

New York PACE Enabling Laws

N.Y. Agric. & Mkts. Law §§ 321 to 326
Current through the 2019 released Chapters 1-754

Article 25-AAA Agricultural and Farmland Protection Programs (§§ 321 — 326)

Article 25-AAA Agricultural and Farmland Protection Programs

History: 1992, ch 797, § 16.

§ 321. Statement of legislative findings and intent.

It is hereby found and declared that agricultural lands are irreplaceable state assets. In an effort to maintain the economic viability, and environmental and landscape preservation values associated with agriculture, the state must explore ways to sustain the state's valuable farm economy and to protect farm operations and the land base associated with it. External pressures on farm stability such as population growth in nonmetropolitan areas, lack of access to affordable farmland, and public infrastructure development pose a significant threat to farm operations, yet are the pressures over which farmers have the least control. Local initiatives in agricultural protection policy, facilitated by the agricultural districts program established in article twenty-five-AA of this chapter, have proved effective as a basic step in addressing these pressures. In an effort to encourage further development of agricultural and farmland protection programs, and to recognize both the crucial role that local government plays in developing these strategies, plus the state constitutional directive to the legislature to provide for the protection of agricultural lands, it is therefore declared the policy of the state to promote local initiatives for agricultural and farmland protection.

History: 1992, ch 797, § 16; 2018, ch 158, § 1.

§ 322. Definitions

When used in this article:

1. "Agricultural and farmland protection" means the preservation, conservation, management or improvement of lands which are part of viable farming operations, for the purpose of encouraging such lands to remain in agricultural production. Such preservation efforts include the use of farmland protection conservation easements and purchase of development rights.
2. "Plan" means the county and municipal agricultural and farmland protection plan as provided for in this article.
3. "Program" means the state agricultural and farmland protection program created pursuant to the provisions of this article.
4. "Not-for-profit conservation organization" means an organization as defined in subdivision two of section 49-0303 of the environmental conservation law.

5. "Soil and water conservation district" means an entity as defined in subdivision one of section three of the soil and water conservation districts law.

6. "Farmer-purchaser farmland protection agreement" means preemptive purchase rights or other provisions that are part of or linked to a farmland protection conservation easement providing the easement holder the preferential right to purchase protected farmland at its agricultural use value in the event the landowner intends to sell such farmland to a purchaser who does not intend to maintain the land in commercial agricultural production and who does not have the requisite farming experience and farming income to demonstrate, in a manner acceptable to the department, a good faith plan to maintain the land in commercial agricultural production. The purpose of such provisions is to ensure that farmer-purchasers who would maintain protected farmland in commercial agricultural production can afford such farmland that might otherwise be sold at a higher price to other purchasers.

7. "Agricultural use value" means the fair market value of a property that is restricted by an easement to its productive commercial agricultural use value rather than the highest and/or best potential use value for residential or other non-agricultural purposes.

History: 1992, ch 797, § 16; 2005, ch 527, § 1; 2008, ch 268, § 1; 2013, ch 150, § 1; 2018, ch 158, §§ 2, 3.

§ 323. State agricultural and farmland protection program

The commissioner shall initiate and maintain a state agricultural and farmland protection program to provide financial and technical assistance, within funds available, to counties, municipalities, soil and water conservation districts, and not-for-profit conservation organizations for their agricultural and farmland protection efforts. Activities to be conducted by the commissioner shall include, but not be limited to:

1. Developing guidelines for the creation by counties and municipalities of agricultural and farmland protection plans;
2. Providing technical assistance to county agricultural and farmland protection boards, as established in article twenty-five-AA of this chapter, and municipalities;
3. Administering state assistance payments to county agricultural and farmland protection boards, municipalities and soil and water conservation districts;
4. Disseminating information to county and municipal governments, soil and water conservation districts, owners of agricultural lands and other agricultural interests about the state agricultural and farmland protection program established pursuant to this article;
5. Administering state assistance payments to not-for-profit conservation organizations; and
6. Reporting biennially to the governor and the legislature regarding the activities of the commissioner, the types of technical assistance rendered to county agricultural and farmland protection boards, municipalities, soil and water conservation districts and not-for-profit conservation organizations, and the need to protect the state's agricultural economy and land resources.

