

## Connecticut PACE Enabling Laws

Conn. Gen. Stat. §§ 22-26aa to 22-26qq  
Current through the 2019 First Regular Session, and the 2019 First Special Session

### Chapter 422a Agricultural Lands

#### **Sec. 22-26aa. State program for the preservation of agricultural land.**

The General Assembly finds that the growing population and expanding economy of the state have had a profound impact on the ability of public and private sectors of the state to maintain and preserve agricultural land for farming and food production purposes; that unless there is a sound, state-wide program for its preservation, remaining agricultural land will be lost to succeeding generations and that the conservation of certain arable agricultural land and adjacent pastures, woods, natural drainage areas and open space areas is vital for the well-being of the people of Connecticut.

*History: P.A. 78-232, S. 1, 11.*

#### **Sec. 22-26bb. Definitions.**

As used in sections 22-26aa to 22-26nn, inclusive:

- (a) "Agricultural land" means any land in the state suitable by reference to soil types, existing and past use of such land for agricultural purposes and other relevant factors for the cultivation of plants for production of human food and fiber or production of other useful and valuable plant products and for the production of animals, livestock and poultry useful to man and the environment, and land capable of providing economically profitable farm units, and may include adjacent pastures, wooded land, natural drainage areas and other adjacent open areas;
- (b) "Commissioner" means the Commissioner of Agriculture;
- (c) "Department" means the Department of Agriculture;
- (d) "Development rights" means the rights of the fee simple owner of agricultural land to develop, construct on, sell, lease or otherwise improve the agricultural land for uses that result in rendering such land no longer agricultural land, but shall not be construed to include: (1) The uses defined in subsection (q) of section 1-1, (2) the rights of the fee owner of agricultural land to develop, construct on, sell, give or transfer in any way the property in its entirety, lease the property for a term of less than twenty-five years or otherwise improve the agricultural land to preserve, maintain, operate or continue such land as agricultural land, including but not limited to construction thereon of residences for persons directly incidental to farm operation and buildings for animals, roadside stands and farm markets for sale to the consumer of food products and ornamental plants, facilities for the storing of equipment and products or processing thereof or such other improvements, activities and uses thereon as may be directly or incidentally related to the operation of the agricultural enterprise, as long as the acreage and productivity of arable land for crops is not materially decreased and due consideration is given to the impact of any decrease in acreage or productivity of such arable land upon the total farm operation, except that new construction or modification of an existing farm building necessary to the operation of a farm on prime farmland, as defined by the United States Department of Agriculture, of which the state

has purchased development rights shall be limited to not more than five per cent of the total of such prime farmland, (3) the rights of the fee owner to provide for the extraction of gravel or like natural elements to be used on the farm for purposes directly or incidentally related to the operation of the agricultural enterprise or (4) the existing water and mineral rights, exclusive of gravel, of the fee owner;

(e) "Owner" means any person, corporation, limited liability company, partnership, trust, municipal corporation, public utility or any other private or public entity that shall be the fee simple owner of agricultural land or who shall by operation of law have the power to exercise the rights of a fee simple owner;

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

(g) "Prime farmland" means soils defined by the United States Department of Agriculture as the best suited to producing food, feed, forage, fiber and oilseed crops;

(h) "Restricted agricultural land" means land and the improvements thereon for which development rights are held by the state of Connecticut;

(i) "Restriction" means the encumbrance on development uses placed on restricted lands as a result of the acquisition of development rights by the state of Connecticut;

(j) "Residences" means single-family residential dwellings and any associated on-site septic disposal system or potable well;

(k) "Building" means (1) any permanent structure used for holding animals, (2) roadside stands and farm markets for sale to the consumer of food products and ornamental plants, (3) facilities for the storing of equipment and products or the processing of products, and (4) animal waste storage facilities;

(l) "Arable land" means land currently used for the production of crops or pasture and land considered prime and important farmland soil by the United States Department of Agriculture;

(m) "Gravel or like natural elements" means rounded or angular fragments of rock and associated soil material;

(n) "Economically profitable farm unit" means an acreage of arable land capable of producing a sustained annual gross income of significant value as determined by the commissioner;

(o) "The property in its entirety" means the entire acreage of restricted land without division or subdivision;

(p) "Persons directly incidental to the farm operation" means any person who participates in the farm operation on the restricted land on a full-time basis and any owner of the restricted land regardless of whether or not he participates in the farm operation on a full-time basis.

