

**Rhode Island PACE Enabling Laws**  
42 R.I. Gen. Laws §§ 82-1 to 82-17  
Current through the 2019 Regular Session

**Chapter 42-82: Farmland Preservation Act**

**§ 42-82-1. Statement of legislative purpose.**

(a) The general assembly recognizes that land suitable for food production in the state has become an extremely scarce and valuable resource. The amount of good farmland has declined so dramatically that unless a comprehensive program is initiated by the state to preserve what remains it will be lost forever. It is in the best interest of the people that the state identify and acquire the development rights to the remaining land most endangered by development so as to maintain farming, productive open spaces, and ground water recharge areas.

(b) The general assembly finds that productive farmland is being converted to other uses because its development value at present far exceeds its value for agricultural purposes; that agriculture is an important part of the state's economy, environment, and quality of life; and that local food production will become increasingly important to the people of the state. It also finds that agricultural preservation will allow more orderly development and permit the cities and towns to plan for and provide services more adequately and at lower cost. Therefore, the general assembly establishes an agricultural lands preservation commission to conduct the inventory and acquisition of development rights to farmland in this state.

*History: P.L. 1981, ch. 299, § 1.*

**§ 42-82-2. Definitions.**

As used in this chapter, unless the context indicates a different meaning or intent:

- (1) "Agricultural land" means any land in the state of five (5) contiguous acres or larger that is suitable for agriculture by reference to soil type, existing use for agricultural purposes and other criteria to be developed by the commission and may include adjacent pastures, ponds, natural drainage areas and other adjacent areas which the commission deems necessary for farm operations;
- (2) "Agricultural lands preservation commission" or "commission" means the commission established pursuant to § 42-82-3;
- (3) "Agricultural operation" means any individual, partnership or corporation that complies with §§ 44-27-3 and 2-1-22(j) and produces and distributes a commercial food, feed, fiber or horticultural product.
- (4) "Cost," when used with reference to acquisition of development rights, means as of any particular date the cost subsequently incurred of purchasing the development rights, property rights and all other necessary expenses incident to planning, financing, and implementing the provisions of this chapter;
- (5) "Development rights" means the rights of the fee simple owner to develop, construct on, divide, sell, lease, or otherwise change the property in such a way as to render the land unsuitable for agriculture; this includes the exercise of the owner's rights to sell or grant easements or rights of way, or to sell the mineral or water rights or other rights if by that exercise the use of the land as productive agricultural land is diminished; but does not include the rights of the owner to sell, lease, or otherwise improve the agricultural land to preserve, maintain, operate, or continue the land as agricultural land or all other customary rights and privileges of ownership, including the right to privacy. Specific restrictions to farm-related development shall be formulated by the commission for each parcel of land to which the

development rights are purchased and appended to the covenant at the time of its making.

