



**Substitute House Bill No. 6316**

**Public Act No. 13-104**

**AN ACT CONCERNING THE STATE PURCHASE OF DEVELOPMENT RIGHTS FOR AGRICULTURAL LAND PRESERVATION AND CERTAIN REVISIONS TO THE COMMUNITY FARMS PROGRAM.**

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

Section 1. Subsection (e) of section 22-26cc of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(e) Whenever the commissioner acquires the development rights to any agricultural land, and any municipality in which all or part of the land is situated paid a part of the purchase price from a fund established pursuant to section 7-131q, such municipality and the state may jointly own the development rights, [ provided joint ownership by such municipality shall be limited to land within its boundaries.] The land may be released from its agricultural restriction in accordance with the provisions of subsection (c) of this section. The commissioner shall adopt regulations in accordance with the provisions of chapter 54 establishing procedures for the joint acquisition of development rights to agricultural land.

Sec. 2. Section 22-26nn of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

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(a) The Commissioner of Agriculture may establish a community farms program for the preservation of farmland that does not meet the criteria of the farmland preservation program established pursuant to section 22-26cc for reasons of size, soil quality or location but that may contribute to local economic activity through agricultural production. The commissioner may purchase up to one hundred per cent of the value of development rights directly from an eligible owner, or may acquire development rights on qualifying farmland jointly with a municipality, subject to the appraisal and review required by the regulations adopted pursuant to this section. For the purposes of this section, "development rights" and "owner" shall have the same meaning as in section 22-26bb.

(b) If the Commissioner of Agriculture establishes a program in accordance with subsection (a) of this subsection, the commissioner shall, in consultation with the Farmland Preservation Advisory Board established under section 22-26ll, establish criteria for said program. Such criteria shall give preference to farms that produce food or fiber, and at a minimum shall consider (1) the probability that the land will be sold for nonagricultural purposes, (2) the current productivity of the land and the likelihood of continued productivity of such land, (3) the suitability of the land for agricultural use, including whether the soil is classified as locally important soils by the United States Department of Agriculture, and (4) the demonstrated level of community support for preservation of the parcel. The commissioner shall, in consultation with said board, consider mechanisms that encourage continuation of the land in agricultural production to maintain its long-term availability and affordability for future generations of farmers, including, but not limited to, deed restrictions or stewardship requirements.

(c) Upon the acquisition by the commissioner of the development rights to agricultural land pursuant to this section, the commissioner

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shall cause to be filed in the appropriate land records and in the office of the Secretary of the State a notice of such acquisition which shall set forth a description of the agricultural land as will be sufficient to give any prospective purchaser of such agricultural land or creditor of the owner thereof notice of such restriction. Upon such filing, the owner of such agricultural land shall not be permitted to exercise development rights with respect to such land, and such development rights shall be considered and deemed dedicated to the state in perpetuity, except as hereinafter provided. If restricted land is to be sold, the owner shall notify the commissioner, in writing, of such impending sale not more than ninety days before transfer of title to the land and shall provide the commissioner with the name and address of the new owner.

(d) The Commissioner of Agriculture shall have no power to release such land from its agricultural restriction, except as set forth in this subsection. The Commissioner of Agriculture, in consultation with the Commissioner of Energy and Environmental Protection and such advisory groups as the Commissioner of Agriculture may appoint, may approve (1) a petition by the owner of the restricted agricultural land to remove such restriction provided such petition is approved by resolution of the legislative body of the town, or (2) a petition by the legislative body of the town in which such land is situated to remove such restriction provided such petition is approved in writing by said owner. Upon approval of such a petition by the Commissioner of Agriculture, the legislative body of the town shall submit to the qualified voters of such town the question of removing the agricultural restriction from such land or a part thereof, at a referendum held at a regular election or a special election warned and called for that purpose. In the event a majority of those voting at such referendum are in favor of such removal, the restriction shall be removed from the agricultural land upon filing of the certified results of such referendum in the land records and the office of the Secretary of the State, and the Commissioner of Agriculture shall convey the development rights to

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such owner provided such owner shall pay the Commissioner of Agriculture an amount equal to the value of such rights. Such petition shall set forth the facts and circumstances upon which the Commissioner of Agriculture shall consider approval, and said commissioner shall deny such approval unless said commissioner determines that the public interest is such that there is an overriding necessity to relinquish control of the development rights. The Commissioner of Agriculture shall hold at least one public hearing prior to the initiation of any proceedings hereunder. The expenses, if any, of the hearing and the referendum shall be borne by the petitioner. In the event that the state sells any development rights under the procedure provided in this subsection, it shall receive the value of such rights.

