



General Assembly

Substitute Bill No. 6316

January Session, 2013



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:

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2 repealed and the following is substituted in lieu thereof (*Effective from*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

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

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 Section 22-26nn of the general statutes is repealed and the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

17 (a) The Commissioner of Agriculture may establish a community

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

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

46 (c) Upon the acquisition by the commissioner of the development
47 rights to agricultural land pursuant to this section, the commissioner
48 shall cause to be filed in the appropriate land records and in the office
49 of the Secretary of the State a notice of such acquisition which shall set
50 forth a description of the agricultural land as will be sufficient to give

51 any prospective purchaser of such agricultural land or creditor of the
52 owner thereof notice of such restriction. Upon such filing, the owner of
53 such agricultural land shall not be permitted to exercise development
54 rights with respect to such land, and such development rights shall be
55 considered and deemed dedicated to the state in perpetuity, except as
56 hereinafter provided. If restricted land is to be sold, the owner shall
57 notify the commissioner, in writing, of such impending sale not more
58 than ninety days before transfer of title to the land and shall provide
59 the commissioner with the name and address of the new owner.

60 (d) The Commissioner of Agriculture shall have no power to release
61 such land from its agricultural restriction, except as set forth in this
62 subsection. The Commissioner of Agriculture, in consultation with the
63 Commissioner of Energy and Environmental Protection and such
64 advisory groups as the Commissioner of Agriculture may appoint,
65 may approve (1) a petition by the owner of the restricted agricultural
66 land to remove such restriction provided such petition is approved by
67 resolution of the legislative body of the town, or (2) a petition by the
68 legislative body of the town in which such land is situated to remove
69 such restriction provided such petition is approved in writing by said
70 owner. Upon approval of such a petition by the Commissioner of
71 Agriculture, the legislative body of the town shall submit to the
72 qualified voters of such town the question of removing the agricultural
73 restriction from such land or a part thereof, at a referendum held at a
74 regular election or a special election warned and called for that
75 purpose. In the event a majority of those voting at such referendum are
76 in favor of such removal, the restriction shall be removed from the
77 agricultural land upon filing of the certified results of such referendum
78 in the land records and the office of the Secretary of the State, and the
79 Commissioner of Agriculture shall convey the development rights to
80 such owner provided such owner shall pay the Commissioner of
81 Agriculture an amount equal to the value of such rights. Such petition
82 shall set forth the facts and circumstances upon which the
83 Commissioner of Agriculture shall consider approval, and said
84 commissioner shall deny such approval unless said commissioner

85 determines that the public interest is such that there is an overriding
86 necessity to relinquish control of the development rights. The
87 Commissioner of Agriculture shall hold at least one public hearing
88 prior to the initiation of any proceedings hereunder. The expenses, if
89 any, of the hearing and the referendum shall be borne by the
90 petitioner. In the event that the state sells any development rights
91 under the procedure provided in this subsection, it shall receive the
92 value of such rights.

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

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

110 (g) The acquisition of the development rights to any agricultural
111 land by the commissioner shall not be deemed to be ownership of such
112 land and the state shall not be liable for pollution or contamination of
113 such land and no person may bring a civil action against the state for
114 damages resulting from pollution or contamination of such
115 agricultural land.

116 (h) The commissioner may issue a letter of intent requesting the

117 assistance of a nonprofit organization, as defined in Section 501(c)(3) of
118 the Internal Revenue Code of 1986, or any subsequent corresponding
119 internal revenue code of the United States, as from time to time
120 amended, in acquiring the development rights to certain agricultural
121 land. If such organization acquires such rights it may sell them to the
122 commissioner based on a purchase agreement. Such agreement may
123 include reimbursement for reasonable expenses incurred in the
124 acquisition of the rights as well as payment for the rights. The
125 commissioner may enter into joint ownership agreements to acquire
126 the development rights to any qualified agricultural land with any
127 nonprofit organization, as defined in Section 501(c)(3) of the Internal
128 Revenue Code of 1986, or any subsequent corresponding internal
129 revenue code of the United States, as from time to time amended,
130 provided the mission of such nonprofit organization is the permanent
131 protection of agricultural land for the purposes of continued
132 agricultural use.

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

136 (j) The Commissioner of Agriculture, pursuant to any cooperative
137 agreement with the United States Department of Agriculture for the
138 disbursement of funds under federal law, may require that any
139 property to which rights are acquired under this section with such
140 funds shall be managed in accordance with a conservation plan which
141 utilizes the standards and specifications of the Natural Resources
142 Conservation Service field office technical guide and is approved by
143 such service. Any instrument by which the commissioner acquires
144 such rights and for which any such funds are used may provide for a
145 contingent right in the United States of America in the event that the
146 state of Connecticut fails to enforce any of the terms of its rights
147 acquired under this section which failure shall be determined by the
148 United States Secretary of Agriculture. Such contingent right shall
149 entitle the United States Secretary of Agriculture to enforce any rights

150 acquired by the state under this section by any authority provided
 151 under law. Such instrument may provide that such rights shall become
 152 vested in the United States of America in the event that the state of
 153 Connecticut attempts to terminate, transfer or otherwise divest itself of
 154 any such rights without the prior consent of the United States
 155 Secretary of Agriculture and payment of consideration to the United
 156 States and may further provide that title to such rights may be held by
 157 the United States of America at any time at the request of the United
 158 States Secretary of Agriculture. In connection with such an agreement,
 159 the commissioner may hold the United States harmless from any
 160 action based on negligence in the procurement or management of any
 161 rights acquired under this section and may assure that proper title
 162 evidence is secured, that the title is insured to the amount of the
 163 federal cost paid for the interest of the United States of America and
 164 that, in the event of a failure of title, as determined by a court of
 165 competent jurisdiction, and payment of insurance to the state, the state
 166 will reimburse the United States for the amount of the federal cost
 167 paid.

168 (k) The commissioner, when acquiring the development rights of
 169 any agricultural lands on behalf of the state pursuant to this section,
 170 may incorporate deed requirements in accordance with the provisions
 171 of the federal Farm and Ranch Lands Protection Program, 7 CFR
 172 1491.1, et seq.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>from passage</i>	22-26cc(e)
Sec. 2	<i>from passage</i>	22-26nn

ENV *Joint Favorable Subst.*