*History: P.L. 1981, ch. 229, § 1; P.L. 1994, ch. 132, § 1.*

**§ 42-82-3. Agricultural lands preservation commission.**

- (a) (1) There is established the agricultural lands preservation commission consisting of the directors of the department of environmental management and the department of administration, or their respective designees, both ex officio with the power to vote; and seven (7) public members to be appointed by the governor with the advice and consent of the senate. The public appointees shall include at least two (2) members with knowledge or experience in agriculture, one member familiar with land use and community planning issues, one member active in land preservation. All gubernatorial appointments made under this section after January 1, 2005, shall be subjected to the advice and consent of the senate. No person shall be eligible for appointment pursuant to this section after the effective date of this act [April 20, 2006] unless he or she is a resident of this state.
- (2) The members appointed by the governor shall serve for terms of five (5) years each; provided, however, that of the members first appointed, one shall serve for one year, one shall serve for two (2) years, one shall serve for three (3) years, one shall serve for four (4) years, and two (2) shall serve for five (5) years, from January first next succeeding their appointment, as the governor shall designate; provided, however, that those members of the commission as of the effective date of this act [April 20, 2006] who were appointed upon the recommendation of members of the general assembly shall cease to be members of the commission on the effective date of this act [April 20, 2006].
- (3) Any vacancy occurring otherwise than by expiration of term shall be filled in the same manner as the original appointment.
- (4) Upon expiration of a member's term, that member shall continue as a member until that member's successor is appointed and qualified. Any person serving a term shall be eligible for appointment.
- (5) No member, including ex-officio members, shall receive compensation for the performance of his or her duties as a member; provided, however, that each appointed member may be reimbursed if funds are appropriated for his or her actual and necessary expenses incurred during the performance of his or her official duties.
- (6) [Deleted by P.L. 2006, ch. 22, § 5 and P.L. 2006, ch. 27, § 5].
- (7) The commission shall designate annually from its members a chairperson and a vice chairperson.
- (8) Whenever public hearings are required under this chapter, or whenever the commission determines a public hearing is appropriate, the commission shall use reasonable efforts to hold those hearings at a place or places that will reasonably accommodate the interested parties.
- (b) Five (5) voting members of the commission shall constitute a quorum for the transaction of any business or the exercise of any power of the commission. Except as otherwise provided in this chapter, the commission shall have the power to act by a majority of the members present at any meeting at which a quorum is in attendance.
- (c) The governor may remove any member for cause or misconduct in office after giving him or her a copy of the charges against him or her and an opportunity to be heard, in person or by counsel, in his or her defense, upon not less than ten (10) days notice. If any member shall be removed, the governor shall file in the office of the secretary of state a complete statement of charges made against the member and his or her findings, together with a complete record of the proceedings.

*History: P.L. 1981, ch. 299, § 1; P.L. 1989, ch. 243, § 1; P.L. 2006, ch. 22, § 5; P.L. 2006, ch. 27, § 5; P.L. 2008, ch. 25, § 1; P.L. 2008, ch. 30, § 1.*

#### **§ 42-82-4. Powers of commission.**

The commission has the power to:

- (1) Retain by contract or employ counsel, auditors, engineers, appraisers, private consultants and advisors, or other personnel needed to provide necessary services;
- (2) Conduct hearings, examinations, and investigations as may be necessary and appropriate to the conduct of its operations and the fulfillment of its responsibilities;
- (3) Obtain access to public records and apply for the process of subpoena, if necessary, to produce books, papers, records, and other data;
- (4) Purchase, receive by gift, or otherwise acquire development rights;
- (5) Accept gifts, grants or loans of funds, property, or services from any source, public or private, and comply, subject to the provisions of this chapter, with the terms and conditions thereof;
- (6) Accept from a federal agency loans or grants for use in carrying out its purposes and enter into agreement with an agency respecting those loans or grants; and
- (7) Otherwise do all things necessary for the performance of its duties, the fulfillment of its obligations and the conduct of its business.

*History: P.L. 1981, ch. 299, § 1.*

#### **§ 42-82-5. Duties of the commission.**

(a) The commission shall:

- (1) Develop the criteria necessary for defining agricultural land under this chapter;
- (2) Make a reasonably accurate inventory of all land in the state that meets the definition of agricultural land;
- (3) Prepare and adopt rules for administration of the purchase of development rights and criteria for the selection of parcels for which the development rights may be purchased, and the conditions under which they will be purchased;
- (4) Draw up and publish the covenant and enumerate the specific development rights to be purchased by the state;
- (5) Inform the owners, public officials, and other citizens and interested persons of the provisions of this chapter;
- (6) Approve and submit, within ninety (90) days after the end of each fiscal year, an annual report to the governor, the speaker of the house of representatives, the president of the senate, and the secretary of state of its activities during that fiscal year. The report shall provide: an operating statement summarizing meetings or hearings held, including meeting minutes, subjects addressed, decisions rendered, petitions granted, rules or regulations promulgated, studies conducted, policies and plans developed, approved, or modified, and programs administered or initiated; a consolidated financial statement of all funds received and expended, including the source of the funds, a listing of any staff supported by these funds, and a summary of any clerical, administrative, or technical support received; a summary of performance during the previous fiscal year, including accomplishments, shortcomings, and remedies; a synopsis of hearings, examinations, and investigations or any legal matters related to the authority of the commission; a summary of any

training courses held pursuant to subdivision (a)(7); a summary of land acquired and conserved during the fiscal year; an annually updated inventory of all land in the state that meets the definition of agricultural land; a briefing on anticipated activities in the upcoming fiscal year; findings and recommendation for improvements. The report shall be posted electronically, as prescribed in § 42-20-8.2. The director of the department of administration shall be responsible for the enforcement of this provision; and