History: 1992, ch 797, § 16; 2005, ch 527, § 2; 2008, ch 268, § 2; 2013, ch 150, § 2.

§ 324. County agricultural and farmland protection plans

1. County agricultural and farmland protection boards may develop plans, in cooperation with the local soil and water conservation district and soil conservation service, which shall include, but not be limited to:

(a) the location of any land or areas proposed to be protected;

(b) an analysis of the following factors concerning any areas and lands proposed to be protected:

(i) value to the agricultural economy of the county;

(ii) open space value;

(iii) consequences of possible conversion; and

(iv) level of conversion pressure on the lands or areas proposed to be protected; and

(c) a description of the activities, programs and strategies, including efforts to support the successful transfer of agricultural land from existing owners to new owners and operators, especially new and beginning farmers, intended to be used by the county to promote continued agricultural use, which may include but not be limited to revisions to the county's comprehensive plan pursuant to section two hundred thirty-nine-d or two hundred thirty-nine-i of the general municipal law.

2. The county agricultural and farmland protection board shall conduct at least one public hearing for public input regarding such agricultural and farmland protection plan, and shall thereafter submit such plan to the county legislative body for its approval.

3. The county agricultural protection plan must be submitted by the county to the commissioner for approval.

History: 1992, ch 797, § 16; 2015, ch 248, § 1.

§ 324-a. Municipal agricultural and farmland protection plans

1. Municipalities may develop agricultural and farmland protection plans, in cooperation with cooperative extension and other organizations, including local farmers. These plans shall include, but not be limited to:

(a) the location of any land or areas proposed to be protected;

(b) an analysis of the following factors concerning any areas and lands proposed to be protected:

(i) value to the agricultural economy of the municipality;

(ii) open space value;

(iii) consequences of possible conversion; and

(iv) level of conversion pressure on the lands or areas proposed to be protected; and

(c) a description of activities, programs and strategies, including efforts to support the successful transfer of agricultural land from existing owners to new owners and operators, especially new and beginning farmers, intended to be used by the municipality to promote continued

agricultural use, which may include but not be limited to revisions to the municipality's comprehensive plan pursuant to section two hundred seventy-two-a of the town law or section 7-722 of the village law as appropriate.

2. The municipality shall conduct at least one public hearing for public input regarding such agricultural and farmland protection plan, and shall thereafter submit such plan to the municipal legislative body and the county agricultural farmland protection board for approval.

3. The municipal agricultural and farmland protection plan must be submitted by the municipality to the commissioner for approval.

History: 2005, ch 527, § 3; 2015, ch 248, § 2.

§ 325. Agricultural protection

1. Subject to the availability of funds, a program is hereby established to finance through state assistance payments the state share of the costs of locally-led agricultural and farmland protection activities. State assistance payments for planning activities shall not exceed fifty thousand dollars to each county agricultural and farmland protection board or one hundred thousand dollars to two such boards applying jointly, and shall not exceed fifty percent of the cost of preparing an agricultural and farmland protection plan. State assistance payments for planning activities shall not exceed twenty-five thousand dollars to each municipality other than a county or fifty thousand dollars to two such municipalities applying jointly, and shall not exceed seventy-five percent of the cost of preparing an agricultural and farmland protection plan. A county which has an approved farmland protection plan may after one hundred twenty months from the date of such approval by the commissioner apply for additional state assistance payments for planning activities related to the updating of their current plan or development of a new farmland protection plan. Such additional state assistance payments shall not exceed fifty thousand dollars to each county agricultural and farmland protection board or one hundred thousand dollars to two such boards applying jointly, and shall not exceed fifty percent of the cost of preparing an agricultural and farmland protection plan. State assistance payments for implementation of approved agricultural and farmland protection plans may fund up to seventy-five percent of the cost of implementing the county plan or portion of the plan for which state assistance payments are requested. State assistance payments to such counties shall not exceed seventy-five percent of the cost of implementing the local plan or portion of the plan for which state assistance has been requested. Such maximum shall be increased by a percentage equal to the percentage of the total eligible costs for such specified projects that are contributed by the owner of the agricultural land for which the project is being funded, provided, however, that in no event shall the total of such state assistance payments exceed eighty-seven and one-half percent of such eligible costs for any specified project.