*History: P.A. 78-232, S. 2, 11; P.A. 81-151, S. 2, 3; P.A. 82-173, S. 1, 2; 82-472, S. 97, 183; P.A. 88-75, S. 1, 3; P.A. 89-226, S. 2, 6; P.A. 95-79, S. 82, 189; June 30 Sp. Sess. P.A. 03-6, S. 146(e), (f); P.A. 04-189, S. 1.*

**Sec. 22-26cc. State acquisition of development rights to agricultural land. Program established. Joint ownership by the state and a town. Assistance of nonprofit organization. State acquisition of right to construct residence or farm structure.**

(a) There is established within the Department of Agriculture a program to solicit, from owners of agricultural land, offers to sell the development rights to such land and to inform the public of the purposes, goals and provisions of this chapter. The commissioner, with the approval of the State Properties Review Board, shall have the power to acquire or accept as a gift, on behalf of the state, the development rights of any agricultural land, if offered by the owner. Notice of the offer shall be filed in the land records wherein the agricultural land is situated. If ownership of any land for which development rights have been offered is transferred, the offer shall be effective until the subsequent owner revokes the offer in writing. The state conservation and development plan established pursuant to section 16a-24 shall be applied as an advisory document to the acquisition of development rights of any agricultural lands. The factors to be considered by the commissioner in deciding whether or not to acquire such rights shall include, but not be limited to, the following: (1) The probability that the land will be sold for nonagricultural purposes; (2) the current productivity of such land and the likelihood of continued productivity; (3) the suitability of the land as to soil classification and other criteria for agricultural use; (4) the degree to which such acquisition would contribute to the preservation of the agricultural potential of the state; (5) any encumbrances on such land; (6) the cost of acquiring such rights; and (7) the degree to which such acquisition would mitigate damage due to flood hazards. Ownership by a nonprofit organization authorized to hold land for conservation and preservation purposes of land which prior to such ownership qualified for the program established pursuant to this section shall not be deemed to diminish the probability that the land will be sold for nonagricultural purposes. After a preliminary evaluation of such factors by the Commissioner of Agriculture, he shall obtain and review one or more fee appraisals of the property selected in order to determine the value of the development rights of such property. The commissioner shall notify the Department of Transportation, the Department of Economic and Community Development, the Department of Energy and Environmental Protection and the Office of Policy and Management that such property is being appraised. Any appraisal of the value of such land obtained by the owner and performed in a manner approved by the commissioner shall be considered by the commissioner in making such determination. The value of development rights for all purposes of this section shall be the difference between the value of the property for its highest and best use and its value for agricultural purposes as determined by the commissioner. The use or presence of pollutants or chemicals in the soil shall not be deemed to diminish the agricultural value of the land or to prohibit the commissioner from acquiring the development rights to such land. The commissioner may purchase development rights for a lesser amount provided he complies with all factors for acquisition specified in this subsection and in any implementing regulations. In determining the value of the property for its highest and best use, consideration shall be given but not limited to sales of comparable properties in the general area, use of which was unrestricted at the time of sale.

(b) Upon the acquisition by the commissioner of the development rights of agricultural land, the commissioner 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, in writing, the commissioner 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.

(c) The commissioner shall have no power to release such land from its agricultural restriction, except as set forth in this subsection. The commissioner, 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, 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 shall convey the development rights to such owner provided such owner shall pay the commissioner an amount equal to the value of such rights. Such petition shall set forth the facts and circumstances upon which the commissioner shall consider approval, and said commissioner shall deny such approval unless he determines that the public interest is such that there is an overriding necessity to relinquish control of the development rights. The commissioner 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.

(d) Whenever the commissioner acquires the development rights of any agricultural land 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.

(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. 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.

(f) The acquisition of the development rights to any agricultural 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.

(g) 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.

(h) 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.

(i) 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 Conservation Service field office technical guide and is approved by such service. Additionally, such conservation plan shall require the establishment of model pollinator habitat, as described in section 22-90b. 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 secretary 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.

