

# STATE OF NEW YORK

2299--A

2023-2024 Regular Sessions

## IN ASSEMBLY

January 25, 2023

Introduced by M. of A. LUPARDO -- read once and referred to the Committee on Energy -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the agriculture and markets law, in relation to establishing the agrivoltaics viability pilot program

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

1 Section 1. The opening paragraph of section 327 of the agriculture and  
2 markets law is designated subdivision 1 and a new subdivision 2 is added  
3 to read as follows:

4 2. The legislature further finds that as New York progresses to  
5 utilizing clean energy the agricultural industry has an opportunity to  
6 play a substantial role in environmental conservation while also  
7 protecting and maintaining viable farmland through the practice of agri-  
8 voltaics. Dual-use solar energy projects have the potential to keep  
9 farmland as working agricultural landscapes providing economic benefits  
10 to farmers and assisting the state in reaching its climate and environ-  
11 mental impact goals. The legislature hereby declares that to progress  
12 the initiatives of the farmland viability program, the department shall  
13 create an agrivoltaics viability pilot program as part of the farmland  
14 viability program.

15 § 2. Section 328 of the agriculture and markets law is amended by  
16 adding two new subdivisions 5 and 6 to read as follows:

17 5. "Agrivoltaics" shall mean the simultaneous use of areas of land for  
18 both solar power generation and agriculture. For the purposes of this  
19 article, agrivoltaics shall be narrowed to the practices of a dual-use  
20 solar energy project.

21 6. "Dual-use solar energy project" means a solar installation that  
22 integrates solar arrays and farming activity on the same ground. To be  
23 considered dual-use, a solar installation cannot displace farming activ-  
24 ity; farming activity must be maintained throughout the life of the

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

LBD04208-05-3

1 solar facility in a manner that is consistent with commercial agricul-  
2 tural production as appropriate to the capacity of the land when farmed  
3 sustainably. The term "dual-use" refers to a solar installation that:  
4 (i) retains or enhances the land's agricultural productivity, both short  
5 term and long term; (ii) is built, maintained, and has provisions for  
6 decommissioning to protect the land's agricultural resources and utili-  
7 ty; and (iii) supports the viability of a farming operation.

8 § 3. Section 329 of the agriculture and markets law is amended by  
9 adding a new subdivision 3 to read as follows:

10 3. The commissioner shall initiate and maintain a state agrivoltaics  
11 viability pilot program within the department under the farm viability  
12 program to progress the goals of the program to ensure farm profitabil-  
13 ity and sound environmental management, pursuant to this section. The  
14 agrivoltaics viability pilot program shall provide grants to identify  
15 the best practices and strategies for dual-use solar energy projects  
16 that protect soil health during construction and decommissioning of  
17 solar arrays, utilize sustainable agricultural production practices,  
18 monitor any benefits solar energy may have on farms and to the state,  
19 track economic viability, study the commercialization of dual-use solar  
20 energy projects, and encourage equitable engagement of stakeholders.

21 a. The commissioner, in consultation with the office of renewable  
22 energy siting and the department of environmental conservation, shall  
23 adopt policies and procedures necessary for the implementation of the  
24 pilot program, including but not limited to: (i) the process by which a  
25 landowner may apply for the approval needed to participate in the pilot  
26 program; and (ii) provisions prescribing standards concerning impervious  
27 cover which may be permitted in connection with dual-use solar energy  
28 projects authorized to be constructed, installed, and operated on farm-  
29 land pursuant to this section.

30 b. The office of renewable energy siting shall provide technical  
31 assistance and support to the commissioner concerning the promulgation  
32 of the pilot program and any grantees on implementing a dual-use solar  
33 energy project.

34 c. One year after grants are distributed for the purposes of the pilot  
35 program, the commissioner shall report to the governor, the temporary  
36 president of the senate and the speaker of the assembly on the agrivol-  
37 taics viability pilot program and its results.

38 § 4. Section 330 of the agriculture and markets law is amended by  
39 adding a new subdivision 3 to read as follows:

40 3. Grants for the agrivoltaics viability pilot program shall be  
41 distributed pursuant to this section as a pilot program under the farm  
42 viability program. The agrivoltaics viability pilot program shall be  
43 designed to enhance the purpose of the farm viability program.

44 § 5. This act shall take effect six months after it shall have become  
45 a law. Effective immediately, the addition, amendment and/or repeal of  
46 any rule or regulation necessary for the implementation of this act on  
47 its effective date are authorized to be made and completed on or before  
48 such effective date.