2.

(a) A county agricultural and farmland protection board, two such boards acting jointly, a municipality or two such municipalities acting jointly shall make application to the commissioner in such manner as the commissioner may prescribe. Application for state assistance payments for planning activities may be made at any time after the county agricultural and farmland protection board has formed and has elected a chairperson. A county agricultural and farmland protection board may make application for state assistance payments for plan implementation at any time after the commissioner has approved a county agricultural and farmland protection plan pursuant to section three hundred twenty-four of this article. Application made jointly by

two county agricultural and farmland protection boards may be made after such agricultural and farmland protection plan is approved by each county pursuant to the provisions of section three hundred twenty-four of this article. State assistance payments to such counties shall not exceed seventy-five percent of the cost of implementing the county agricultural and farmland protection plan or portion of the plan for which state assistance has been requested. The commissioner may require such information or additional planning as he or she deems necessary to evaluate such a request for state assistance.

(b) Within a county, a municipality which has in place a local farmland protection plan may apply and shall be eligible for agricultural protection state assistance payments to implement its plan, or a portion of its plan, provided the proposed project is endorsed for funding by the agricultural and farmland protection board for the county in which the municipality is located and that any plan developed on or after January first, two thousand six complies with section three hundred twenty-four-a of this article. State assistance payments to such municipalities shall not exceed seventy-five percent of the cost of implementing the local plan or portion of the plan for which state assistance has been requested. Such maximum shall be increased by a percentage equal to the percentage of the total eligible costs for such specified projects that are contributed by the owner of the agricultural land for which the project is being funded; provided, however, that in no event shall the total of such state assistance payments exceed eighty-seven and one-half percent of such eligible costs for any specified project. The commissioner may require such information or additional planning as he or she deems necessary to evaluate such a request for state assistance.

(c) A soil and water conservation district may apply and shall be eligible for agricultural protection state assistance payments to implement a county or municipal agricultural and farmland protection plan approved by the commissioner provided that the proposed project is endorsed for funding by the county agricultural and farmland protection board for the county in which the proposed project is located. A soil and water conservation district, two such soil and water conservation districts acting jointly, a soil and water conservation district and a municipality acting jointly, or a soil and water conservation district and a not-for-profit conservation organization acting jointly shall make application to the commissioner in such manner as the commissioner may prescribe. The proposed project must also be endorsed for funding by the municipality in which the proposed project is located if the soil and water conservation district is seeking agricultural protection state assistance payments to implement an approved municipal agricultural and farmland protection plan. State assistance payments to such soil and water conservation districts shall not exceed seventy-five percent of the cost of implementing the local plan or portion of the plan for which state assistance has been requested. Such maximum shall be increased by a percentage equal to the percentage of the total eligible costs for such specified projects that are contributed by the owner of the agricultural land for which the project is being funded; provided, however, that in no event shall the total of such state assistance payments exceed eighty-seven and one-half percent of such eligible costs for any specified project. The commissioner may require such information or additional planning as he or she deems necessary to evaluate such a request for state assistance.

