

# STATE OF NEW YORK

10301

## IN ASSEMBLY

April 10, 2018

Introduced by M. of A. BARRETT -- read once and referred to the Committee on Agriculture

AN ACT to amend the agriculture and markets law, in relation to the acquisition of agricultural preservation restrictions

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Section 321 of the agriculture and markets law, as added  
2 by chapter 797 of the laws of 1992, is amended to read as follows:

3 § 321. Statement of legislative findings and intent. It is hereby  
4 found and declared that agricultural lands are irreplaceable state  
5 assets. In an effort to maintain the economic viability, and environ-  
6 mental and landscape preservation values associated with agriculture,  
7 the state must explore ways to sustain the state's valuable farm economy  
8 and to protect and invest in the people and the land base associated  
9 with it. External pressures on farm stability such as population growth  
10 in non-metropolitan areas and public infrastructure development, and  
11 non-agricultural interest in protected farmland, pose a significant  
12 threat to farm operations, yet are the pressures over which farmers have  
13 the least control. Local initiatives in agricultural protection policy,  
14 facilitated by the agricultural districts program established in article  
15 twenty-five-AA of this chapter, have proved effective as a basic step in  
16 addressing these pressures. In an effort to encourage further develop-  
17 ment of agricultural and farmland protection programs, and to recognize  
18 both the crucial role that local government plays in developing these  
19 strategies, plus the state constitutional directive to the legislature  
20 to provide for the protection of agricultural lands, it is therefore  
21 declared the policy of the state to promote local initiatives for agri-  
22 cultural and farmland protection.

23 § 2. Section 322 of the agriculture and markets law is amended by  
24 adding four new subdivisions 6, 7, 8, and 9 to read as follows:

25 6. "Affordability provision" means a preemptive purchase right or  
26 other provisions included in an agricultural conservation easement or in  
27 an addendum thereto, the purpose of which is to ensure that protected  
28 farmland is affordable to qualified farmers.

EXPLANATION--Matter in italics (underscored) is new; matter in brackets  
[-] is old law to be omitted.

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7. "Preemptive purchase right" means the preferential right, established in an agricultural conservation easement or in an addendum thereto, of the easement holder, or its assignee, to purchase protected farmland at its agricultural use value in the event that the landowner intends to sell to an unqualified party. The purpose of the preemptive purchase right is to promote the continued presence of owner-operated farms and ensure the affordability of protected farmland to qualified farmers.

8. "Agricultural use value" means the as-restricted fair market value of the property based on the productive commercial agricultural use value or current agricultural use value of the property, rather than the "highest and best" potential use value for residential or other non-agricultural purposes.

9. "Qualified farmer" is a person who will maintain commercial agricultural use of protected farmland and, in the last two years, has earned at least one-half of his or her annual gross income from the "business of farming," as defined by the U.S. Department of the Treasury, or who meets equivalent qualifications as set forth in the agricultural conservation easement.

§ 3. Subdivision 1 of section 325 of the agriculture and markets law, as amended by chapter 150 of the laws of 2013, is amended to read as follows:

1. Subject to the availability of funds, a program is hereby established to finance through state assistance payments the state share of the costs of locally-led agricultural and farmland protection activities. State assistance payments for planning activities shall not exceed fifty thousand dollars to each county agricultural and farmland protection board or one hundred thousand dollars to two such boards applying jointly, and shall not exceed fifty percent of the cost of preparing an agricultural and farmland protection plan. State assistance payments for planning activities shall not exceed twenty-five thousand dollars to each municipality other than a county or fifty thousand dollars to two such municipalities applying jointly, and shall not exceed seventy-five percent of the cost of preparing an agricultural and farmland protection plan. A county which has an approved farmland protection plan may after one hundred twenty months from the date of such approval by the commissioner apply for additional state assistance payments for planning activities related to the updating of their current plan or development of a new farmland protection plan. Such additional state assistance payments shall not exceed fifty thousand dollars to each county agricultural and farmland protection board or one hundred thousand dollars to two such boards applying jointly, and shall not exceed fifty percent of the cost of preparing an agricultural and farmland protection plan. State assistance payments for implementation of approved agricultural and farmland protection plans may fund up to seventy-five percent of the cost of implementing the county plan or portion of the plan for which state assistance payments are requested. State assistance payments to such counties shall not exceed seventy-five percent of the cost of implementing the local plan or portion of the plan for which state assistance has been requested. Such maximum shall be increased by a percentage equal to the percentage of the total eligible costs for such specified projects that are contributed by the owner of the agricultural land for which the project is being funded, provided, however, that in no event shall the total of such state assistance payments exceed eighty-seven and one-half percent of such eligible costs for any specified project. Affordability provisions, such

1 as a preemptive purchase right, shall be considered eligible costs for  
2 state assistance payments for implementation of approved agricultural  
3 and farmland protection plans.

4 § 4. Paragraph (e) of subdivision 2 of section 325 of the agriculture  
5 and markets law, as amended by chapter 93 of the laws of 2010 and as  
6 relettered by chapter 150 of the laws of 2013, is amended to read as  
7 follows:

8 (e) In evaluating applications for funding, the commissioner shall  
9 give priority to projects intended to preserve viable agricultural land  
10 as defined in section three hundred one of this chapter; that are in  
11 areas facing significant development pressure; and that serve as a buff-  
12 er for a significant natural public resource containing important  
13 ecosystem or habitat characteristics. The commissioner shall also give  
14 priority to projects intended to ensure the affordability of protected  
15 farmland to qualified farmers through the use of affordability  
16 provisions, including a preemptive purchase right, option to purchase at  
17 agricultural value, or similar provision.

18 § 5. This act shall take effect on the ninetieth day after it shall  
19 have become a law; provided however that effective immediately, the  
20 addition, amendment and/or repeal of any rule or regulation necessary  
21 for the implementation of this act on its effective date are authorized  
22 to be made and completed on or before such effective date.