(7) Conduct a training course for newly appointed and qualified members and new designees of ex officio members within six (6) months of their qualification or designation. The course shall be developed by the chair, approved by the commission, and conducted by the commission. The commission may approve the use of any commission or staff members or other individuals to assist with training. The course shall include instruction in the following areas: the provisions of chapters 82 and 46 of this title, chapter 14 of title 36, and chapter 2 of title 38; and the commission's rules and regulations. The director of the department of administration shall, within ninety (90) days of the effective date of this act [May 3, 2006], prepare and disseminate training materials relating to the provisions of chapter 46 of this title, chapter 14 of title 36, and chapter 2 of title 38.

(b) At any time after fulfilling the requirements of subsection (a), the commission, on behalf of the state, may acquire any development rights that may, from time to time, be offered by the owners of agricultural land. The commission may accept or negotiate at a price not in excess of the value established by an independent appraisal prepared for the commission, or for one of the commission's partners, for the respective property. Additionally, said appraisal shall be reviewed in a manner consistent with the rules and regulations of the commission. The value of the development rights for all of the 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 defined in this chapter. In determining the value of the property for its highest and best use, consideration shall be given to sales of comparable properties in the general area, use of which is unrestricted at the time of sale. The seller of the development rights shall have the option of accepting payment in full at the time of transfer or accepting payment on an installment basis in cash or with the principal paid by tax exempt financial instruments of the state with interest on the unpaid balance equal to the interest paid by the state on bonds sold during the preceding twelve-month (12) period. Any matter pending in the superior court may be settled by the parties subject to approval by a referee. At any time after a matter has been referred to a referee, even after an award is made by the referee, but before payment thereof, the petitioner may withdraw his or her petition upon payment of appraisal fees incurred by the state, together with all court costs, and the award shall become null and void.

(c) Any land acquired by purchase, devise, or as a gift may be resold by the commission with the development rights retained by the state and so noted by covenant in the deed. Any such resale by the commission shall not be subject to the right to purchase by the municipality in which the land is situated as provided by § 37-7-5. The proceeds from that sale shall be returned to the agricultural land preservation fund.

(d) Any land received as a gift and not resold by the commission may be leased for agricultural uses or other uses the commission determines are not detrimental to its agricultural productivity. Any funds thus obtained shall be returned to the agricultural land preservation fund.

(e) The commission may consider petitions by the owner of land, from which or whom the state has purchased the development rights, to repurchase those development rights from the state. The petition must be accompanied by a certificate from the municipalities in which the land lies stating that two-thirds (2/3) of the city or town council has approved the proposed development. The petition shall set forth the facts and circumstances upon which the commission shall consider approval, and the

commission shall deny approval unless at least seven (7) of its members determine by vote that there is an overriding necessity to relinquish control of the development rights. The commission shall hold at least one public hearing in a city or town from which a certificate has been received, prior to its consideration of the petition, that shall be announced in one newspaper of local circulation. The expenses, if any, of the hearing shall be borne by the petitioner. If the commission approves the sale of the development rights, it shall receive the value of the development rights at the time of this sale, to be determined in the same manner as provided for by subsection (d). Proceeds of the sale shall be returned to the agricultural land preservation fund.

*History: P.L. 1981, ch. 299, § 1; P.L. 2006, ch. 22, § 5; P.L. 2006, ch. 27, § 5; P.L. 2008, ch. 25, § 1; P.L. 2008, ch. 30, § 1; P.L. 2016, ch. 445, § 1; P.L. 2016, ch. 446, § 1.*

**§ 42-82-6. Use of eminent domain against designated land.**

Any state or local agency must demonstrate extreme need and the lack of any viable alternative before exercising a right of eminent domain over any farmland to which the development rights have been purchased by the commission on behalf of the state, or which has been designated as agricultural land in the agricultural land preservation program by the commission. The agency will file a separate report with the commission showing the necessity of condemning this land. The report must be endorsed by the governor after public hearings. If the commission feels that cause has not been adequately demonstrated, it shall have recourse to the superior court for a decision on the matter.