(d) A not-for-profit conservation organization may apply and shall be eligible for agricultural protection state assistance payments to implement a county or municipal agricultural and farmland protection plan approved by the commissioner provided that the proposed project is endorsed for funding by the county agricultural and farmland protection board for the county in

which the proposed project is located. The proposed project must also be endorsed for funding by the municipality in which the proposed project is located if the not-for-profit conservation organization is seeking agricultural protection state assistance payments to implement an approved municipal agricultural and farmland protection plan. State assistance payments to such not-for-profit organizations shall not exceed seventy-five percent of the cost of implementing the local plan or portion of the plan for which state assistance has been requested. Such maximum shall be increased by a percentage equal to the percentage of the total eligible costs for such specified projects that are contributed by the owner of the agricultural land for which the project is being funded; provided, however, that in no event shall the total of such state assistance payments exceed eighty-seven and one-half percent of such eligible costs for any specified project. The commissioner may require such information or additional planning as he or she deems necessary to evaluate such a request for state assistance.

(e) In evaluating applications for funding, the commissioner shall give priority to projects intended to preserve viable agricultural land as defined in section three hundred one of this chapter; that are in areas facing significant development pressure; and that serve as a buffer for a significant natural public resource containing important ecosystem or habitat characteristics.

(f) In evaluating applications for funding, the commissioner shall consider whether future physical climate risk due to sea level rise, and/or storm surges and/or flooding, based on available data predicting the likelihood of future extreme weather events, including hazard risk analysis data if applicable, has been considered.

(g) In evaluating applications for funding, projects for protecting agricultural land that include farmer-purchaser farmland protection agreements are eligible for state assistance payments.

3. Upon receipt of a request for state assistance, the commissioner shall review the request, consult with the advisory council on agriculture and, within ninety days from the receipt of a complete application, shall make a determination as to whether or not such projects shall receive state assistance.

History: 1992, ch 797, § 16; 1996, ch 413, § 3; 2010, ch 93, § 1; 2010, ch 234, §§ 1, 2; 2013, ch 150, §§ 3, 4; 2018, ch 158, § 4.

§ 325-a. State assistance payments to not-for-profit conservation organizations

1. Subject to the availability of funds, a program is hereby established for the purpose of awarding state assistance to not-for-profit conservation organizations for activities that will assist counties and municipalities with their agricultural and farmland protection efforts. To be eligible, an organization shall have at least one active farmer on their board of directors at the time of application or shall provide for the appointment of a farmer to such board of directors in a manner approved by the commissioner.

2. Awards of state assistance payments shall be made on a competitive basis through a request for proposal process which shall set forth the standards for the selection process, the required proposal format, the costs which are eligible for funding, reporting requirements, and such other provisions as the commissioner may deem necessary, proper or desirable to achieve the purposes of this section. Applications for state assistance payments must be endorsed by the agricultural and farmland protection board for the county or counties in which the funded activities would be implemented.

3. In evaluating applications, the commissioner shall give priority to activities that will assist counties and municipalities with their agricultural and farmland protection efforts by disseminating information and providing technical assistance to county and municipal governments, owners of agricultural lands and other agricultural interests.

4. Upon receipt of an application for state assistance, the commissioner shall review the request, consult with the advisory council on agriculture and, within ninety days from the receipt of a complete application, make a determination as to whether or not the application will be funded.

5. State assistance payments awarded to an applicant shall be used in a manner which does not in any way unreasonably restrict or regulate farm operations in contravention of the purposes of article twenty-five-AA of this chapter.

6. State assistance payments awarded pursuant to this section shall not exceed fifty thousand dollars to any applicant in any fiscal year, and shall not exceed five hundred thousand dollars to all applicants in any fiscal year.

History: 2008, ch 268, § 3.

§ 326. Promulgation of rules and regulations

The commissioner is empowered to promulgate such rules and regulations and to prescribe such forms as he or she deems necessary to effectuate the purposes of this article.

History: 1992, ch 797, § 16.

<https://www.nysenate.gov/legislation/laws/AGM/A25-AAA>