(e) Whenever the Commissioner of Agriculture acquires the development rights of any agricultural land pursuant to this section and the purchase price of such development rights is ten thousand dollars or more, said commissioner and the owner of such land may enter into a written agreement which provides for the payment of the purchase price in two or three annual installments, but no interest shall be paid on any unpaid balance of such purchase price.

(f) Whenever the commissioner acquires the development rights to any agricultural land, and any municipality in which all or part of the land is situated paid a part of the purchase price from a fund established pursuant to section 7-131q, such municipality and the state may jointly own the development rights. The land may be released from its agricultural restriction in accordance with the provisions of subsection (d) of this section. The commissioner shall adopt regulations, in accordance with the provisions of chapter 54, establishing procedures for the joint acquisition of development rights to agricultural land.

(g) The acquisition of the development rights to any agricultural

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land by the commissioner shall not be deemed to be ownership of such land and the state shall not be liable for pollution or contamination of such land and no person may bring a civil action against the state for damages resulting from pollution or contamination of such agricultural land.

(h) The commissioner may issue a letter of intent requesting the assistance of a nonprofit organization, as defined in Section 501(c)(3) of the Internal Revenue Code of 1986, or any subsequent corresponding internal revenue code of the United States, as from time to time amended, in acquiring the development rights to certain agricultural land. If such organization acquires such rights it may sell them to the commissioner based on a purchase agreement. Such agreement may include reimbursement for reasonable expenses incurred in the acquisition of the rights as well as payment for the rights. The commissioner may enter into joint ownership agreements to acquire the development rights to any qualified agricultural land with any nonprofit organization, as defined in Section 501(c)(3) of the Internal Revenue Code of 1986, or any subsequent corresponding internal revenue code of the United States, as from time to time amended, provided the mission of such nonprofit organization is the permanent protection of agricultural land for the purposes of continued agricultural use.

(i) In addition to development rights, the commissioner may acquire or accept as a gift the rights of the owner to construct any residences or any farm structures on agricultural land.

(j) The Commissioner of Agriculture, pursuant to any cooperative agreement with the United States Department of Agriculture for the disbursement of funds under federal law, may require that any property to which rights are acquired under this section with such funds shall be managed in accordance with a conservation plan which utilizes the standards and specifications of the Natural Resources

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Conservation Service field office technical guide and is approved by such service. Any instrument by which the commissioner acquires such rights and for which any such funds are used may provide for a contingent right in the United States of America in the event that the state of Connecticut fails to enforce any of the terms of its rights acquired under this section which failure shall be determined by the United States Secretary of Agriculture. Such contingent right shall entitle the United States Secretary of Agriculture to enforce any rights acquired by the state under this section by any authority provided under law. Such instrument may provide that such rights shall become vested in the United States of America in the event that the state of Connecticut attempts to terminate, transfer or otherwise divest itself of any such rights without the prior consent of the United States Secretary of Agriculture and payment of consideration to the United States and may further provide that title to such rights may be held by the United States of America at any time at the request of the United States Secretary of Agriculture. In connection with such an agreement, the commissioner may hold the United States harmless from any action based on negligence in the procurement or management of any rights acquired under this section and may assure that proper title evidence is secured, that the title is insured to the amount of the federal cost paid for the interest of the United States of America and that, in the event of a failure of title, as determined by a court of competent jurisdiction, and payment of insurance to the state, the state will reimburse the United States for the amount of the federal cost paid.

(k) The commissioner, when acquiring the development rights of any agricultural lands on behalf of the state pursuant to this section, may incorporate deed requirements in accordance with the provisions of the federal Farm and Ranch Lands Protection Program, 7 CFR 1491.1, et seq.

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