(j) The commissioner, when acquiring the development rights of any agricultural lands on behalf of the state, may incorporate deed requirements in accordance with the provisions of the federal Farm and Ranch Lands Protection Program, 7 CFR 1491.1, et seq., or under the Agricultural Conservation Easement Program, 7 CFR 1468.1, et seq., or any successive federal farmland protection program.

*History: P.A. 78-232, S. 3, 11; P.A. 79-208, S. 1, 2; P.A. 80-349, S. 2, 5; P.A. 81-151, S. 1, 3; 81-156, S. 2; P.A. 82-34, S. 1, 2; P.A. 86-16, S. 1, 2; 86-135, S. 1; 86-314, S. 1, 2; P.A. 87-184; P.A. 88-75, S. 2, 3; P.A. 95-250, S. 1; P.A. 96-211, S. 1, 5, 6; P.A. 97-171, S. 1, 2; 97-234, S. 2; June 30 Sp. Sess. P.A. 03-6, S. 146(e), (f); P.A. 04-189, S. 1; P.A. 05-124, S. 4; 05-288, S. 222; P.A. 11-80, S. 1; P.A. 13-104, S. 1; P.A. 16-17, S. 9; P.A. 18-181, S. 10.*

**Sec. 22-26dd. Maps of land use in state. To include soil types, crops and use classification.**

(a) The Secretary of the Office of Policy and Management, acting with such assistance as may be required from the Commissioner of Agriculture, the United States Natural Resources Conservation Service, the Agricultural Extension Service of The University of Connecticut and the regional councils of governments in the state, shall have prepared such maps as are necessary to depict land use throughout the state.

(b) Such maps shall include, in addition to any other detail deemed appropriate by said secretary, by use of whatever techniques of map construction as may be required, depiction of the following: (1) Soil

types, described in accordance with classifications prescribed by the Commissioner of Agriculture; (2) land classified as farm land, including appropriate designation as to whether the actual use of such land for farming purposes is active or inactive; (3) types of crops in current production on any land classified as farm land; (4) local zoning, to the extent deemed appropriate by the Secretary of the Office of Policy and Management; (5) existing water and sewer lines, and any such lines currently planned in accordance with legislative or administrative action of record in any town; and (6) land classified as forest land and open space.

(c) Such maps shall be completed and delivered for use by the Commissioner of Agriculture and any other use as designated by the Secretary of the Office of Policy and Management.

*History: P.A. 78-232, S. 4, 11; P.A. 97-234, S. 3; June 30 Sp. Sess. P.A. 03-6, S. 146(e); P.A. 04-189, S. 1; P.A. 13-247, S. 312.*

**Sec. 22-26ee and 22-26ff. Study of state responsibilities and opportunities for preserving and developing Connecticut's dairy industry. Commissioner to report on acquisition of development rights. (Repealed)**

Sections 22-26ee and 22-26ff are repealed, effective October 1, 1997.

*History: P.A. 78-232, S. 5-7, 11; P.A. 89-204, S. 1, 2; P.A. 95-250, S. 1; P.A. 96-211, S. 1, 5, 6; P.A. 97-234, S. 11.*

**Sec. 22-26gg. Regulations.**

The commissioner shall, in consultation with the Farmland Preservation Advisory Board established under section 22-26ll, adopt, in accordance with chapter 54, such regulations as the commissioner deems necessary to carry out the purposes of sections 22-26aa to 22-26nn, inclusive. Such regulations shall provide that individual landowners applying for such program shall be eligible to receive not more than twenty thousand dollars per acre for development rights, and the schedule of the state's contribution for joint ownership projects initiated by municipalities shall be increased accordingly.

