



General Assembly

**Substitute Bill No. 5537**

February Session, 2012

\* \_\_\_\_\_HB05537PD\_\_\_\_\_032612\_\_\_\_\_\*

**AN ACT ESTABLISHING A PROPERTY TAX PROGRAM TO  
ENCOURAGE THE PRESERVATION OF HISTORIC BARNs.**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (*Effective from passage and applicable to assessment*  
2 *years commencing on or after October 1, 2012*) (a) As used in this section:

3 (1) "Municipality" means any city, town, borough, district or  
4 association with municipal powers;

5 (2) "Historic agricultural structure" means a barn or other structure,  
6 including the land necessary for the function of the structure, currently  
7 or formerly used for agricultural purposes and at least seventy-five  
8 years old;

9 (3) "Discretionary preservation easement" means a preservation  
10 easement over an historic agricultural structure, including the land  
11 necessary for the function of such structure, conveyed to a  
12 municipality for a term of ten years;

13 (4) "Easement agreement" means the document conveying the  
14 discretionary preservation easement;

15 (5) "Legislative body" means the legislative body of the municipality  
16 or, where the legislative body is the town meeting, the board of  
17 selectmen or town council;

18 (6) "Property tax payment amount" means the amount of property  
19 tax due for an historic agricultural structure subject to a discretionary  
20 preservation easement as established by the legislative body. Such  
21 amount shall be between twenty-five per cent and seventy-five per  
22 cent of the amount of property tax that would be due for such historic  
23 agricultural structure if such structure was not subject to such  
24 discretionary preservation easement, and shall be calculated based on  
25 the assessed value of the historic agricultural structure in the  
26 assessment year in which the legislative body approves the application  
27 for a discretionary preservation easement. Such amount shall be fixed  
28 for the term of the easement; and

29 (7) "Early release penalty" means ten per cent of the amount of  
30 property tax that would be due for such historic agricultural structure  
31 if such structure was not subject to a discretionary preservation  
32 easement, calculated based on the assessed value of the historic  
33 agricultural structure in the assessment year in which such penalty is  
34 levied.

35 (b) Any municipality may, by ordinance, adopt the discretionary  
36 preservation easement program described in this section. A  
37 discretionary preservation easement shall only be accepted if an  
38 historic agricultural structure (1) provides scenic enjoyment to the  
39 general public from a public road; (2) is historically important on a  
40 local, regional, state or national level, either independently or as part  
41 of an historic district established under section 7-147a of the general  
42 statutes or by special act; or (3) has physical or aesthetic features that  
43 contribute to the historic or cultural integrity of a property listed on or  
44 eligible for listing on the National Register of Historic Places, 16 USC  
45 470a, as amended from time to time, or on the state register of historic  
46 places, as defined in section 10-410 of the general statutes. Any  
47 municipality adopting the provisions of this section may establish (A)  
48 additional eligibility criteria for accepting a discretionary preservation  
49 easement, and (B) for a renewal of a discretionary preservation  
50 easement, a formula by which to calculate the assessment of any  
51 improvements made to the historic agricultural structure during the

52 term of the previous easement.

53 (c) (1) For assessment years commencing on or after October 1, 2012,  
54 any owner of an historic agricultural structure located in a  
55 municipality that has adopted the provisions of this section may, not  
56 later than July first, apply to convey to the municipality a discretionary  
57 preservation easement over such structure. Such application shall be  
58 made on a form prescribed by the legislative body and shall contain a  
59 certification by the owner that, during the term of any discretionary  
60 preservation easement accepted by the legislative body, the owner  
61 shall maintain the historic agricultural structure in keeping with its  
62 historic integrity and character. The legislative body shall conduct a  
63 public hearing on the application not later than thirty days after the  
64 date on which the application is filed and shall render its decision not  
65 later than sixty days after the date on which such application is filed.

66 (2) In making its decision, the legislative body shall consider any  
67 eligibility criteria set forth in the ordinance and in subsection (b) of this  
68 section and may weigh the public benefit to be obtained against the  
69 property tax revenue that will be lost by accepting a discretionary  
70 preservation easement. If the legislative body denies an application for  
71 a discretionary preservation easement, it shall provide a written  
72 explanation of its decision to the owner. There shall be no right of  
73 appeal from a decision of the legislative body. If the legislative body  
74 approves an application, it shall establish the property tax payment  
75 amount for such historic agricultural structure, provided such  
76 property tax payment amount shall be effective only upon the  
77 execution and recording of an easement agreement that complies with  
78 the requirements of subsection (d) of this section. The property tax  
79 payment amount shall be established so as to reflect, in the sole  
80 discretion of the legislative body, the value of the public benefit  
81 received from the discretionary preservation easement. The legislative  
82 body shall provide written notice of its decision and the property tax  
83 payment amount to the owner and may acquire a discretionary  
84 preservation easement by entering into an easement agreement with  
85 the owner.

86 (d) A discretionary preservation easement shall be a burden upon  
87 the property and shall bind all transferees and assignees of such  
88 property, and shall not be assigned, transferred or released by the  
89 municipality without the consent of the owner. An easement  
90 agreement shall be recorded on the land records at the expense of the  
91 owner. Such easement agreement shall include the property tax  
92 payment amount and the terms of renewal, if any.

93 (e) (1) The legislative body shall release a discretionary preservation  
94 easement upon request of the owner if the legislative body determines  
95 that (A) the owner cannot comply with the terms of the easement  
96 agreement due to extreme personal hardship, or (B) the historic  
97 agricultural structure has been significantly damaged or destroyed by  
98 fire, storm or any other unforeseen circumstance not within the control  
99 of the owner. Upon release of the easement, the owner shall pay an  
100 early release penalty, except that no such penalty shall be imposed if  
101 the structure has been significantly damaged or destroyed by fire,  
102 storm or any other unforeseen circumstance not within the control of  
103 the owner.

104 (2) If, during the term of a discretionary preservation easement, the  
105 legislative body determines that the owner has failed to maintain the  
106 structure in accordance with the easement agreement, the legislative  
107 body may terminate the easement and levy an early release penalty in  
108 accordance with this subsection.

109 (f) Upon the expiration of the term of a discretionary preservation  
110 easement, the owner may apply for a renewal if the easement  
111 agreement does not provide for automatic renewal, and the legislative  
112 body shall process such application for a renewal in the same manner  
113 as a new application.

This act shall take effect as follows and shall amend the following sections:

Section 1	<i>from passage and applicable to assessment years commencing on or after October 1, 2012</i>	New section
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**Statement of Legislative Commissioners:**

Technical changes were made in subsections (a)(3), (a)(7) and (d) for consistency in terminology.

**PD**      *Joint Favorable Subst.*