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:

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

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

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

6. "Affordability provision" means a preemptive purchase right or other provisions included in an agricultural conservation easement or in an addendum thereto, the purpose of which is to ensure that protected 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**

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

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

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

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