*History: P.A. 78-232, S. 8, 11; P.A. 79-162; P.A. 08-174, S. 3.*

**Sec. 22-26hh. Bond authorization.**

The State Bond Commission shall have power, from time to time to authorize the issuance of bonds of the state in one or more series and in principal amounts not exceeding in the aggregate one hundred sixty-five million two hundred fifty thousand dollars, the proceeds of which shall be used for the purposes of section 22-26cc, provided not more than ten million dollars of said authorization shall be effective July 1, 2014, and further provided not more than two million dollars shall be used for the purposes of section 22-26jj. All provisions of section 3-20, or the exercise of any right or power granted thereby which are not inconsistent with the provisions of this section are hereby adopted and shall apply to all bonds authorized by the State Bond Commission pursuant to this section, and temporary notes in anticipation of the money to be derived from the sale of any such bonds so authorized may be issued in accordance with said section 3-20 and from time to time renewed. Such bonds shall mature at such time or times not exceeding twenty years from their respective dates as may be provided in or pursuant to the resolution or resolutions of the State Bond Commission authorizing such bonds. None of

said bonds shall be authorized except upon a finding by the State Bond Commission that there has been filed with it a request for such authorization, which is signed by or on behalf of the Secretary of the Office of Policy and Management and states such terms and conditions as said commission, in its discretion, may require. Said bonds issued pursuant to this section shall be general obligations of the state and the full faith and credit of the state of Connecticut are pledged for the payment of the principal of and interest on said bonds as the same become due, and accordingly and as part of the contract of the state with the holders of said bonds, appropriation of all amounts necessary for punctual payment of such principal and interest is hereby made, and the Treasurer shall pay such principal and interest as the same become due.

*History: P.A. 78-232, S. 10, 11; P.A. 79-499; P.A. 80-441, S. 1, 4; P.A. 81-370, S. 6, 13; P.A. 82-369, S. 9, 28; June Sp. Sess. P.A. 83-33, S. 10, 17; P.A. 84-443, S. 11, 20; 84-546, S. 65, 173; P.A. 85-558, S. 13, 17; P.A. 86-396, S. 18, 25; P.A. 87-405, S. 18, 26; P.A. 88-343, S. 12, 32; P.A. 89-331, S. 19, 30; P.A. 90-297, S. 11, 24; May Sp. Sess. P.A. 92-7, S. 13, 36; June Sp. Sess. P.A. 93-1, S. 11, 45; P.A. 95-272, S. 10, 29; P.A. 96-181, S. 107, 121; P.A. 97-234, S. 7; June 5 Sp. Sess. P.A. 97-1, S. 14, 20; P.A. 98-259, S. 10, 17; P.A. 99-241, S. 12, 66; P.A. 00-203, S. 10, 11; June Sp. Sess. P.A. 00-1, S. 24, 46; June Sp. Sess. P.A. 01-7, S. 5, 28; June Sp. Sess. P.A. 01-9, S. 94, 131; May Sp. Sess. P.A. 04-1, S. 19; June Sp. Sess. P.A. 05-5, S. 9; June Sp. Sess. P.A. 07-7, S. 49; Sept. Sp. Sess. P.A. 09-2, S. 69; P.A. 11-57, S. 71; P.A. 13-239, S. 63; May Sp. Sess. P.A. 16-4, S. 251.*

#### **Sec. 22-26ii. Inspection of restricted land.**

The commissioner may enter at all reasonable times upon any restricted agricultural land, for the purpose of determining compliance with the provisions of section 22-26cc.

*History: P.A. 79-208, S. 3.*

#### **Sec. 22-26jj. Acquisition of fee simple title to agricultural lands. Lease of property.**

(a) The Commissioner of Agriculture, with the approval of the State Properties Review Board, may acquire by purchase or accept as a gift, on behalf of the state, the fee simple title of any agricultural real property and any personal property related to such real property, including, but not limited to, machinery, equipment, fixtures and livestock. The state conservation and development plan established pursuant to chapter 297 shall be used as an advisory document in connection with acquisition of such property. The commissioner, in deciding whether or not to acquire such property, shall consider all of the factors stated in section 22-26cc and shall further consider the likelihood of subsequent sale of such property by the department for agricultural purposes, subject to the state's retention of development rights or future purchase of such development rights if such property is sold to a municipality or a nonprofit organization described in subsection (b) of this section. After a preliminary evaluation of such factors, the Commissioner of Agriculture shall obtain and review one or more fee appraisals of the property in order to determine the value of such property. Each such appraisal shall include an itemization of (1) the total value of the land, (2) the value of the land as agricultural land, (3) the value of the development rights of the land, and (4) the value of any related personal property proposed to be included in any sale. The commissioner shall give notice of any such appraisal to the Departments of Transportation, Economic and Community Development and Energy and Environmental Protection and the Office of Policy and Management. Any such appraisal may be obtained by the owner of the property and, if performed in a manner approved by the commissioner, shall be considered by the commissioner in making such determination. The commissioner may purchase such property for a lesser price than any price suggested by any such appraisal provided all considerations for acquisition specified in this

subsection are taken into account. In determining the value of the property, consideration shall be given to sales of comparable properties in the general vicinity.

