

# CALIFORNIA LAND CONSERVATION

## ACT OF 1965 . . . *a new approach to* *problems of agricultural land use*

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Voluntary contracts regulating nonagricultural development rights are the heart of the California Land Conservation Act of 1965. Designed to answer some of the criticism of previous land-control devices, the new law should help solve some of the serious problems of population growth and urbanization facing California. The legislation calls for a minimum ten-year period during which the property owner surrenders his nonagricultural development rights; and the local government—presumably the county—acquires those rights in the nature of a trusteeship. The local government will receive a state subvention payment, and the property owners who enter into contracts may receive compensation from the local government.

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**T**HE CALIFORNIA LAND CONSERVATION ACT of 1965 (AB2117—Williamson) is a new attempt to cope with some of the land-use problems created for California agriculture by the pressure of population growth and urbanization. The new law became effective on September 17 of this year.

This legislation recognizes several important features of California agriculture: (1) an absolute limit on the amount of prime agricultural land in California; (2) the importance of California agriculture to the state and the national economy; (3) the economic costs associated with loss of established agricultural production and the development of new agricultural production; (4) the economic and social costs of premature land conversions; (5) the economic and social costs of disorderly conversions; and (6) the desirability of maintaining the existing land tenure structure.

Previous land-control devices, such as preferential tax treatment, have been

criticized both from within and without the agricultural industry. The new legislation, however, is consistent with current needs and attitudes and will provide for: (1) the use of a legally valid instrument—a voluntary contract between the land owner and local government to encourage stability in agricultural land use; (2) the coordination of existing land-use planning and zoning activities; (3) the development of nonprime land for nonagricultural use in advance of the development of prime agricultural land; (4) state participation but essentially local control and administration; and (5) compensation schedules that encourage participation but are relatively neutral regarding potential escalation of either land values or land taxes.

The voluntary contracts regulating nonagricultural development rights are the heart of the legislation. A contract calls for a minimum ten-year period during which time the property owner surrenders his nonagricultural development rights, and the local government—presumably the county—acquires those rights in the nature of a trusteeship. The Director of Agriculture for the State of California provides general supervision and approval of locally initiated programs.

Land involved in these contracts must have the following qualifications: (1) it must currently produce an agricultural commodity for commercial purposes; (2) it must be located within an area reserved for agricultural and compatible uses—defined as an agricultural preserve—created by local government after the need for such a preserve has been established by local property owners and local government; and (3) it must be prime agricultural land.

Two types of arrangements are permissible. The first may be described as a compensable contract, and the second as a noncompensable agreement. The compensable contract is the basic device

designed to encourage stabilization of agricultural land of highest productivity. The noncompensable agreement applies to land devoted to less intensive agricultural production—characterized by lower gross income, for example—and provides more flexible time periods for negotiation. Depending upon the degree of restrictions built into the agreement by the parties, land use and land values would tend to maintain stability. Thus, a more favorable economic environment for agricultural land use is possible for any agricultural land in California, depending only upon the desires of local property owners and local government for flexibility or security of land use, land values, and land taxes.

### Basic contract

The basic contract will prevent nonagricultural use of land for definite periods of time (ten-year minimum), provide for transfer of contract obligation between successive owners or successive local governments, include automatic annual renewal of the ten-year contract unless designated action is taken by either party of the contract, provide public notice of the nature and extent of contracting in those areas where contracts are executed, and, in general, fulfill the necessary legal requirements for a binding contract. A contract may be cancelled prior to natural expiration only if the public interest justifies such cancellation. Penalties for prior cancellation are provided so that unwarranted benefits would not accrue to the property owner.

Prime agricultural land is classified as I or II, according to Soil Conservation Service Land-Use Capability criteria. As defined, it reflects the shortage—less than 7½ million acres—of this limited agricultural resource in California. However, the new law provides an alternative definition of prime agricultural land to cover some of California's specialized agricultural crops—which are produced

on land that may not meet Class I or II Soil Conservation Service standards. A gross income of \$200 per acre per year for any three of the previous five years is required if land for such specialized crops is to qualify under the alternative criterion.

The designation of agricultural preserves in a county is essential if the legislation is to help local government plan for the future. In counties that have already adopted exclusive agricultural zoning ordinances and created exclusive agricultural zones, such preserves might be the same as agricultural use zones already established. In general, however, agricultural zoning cannot provide the stability necessary for the best and most forward-looking decisions on land use.

### Compensation features

Both the local government and the property owner who enter into contracts receive compensation according to the new law. The local government will receive a subvention payment from the state government of \$1 per acre per year for land under contract to pay for administrative and overhead costs of supervising the program. At the outset, the property owner receives only indirect compensation. Since the presence of contracts limiting land use for at least a ten-year period is evidence that agriculture represents the highest and best use of the land, both land values and land tax assessment will tend to stabilize during the basic period of the contract.

Should the assessed valuations of land under contract undergo change during

the lifetime of the contract, a direct compensation to the property owner should further stabilize economic environment. It is in the best interests of both the county and the property owner that assessed valuations not change during the lifetime of the basic contract. An increase in assessed valuation would provide a payment to the farmer—at a rate of 5 cents per \$1 increase in assessed valuation—that would only partially offset the increased property taxes. This compensation, to be paid by the county, would cost the county more than would be received from increased taxes paid by the farmer, because of the difference between the basic tax rate received by the county and the total tax rate paid by the farmer in California counties.

The compensation schedule (1) will not be conducive to a preferential rollback in property taxes; (2) will not encourage escalation of either land assessment or land taxes; and (3) will be no burden on local government so long as stable land values and assessments are maintained. Furthermore, state rather than local government is responsible for initial compensation.

The basic contract for the ten-year period is renewed automatically each year—providing a constant ten-year contract—unless the property owner or local government does not wish to renew. If a contract is not renewed on the appropriate date, there will remain a lifetime of nine years from the required date of renewal. During this time any compensation payments to the property owner are gradually

reduced by 10% per year during the remaining lifetime of the contract. Also, during that time the nonrenewal provides notice to the prospective land developers and the local tax assessment authorities that a change in land use is being contemplated and establishes the time when such change may occur. Since land values may increase rapidly during the declining lifetime of the contract, competition for purchase of the land may become intense. Taxes paid on the land may be expected to rise rapidly and the compensation to property owners according to the contract will decrease rapidly. Thus, the legislation does not provide for or protect unwarranted windfall gains that might otherwise accrue to the property owner.

### Eminent domain

The legislation also contains certain features that make it difficult to acquire land under contract by eminent domain. The intent of the legislation is to maintain agricultural land use for land under contract and in preserves so long as the public interest justifies such action. Condemnation acquisitions will be directed toward noncontract and nonpreserve land wherever possible on the basis of concurrent determination of land use in the best public interest by the courts, local government, property owners, and the Director of Agriculture for the State of California.

Sufficient checks and balances are provided by the legislation to back up the State of California's stated intent and policy that the agricultural use of land under contract constitutes the highest and best use of that land. Local government and local property owners, however, will have the dominant role in determining the operation and effectiveness of this program.

Continuing research is underway to examine the program as it operates and to provide relevant information if revision should become necessary. A handbook, explaining the program in detail, is being prepared by the Assembly Advisory Committee on Land-Use Problems, and will be available for distribution to local government, farm organizations, and property owners early in 1966.

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