*History: P.L. 1981, ch. 299, § 1.*

**§ 42-82-7. Bonds authorized – Maturity – Certification and execution.**

(a) The general treasurer is hereby authorized and empowered, with the approval of the governor and in accordance with the provisions of this chapter, to issue from time to time bonds in the name and behalf of the state and in amounts that may be specified in an amount not to exceed two million dollars (\$2,000,000) from time to time by the governor to be designated as "agricultural lands preservation commission loan of 1981." Bonds shall be in denominations of one thousand dollars (\$1,000) each or multiples thereof, and shall be payable in any coin or currency of the United States which at the time of payment shall be legal tender for public or private debts. Bonds shall bear a date or dates, mature at a time or times not exceeding twenty (20) years from their respective date of issue, bear interest payable semiannually at a rate or different varying rates, be payable at a time or times, at a place or places, be subject to terms of recall or redemption, with or without premium, be in a form with or without interest coupons attached carrying a registration, conversion, re-conversion, transfer, debt requirement, acceleration and other provisions that may be fixed by the general treasurer, with the approval of the governor, upon each issue of the bonds at the time of each issue.

(b) Whenever the governor shall approve the issuance of bonds he or she shall certify the approval to the secretary of state; the general treasurer shall countersign the bonds and affix the seal of the state. The approval of the governor shall be endorsed on each bond so approved with a facsimile of his or her signature.

*History: P.L. 1981, ch. 299, § 1.*

**§ 42-82-8. Agricultural lands preservation fund.**

The general treasurer is directed to deposit the proceeds of the sale of the bonds including any premium or premiums and any accrued interest which may be received from the sale of the bonds, in one or more of the depositories in which the funds of the state may be lawfully kept, in the amount to be known as "agricultural lands preservation fund" to be used as follows:

- (1) For the purposes of § 42-82-5;
- (2) As prescribed in § 42-82-12 in the case of premiums or accrued interest; and
- (3) In the event that the amount received from the sale of the bonds exceeds the amount necessary for the planning for or purchase of development rights to farmland, the surplus shall be used to the extent possible to retire the bonds as they may become due.

*History: P.L. 1981, ch. 299, § 1.*

#### **§ 42-82-9. Temporary notes.**

- (a) The general treasurer is authorized and empowered, with the approval of the governor, and in accordance with provisions of this chapter, to borrow upon temporary notes issued in anticipation of the issuance of the bonds, from time to time, in the name and behalf of the state, sums of money for the purposes set forth in §§ 42-82-4 and 42-82-5.
- (b) The notes shall be signed by the general treasurer and countersigned by the secretary of state and shall be issued at a time or times in any amounts, at any rates of interest, with any provisions of prepayment, with or without premium, acceleration, and other terms that may be fixed by the general treasurer, with the approval of the governor.
- (c) The notes may be issued from time to time for periods not exceeding two (2) years and may be refunded or renewed from time to time by the issue of other notes for periods not exceeding two (2) years, but the notes, including all refundings and renewals, shall bear maturity dates not later than five (5) years from the date of each original issue. The total sum of the terms of the notes plus the term of the bonds, which the issuance of the notes anticipate, shall not exceed twenty-five (25) years in duration.
- (d) The proceeds of the sale of the notes, inclusive of any premiums and any accrued interest which may be received from the sale of the notes, shall be applied to the purposes for which the notes are issued and shall be deposited by the general treasurer in the account described in § 42-82-8.

*History: P.L. 1981, ch. 299, § 1.*

#### **§ 42-82-10. Advances from general fund in anticipation of the issue of notes or bonds.**

The general treasurer is authorized from time to time, with the approval of the governor, in the anticipation of the issue of notes or bonds under the authority of this chapter, to advance to the fund to be used for the purposes specified in § 42-82-8, any funds of the state not specifically held for any purpose; provided, however, that all of the advances shall be returned to the general fund upon the receipt by the fund of proceeds from the issue of notes or bonds.