(b) After the acquisition of the fee simple title of any agricultural real property and any related personal property, the commissioner shall: (1) Sell such property, exclusive of any development rights, for agricultural purposes as soon as practicable and retain any development rights, or (2) if the purchaser is a municipality or a nonprofit organization that has the preservation of agricultural lands as one of its purposes, the commissioner shall sell such property for use as agricultural land, including any development rights, and enter an agreement with such municipality or nonprofit organization for the purchase of such land's development rights. The commissioner may lease or otherwise transfer, assign or manage such property for agricultural, open space or other qualified purposes, in accordance with subsection (d) of this section, until such time as a sale as required by this section is completed.

(c) The commissioner may lease all or part of one property acquired by him under this section as part of a demonstration project, in accordance with subsection (d) of this section, provided such project is approved by the Secretary of the Office of Policy and Management. Such property may be leased to one or more agricultural users for a period not to exceed five years. Such lease may be renewed for periods not to exceed five years. Any property leased under such demonstration project shall be exempt from taxation by the municipality in which the property is located. The assessed valuation of the property shall be included with the assessed valuation of state-owned land and buildings for purposes of determining the state's grant in lieu of taxes under the provisions of section 12-18b.

(d) No contract to sell, lease or otherwise transfer, assign or manage such property for agricultural, open space or other qualified purposes shall be entered into by the commissioner unless there has been a finding of the State Treasurer that such contract will preserve the exclusion from federal taxation, if any, of the interest on the bonds of the state issued to finance such acquisition. Any proceeds derived from any such contract shall not be deemed revenues of the General Fund and shall be deposited in the appropriate bond proceeds account. Any such proceeds shall be applied, upon allotment thereof, to acquisition of additional agricultural real property and related personal property or, upon approval of the State Bond Commission, for such other authorized capital purposes which the State Treasurer finds will best assure the preservation of such exclusion from federal taxation, if any, including payment of the principal, redemption price, if any, or interest on the bonds issued for the purchase of the agricultural property.

*History: May Sp. Sess. P.A. 92-7, S. 15, 36; P.A. 93-150, S. 1, 2; P.A. 95-96; 95-250, S. 1; P.A. 96-211, S. 1, 5, 6; June 30 Sp. Sess. P.A. 03-6, S. 146(e); P.A. 04-189, S. 1; P.A. 05-228, S. 1; June Sp. Sess. P.A. 05-3, S. 113; P.A. 15-244, S. 199; P.A. 18-181, S. 5.*

#### **Sec. 22-26kk. List of agricultural land whose development rights have been offered to state.**

(a) On or before April 1, 2001, the Commissioner of Agriculture shall prepare a list of agricultural land whose development rights have been offered to the state under section 22-26gg and for which there is a written agreement for a purchase price. Purchase of development rights pursuant to said section 22-26gg shall be made from agricultural land appearing on the list. The list shall be revised every six months.

(b) The list and revisions to such list shall be submitted to the State Bond Commission and considered by the commission in authorizing bonds pursuant to section 22-26hh.

*History: P.A. 00-203, S. 9, 11; June 30 Sp. Sess. P.A. 03-6, S. 146(e); P.A. 04-189, S. 1.*



**Sec. 22-26ll. Farmland Preservation Advisory Board. Established. Membership meetings. Responsibilities.**

(a) There is established a Farmland Preservation Advisory Board, within the Department of Agriculture for administrative purposes only, to assist and advise the Commissioner of Agriculture in carrying out the provisions of sections 22-26aa to 22-26kk, inclusive.

