ means a
11 public or private entity that—

12 “(A) operates a farm and ranch land pro-
13 tection program that—

14 “(i) has for at least 3 calendar or fis-
15 cal years used or provided public or private
16 funds to purchase permanent conservation
17 easements on not less than 10 farms or
18 ranches;

19 “(ii) has the necessary authority
20 under State law, as well as the technical
21 and financial capacity—

22 “(I) to monitor and enforce the
23 terms of the permanent conservation
24 easements so that the purpose of the
25 permanent conservation easements is

1 carried out for the maximum allow-
2 able duration; or

3 “(II) in the case of a govern-
4 mental entity, to require other public
5 or private holders of the permanent
6 conservation easements acquired with
7 public funding to hold, monitor, and
8 enforce the permanent conservation
9 easements for the purpose described
10 in subclause (I); and

11 “(iii) has financial control policies to
12 ensure that, on average, the purchase price
13 of the permanent conservation easements
14 does not exceed the appraised fair market
15 value of the permanent conservation ease-
16 ments; and

17 “(B) is certified by the Secretary in ac-
18 cordance with a process under which the entity
19 shall demonstrate—

20 “(i) strategic planning and articulated
21 objectives;

22 “(ii) long-term commitment and orga-
23 nizational viability;

24 “(iii) a record of funds management
25 and accountability; and

1 “(iv) a history of successfully com-
2 pleting projects.”.

3 (b) FARMLAND PROTECTION.—Section 1238I of the
4 Food Security Act of 1985 (16 U.S.C. 3838i) is amend-
5 ed—

6 (1) by redesignating subsections (b) and (c) as
7 subsections (d) and (e), respectively;

8 (2) by striking subsection (a) and inserting the
9 following:

10 “(a) PROGRAM.—

11 “(1) IN GENERAL.—The Secretary, acting
12 through the Natural Resources Conservation Service,
13 shall carry out a farm and ranch land protection
14 program under which the Secretary shall facilitate
15 the purchase of conservation easements or other in-
16 terests in eligible land for the purpose of protecting
17 the agricultural production capacity of the land by
18 limiting incompatible nonagricultural uses of the
19 land.

20 “(2) PRIORITY.—In carrying out the program,
21 the Secretary shall give priority to protecting farm
22 and ranch land—

23 “(A) with prime, unique, or other produc-
24 tive soils that are at risk of non-agricultural de-
25 velopment;

1 “(B) that shall stay in production agri-
2 culture;

3 “(C) in rural communities that face in-
4 tense conversion pressure, as defined by the
5 Secretary;

6 “(D) in areas that have locally-led land-use
7 planning and zoning strategies; and

8 “(E) in watersheds that would benefit
9 most from the protection of farm and ranch re-
10 sources, as determined by the Secretary.

11 “(b) GRANTS.—

12 “(1) IN GENERAL.—The Secretary shall use not
13 less than 75 percent of the funds made available to
14 carry out this subchapter for each fiscal year to
15 award grants, administered by the Natural Re-
16 sources Conservation Service State Conservationists
17 in consultation with the appropriate State technical
18 committees established under section 1261, to quali-
19 fied State or local entities for the purchase of per-
20 manent conservation easements.

21 “(2) DISTRIBUTION.—The Secretary shall dis-
22 tribute grants described in paragraph (1) among
23 States based on—

24 “(A) the demonstrated need for farm and
25 ranch land protection; and

1 “(B) the relative contribution of funds pro-
2 vided by State or local entities for the protec-
3 tion of farm and ranch land.

4 “(3) USE OF GRANTS.—A qualified State or
5 local entity that receives a grant under this sub-
6 section—

7 “(A) may use the grant funds to purchase
8 1 or more permanent conservation easements,
9 regardless of whether the qualified State or
10 local entity has a pending purchase offer for
11 any of the permanent conversation easements at
12 the time of receiving the grant; and

13 “(B) shall use the grant funds only for the
14 purchase of permanent conservation easements.

15 “(c) GRANT AGREEMENTS.—

16 “(1) IN GENERAL.—The Secretary, acting
17 through the Natural Resources Conservation Service,
18 may enter into agreements with qualified State or
19 local entities, under which a State or local entity
20 may purchase permanent conservation easements
21 using a combination of the funds of the entity and
22 grant funds made available by the Secretary under
23 subsection (b).