*History: P.L. 1981, ch. 299, § 1.*

#### **§ 42-82-11. Bonds and notes tax exempt general obligation of state.**

All bonds and notes issued under the authority of this chapter shall be exempt from taxation in the state and shall be general obligations of the state, and the full faith and credit of the state are hereby pledged for the due payment of the principal and the interest on each bond and note as the principal and interest shall become due.

*History: P.L. 1981, ch. 299, § 1.*

**§ 42-82-12. Terms and conditions of sales – Applications of premiums and accrued interest – Validity not affected by change in office.**

(a) Any bond or note issued under the authority of this chapter shall be sold from time to time at not less than the principal amount of the bond or note on any terms and conditions as the general treasurer, with the approval of the governor, shall deem to be for the best interest of the state. The purchaser of any bond or note shall pay accrued interest to the date of delivery of the bond or note.

(b) Any premium or accrued interest which may be received as the result of the sale of the bonds or notes shall be applied to the payment of debt service costs.

(c) Any bonds or notes issued under the provisions of this chapter and coupons on any bonds, if properly executed by the manual or facsimile signature, as the case may be, of officers of the state in office on the date of execution shall be valid and binding according to their tenor, notwithstanding that before the delivery of bonds, notes or coupons and payment for these, any or all officers shall for any reason have ceased to hold office.

*History: P.L. 1981, ch. 299, § 1.*

**§ 42-82-13. Investment of receipt pending expenditures.**

All moneys in the fund not immediately required for payment pursuant to the provisions of this chapter may be invested by the state investment commission, as established by chapter 10 of title 35, pursuant to the provisions of that chapter; provided, however, that the securities in which the fund is invested shall remain a part of the funds as shall other securities for which the investment may from time to time, pursuant to that chapter, be exchanged; and provided, further, that the income from that investment shall become part of the fund, and shall be used to the extent possible to pay debt service costs.

*History: P.L. 1981, ch. 299, § 1.*

**§ 42-82-14. Amortization.**

For the purpose of paying any expenses incurred by the general treasurer in the issuance of the bonds or notes under the authority of this chapter, and any interest and any principal becoming payable from time to time on the bonds or notes issued under the authority of this chapter and then outstanding, the state controller is hereby authorized and directed to draw his or her orders upon the general treasurer for the payment of the expenses, interest, and principal out of the fund. In the event that the amount available in the fund is not sufficient for this purpose, a sum sufficient is hereby annually appropriated out of any money in the treasury not otherwise appropriated for the payment of the expenses, interest, and principal.

*History: P.L. 1981, ch. 299, § 1.*

**§ 42-82-15. Repealed.**

**§ 42-82-16. Charges for utility extension.**

(a) No city, town, quasi-municipal corporation or public corporation may assess the owner of an agricultural operation having frontage on a public roadway for the extension of water and sewer utilities past the property.

(b) The owner of the agricultural operation may only be charged if the owner has requested the utility extension. The agricultural operation may tie into any utility extension made past that property for the normal cost of tie-in and no cost for the infrastructure improvement except for its base usable charge.

The protection afforded by this section shall be null and void and the assessments made if the owner of the agricultural operation develops or sells to other than a qualifying agricultural operation the property or farmland within twenty (20) years of the date the utility extensions were operational.

*History: P.L. 1994, ch. 132, § 2; G.L. 1956, § 42-82-17.*

**§ 42-82-17. Severability.**

If any provisions of this chapter or of any rule, regulation or order made under this chapter, or the application of this chapter to any person or circumstances, is held invalid by a court of competent jurisdiction, the remainder of this chapter, rule, regulation or order, and the application of that provision to other persons or circumstances shall not be affected. The invalidity of any section or sections or parts of any section or sections of this chapter shall not affect the validity of the remainder of this chapter, and it is declared to be the legislative intent that this chapter would have been enacted if those invalid parts had not been included in this chapter.

*History: P.L. 1981, ch. 299, § 1; G.L. 1956, § 42-82-16.*

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