(b) The advisory board shall consist of twelve members as follows: A representative from The University of Connecticut Cooperative Extension Service, appointed by the Governor to serve an initial term of two years; a representative from the Connecticut Farm Bureau, who may be an owner and operator of a Connecticut farm and shall be appointed by the Governor to serve an initial term of three years; five owners and operators of Connecticut farms, who shall be appointed as follows: One by the Governor, one by the president pro tempore of the Senate, one by the speaker of the House of Representatives, one by the majority leader of the Senate, and one by the majority leader of the House of Representatives, to serve initial terms of three years; a representative from the Connecticut Agricultural Experiment Station, appointed by the minority leader of the Senate, to serve an initial term of two years; a representative from the Connecticut Conference of Municipalities, appointed by the minority leader of the House of Representatives, to serve an initial term of two years; a representative from an organization whose mission includes farmland preservation, who may be an owner and operator of a Connecticut farm and who shall be appointed by the president pro tempore of the Senate to serve an initial term of two years; a representative from an organization whose mission includes food security, appointed by the speaker of the House of Representatives to serve an initial term of two years; and a representative from a financial lending organization whose clients include owners and operators of Connecticut farms, appointed by the Governor to serve an initial term of two years. The members of the board shall select a chairperson from among the board members who are owners and operators of Connecticut farms. Upon the expiration of the terms of the initial members, the terms of such members shall be three years. A person appointed to fill a vacancy shall serve for the unexpired term of such vacancy. Any member may be eligible for reappointment.

(c) Upon establishment of the advisory board and selection of a chairperson pursuant to subsection (b) of this section, the board: (1) Shall meet publicly with said commissioner and the staff of the purchase of development rights for agricultural land program within the Department of Agriculture, not later than October 1, 2007, and at least quarterly thereafter to review the ongoing activities of the program, (2) shall evaluate and provide comments and recommendations on the purchase of development rights for agricultural land transaction process, including, but not limited to, methods for streamlining the process and appropriate levels of staffing and funding, methods for increased participation by municipalities and farmers, methods of planning for future acquisitions and identifying prime land for agricultural preservation, and outreach strategies to be conducted by program staff to the state-wide farming community, targeted towards attracting a greater number of quality applications, (3) may recommend any other changes to the program deemed appropriate by the board, including recommendations for future legislative action, and (4) shall evaluate and provide comments on the efficacy of the method of bond funding established pursuant to section 3-20f.

*History: P.A. 07-162, S. 1; P.A. 10-32, S. 162.*

**Sec. 22-26mm. Municipal loan program. Account. Regulations.**

(a) The Commissioner of Agriculture shall administer a program providing eligible municipalities with a loan for the purchasing of agricultural lands. Such loan shall be for a period not to exceed five years and shall not be subject to interest. Municipalities shall be eligible for such loan if they provide not less than twenty per cent of the purchase price of such lands and may apply for such loan on a form prescribed by the Commissioner of Agriculture.

(b) There is established an account to be known as the “municipal purchasing of agricultural land account” which shall be a separate, nonlapsing account within the General Fund. The account may contain any moneys required by law to be deposited in the account. Moneys in the account shall be expended by the Commissioner of Agriculture for the purposes of providing municipalities with loans for the purchase of agricultural lands in accordance with subsection (a) of this section.

(c) The Commissioner of Agriculture may adopt regulations, in accordance with the provisions of chapter 54, setting forth the criteria for loans granted under this section, and the terms governing such loans.

*History: P.A. 07-131, S. 3.*

**Sec. 22-26nn. Community farms program. Criteria. Notice of acquisition. Removal of restriction. Annual installment payments. Joint ownership of development rights with municipality. Liability. Letter of intent requesting assistance. Right to construct residence or farm structure. Conservation plans. Deed requirements.**

(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” have the same meanings as provided 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 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 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 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 Conservation Service field office technical guide and is approved by such service. Additionally, such conservation plan shall require the establishment of model pollinator habitat, as described in section 22-90b. 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., or under the Agricultural Conservation Easement Program, 7 CFR 1468.1, et seq., or any successive federal farmland protection program.