24 “(2) TERMS AND CONDITIONS.—

1 “(A) IN GENERAL.—Subject to subpara-
2 graph (B), an agreement described in para-
3 graph (1) shall stipulate the terms and condi-
4 tions under which qualified State or local enti-
5 ties shall use grant funds distributed by the
6 Secretary under subsection (b).

7 “(B) REQUIREMENTS.—Each agreement
8 shall—

9 “(i) authorize the State or local entity
10 to determine the criteria and priorities of
11 the entity for purchasing permanent con-
12 servation easements;

13 “(ii) authorize the State or local enti-
14 ty to establish terms and conditions for
15 permanent conservation easements, if the
16 attorney general of the State in which the
17 farm or ranch is located certifies to the
18 Secretary that State law permits the State
19 or local entity to achieve and permit effec-
20 tive enforcement of the conservation pur-
21 poses of the permanent conservation ease-
22 ments; and

23 “(iii) not require a Federal contingent
24 right of enforcement or reversionary inter-
25 est in the permanent conservation ease-

1 ment, if the attorney general of the State
2 in which the farm or ranch is located cer-
3 tifies to the Secretary that the State has a
4 direct or contingent right of enforcement
5 or reversionary interest in the permanent
6 conservation easement.

7 “(C) AMOUNT OF MATCHING FUNDS.—

8 “(i) IN GENERAL.—The Secretary
9 shall determine the percentage of matching
10 funds (up to 100 percent) that each quali-
11 fied State or local entity is required to pro-
12 vide as a condition of receiving a grant
13 under subsection (b) based on the proposal
14 submitted by the qualified State or local
15 entity.

16 “(ii) REQUIREMENTS.—A proposal de-
17 scribed in clause (i) shall include a descrip-
18 tion of—

19 “(I) the amount of matching
20 funds of the qualified State or local
21 entity available for the purchase of
22 permanent conservation easements;
23 and

24 “(II) the commitment of the
25 qualified State or local entity to

1 achieve the priorities of the pro-
2 gram.”;

3 (3) in subsection (d) (as redesignated by para-
4 graph (1)) by striking “Any” and inserting “Not-
5 withstanding subsection (c)(2)(B)(ii), any”;

6 (4) in paragraph (1) of subsection (e) (as redesi-
7 gnated by paragraph (1))—

8 (A) in subparagraph (A), by striking “ex-
9 ceed” and all that follows through “land.” and
10 inserting the following: “exceed the higher of—

11 “(i) 50 percent of the appraised fair
12 market value of the conservation easement
13 or other interest in eligible land; or

14 “(ii) if a qualified conservation con-
15 tribution (as defined by section 170(h) of
16 the Internal Revenue Code of 1986) of at
17 least 25 percent of the market value is
18 made by the landowner in connection with
19 the purchase of a conservation easement or
20 other interest in land, two-thirds of the ac-
21 tual cost of purchasing the conservation
22 easement or other interest in land.”; and

23 (B) in subparagraph (B)—

1 (i) by striking “an eligible” and in-
2 sserting “a qualified State or local agency
3 or other eligible”;

4 (ii) by striking “charitable donation”
5 and inserting “qualified conservation con-
6 tribution”; and

7 (iii) by striking “25” and inserting
8 “50”; and

9 (5) by adding at the end the following:

10 “(f) PERFORMANCE MEASURES.—The Secretary
11 shall establish performance measures for farm and ranch
12 land protection, including performance measurements for
13 qualified State and local entities that receive funding
14 under this section.

15 “(g) PROGRAM COORDINATION.—The Secretary shall
16 carry out the program under this section and the grass-
17 land reserve program under subchapter C with a minimum
18 amount of program redundancy, considering the unique
19 role of each program.

20 “(h) AVAILABILITY OF FUNDS.—Grant funds and
21 technical assistance made available to a qualified State or
22 local entity under this section shall remain available for
23 a period of time that the Secretary considers to be reason-
24 able (but not less than 18 months) to allow the qualified
25 State or local entity to finalize the purchase of permanent

1 conservation easements in accordance with the grant
2 agreement.”.

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