*History: P.A. 08-174, S. 4; P.A. 13-104, S. 2; P.A. 14-122, S. 129; P.A. 16-17, S. 10; P.A. 18-181, S. 11.*

**Sec. 22-2600. Farm at Southbury Training School. Transfer of control. Permanent conservation easement. Lease for engaging in agriculture. Conservation plan.**

(a) Notwithstanding any provision of the general statutes, the Commissioner of Developmental Services shall transfer the care, custody and control of the land and buildings that comprise the property that is known as the "Farm at the Southbury Training School" and that is further described in a map entitled

“Compilation Plan of Property Prepared For State of Connecticut Department of Agriculture ‘Southbury Training School’ Southbury & Roxbury, Connecticut”, scale 1” = 200’, dated February 15, 2012, revised January 28, 2013, prepared by Brian D. Florek, L.S., to the Commissioner of Agriculture. The Commissioner of Agriculture shall acquire a property survey of the Farm at the Southbury Training School conforming to a Class A-2 horizontal survey.

(b) The Commissioner of Agriculture shall grant to 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 amended from time to time, a permanent conservation easement on the Farm at the Southbury Training School based upon such Class A-2 survey. The mission of any such nonprofit organization shall include, but need not be limited to, the protection of agricultural lands for agricultural use. Such permanent conservation easement shall provide for the conservation of said farm for agricultural use and shall allow for the lease, permit or license by the Commissioner of Agriculture of any portion of said farm to one or more persons or entities for the purpose of engaging in agriculture, as defined in section 1-1. Such permanent conservation easement shall be subject to the review and approval of the State Properties Review Board. The State Properties Review Board shall complete a review of such permanent conservation easement not later than thirty days after receipt of a proposed permanent conservation easement from the Commissioner of Agriculture.

(c) The Commissioner of Agriculture may lease, permit or license all or part of said farm to one or more persons for the purpose of engaging in agriculture, as defined in section 1-1. Any such lease, permit or license shall be for a period not to exceed fifteen years and shall contain, as a condition thereof, compliance with the provisions of the permanent conservation easement granted pursuant to subsection (b) of this section. Any such lease, permit or license may be renewed for a period not to exceed fifteen years. Any property leased, permitted or licensed pursuant to this subsection shall be exempt from taxation by the municipality in which said property is located. The assessed valuation of said property shall be included in the assessed valuation of state-owned land and buildings for purposes of determining the state’s grant in lieu of taxes pursuant to the provisions of section 12-18b. Any such lease, permit or license shall be subject to the review and approval of the State Properties Review Board. The State Properties Review Board shall complete a review of each lease, permit or license not later than thirty days after receipt of a proposed lease, permit or license from the Commissioner of Agriculture.

(d) Any permanent conservation easement pursuant to subsection (b) of this section shall provide that all agricultural activities conducted on the Farm at the Southbury Training School shall be conducted in accordance with a conservation plan prepared by the United States Department of Agriculture, Natural Resources Conservation Service, and approved by the Commissioner of Agriculture. Such conservation plan shall be updated periodically and whenever the nature of any agricultural operation on said farm changes. Such plan shall provide for management of said farm in a manner that: (1) Is consistent with generally accepted agricultural practices, including, but not limited to, practices identified by the Natural Resources Conservation Service Field Office Technical Guide, and (2) is consistent with the protection of the agricultural and conservation values of said farm.

*History: P.A. 13-90, S. 1; P.A. 15-244, S. 200.*

**Sec. 22-26pp. Savin Farm in the town of Lebanon. Authority re conservation or preservation restriction.**

The Commissioner of Agriculture may place a conservation or a preservation restriction, as defined in section 47-42a, on the property known as the "Savin Farm" and located in the town of Lebanon. Any such conservation or preservation restriction: (1) May provide for the conservation of said farm for agricultural use, (2) may allow for the lease, permit or license by the commissioner of any portion of said farm to one or more persons or entities for the purpose of engaging in agriculture, as defined in section 1-1, and (3) shall allow for the continuance of any activities that historically took place on said farm, in accordance with the draft memorandum of understanding between the Department of Agriculture and the Department of Environmental Protection, dated October 23, 1995.

*History: P.A. 14-80, S. 1.*

**Sec. 22-26qq. Conservation or preservation restrictions on department lands.**

The Commissioner of Agriculture may place conservation or preservation restrictions, as defined in section 47-42a, on any lands owned by the department.

*History: P.A. 14-169, S. 3.*

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