

2014 -- S 2438

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LC004170
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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2014

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A N A C T

RELATING TO AGRICULTURE AND FORESTRY - RENEWABLE ENERGY FACILITIES

Introduced By: Senators DiPalma, Sosnowski, and Kettle

Date Introduced: February 27, 2014

Referred To: Senate Environment & Agriculture

It is enacted by the General Assembly as follows:

1 SECTION 1. Title 2 of the General Laws entitled "AGRICULTURE AND FORESTRY"
2 is hereby amended by adding thereto the following chapter:

3 CHAPTER 23.3

4 FARM CONSERVATION AND RENEWABLE ENERGY

5 **2-23.3-1. Short title.** – This act shall be known and may be cited as the “Farm
6 Conservation and Renewable Energy Act of 2014.”

7 **2-23.3-2. Legislative findings.** – The general assembly finds and declares that:

8 (1) Renewable energy facilities can reduce the operating costs of farms and provide
9 critical revenue to maintain economically viable agricultural operations;

10 (2) Preserving farmland and strengthening the viability of farming are essential public
11 purposes, necessary to the health and welfare of the people of the state; and

12 (3) Farms are significant energy consumers and given the size and openness of many of
13 Rhode Island’s farms, they can be good locations for renewable energy facilities.

14 **2-23.3-3. Definitions.** – (a) “Agricultural product” means the product of the propagation
15 care, cultivation, raising, and harvesting of the products of truck farming, horticulture, turf,
16 viticulture, viniculture, floriculture, forestry/tree farming, growing vegetables for farming, sugar
17 bush or the production of fiber.

18 (b) “Farm” means land of at least twenty-five (25) contiguous acres used to grow
19 agricultural products or raise livestock.

1 (c) “Farmer” means individual, partnership or corporation who operates a farm and has
2 filed a 1040F U.S. Internal Revenue Form with the Internal Revenue Service, has a state farm tax
3 number, has earned ten thousand dollars (\$10,000) gross income on farm products in each of the
4 preceding four (4) years and all farming activities comply with the standard set forth in § 2-1-
5 22(i).

6 (d) “Flicker” means alternating changes in light intensity caused by the moving blade of a
7 wind turbine casting shadows on the ground and stationary objects.

8 (e) “Livestock” means horses, cows, sheep, poultry or bees or other living creatures.

9 (f) “Net metering” means net metering as that term is defined and used in chapter 39-28-
10 26.4.

11 (g) “Office” means the office of energy resources.

12 (h) “Renewable energy facility” means a facility that supplies energy, including but not
13 limited to, electrical and thermal energy, from a renewable energy resource as defined in § 39-
14 26-5.

15 **2-23.3-4. Siting and operating standards.** – Renewable energy facilities shall be located
16 on farms, providing the following siting and operational standards are met:

17 (1) Flicker – The renewable energy facility shall not result in more than thirty (30) hours
18 of flicker on any occupied structure in any calendar year or more than fifteen (15) minutes of
19 flicker on any occupied structure in any day.

20 (2) Noise – The renewable energy facility shall not produce, at the property line of the
21 farm, more than a ten (10) decibel increase over the ambient decibel level.

22 (3) Set back – The renewable energy facility shall be set back from the property line by at
23 least the required set back for new, buildings or structures, except for a wind turbine which shall
24 be set back an additional distance at least equal to the area of a circle with a radius of one and
25 one-tenth (1.1) times the maximum height of the turbine.

26 (4) The set back area for wind turbines in subdivision (3) above shall be preserved solely
27 for the renewable energy facility and the production of agricultural products as long as the wind
28 turbine remains standing.

29 **2-23.3-5. Duties of the office.** – (a) The office shall issue a “certificate of conformity” to
30 a farmer if the office determines that the proposed renewable energy facility meets the siting and
31 operating standards provided for in § 2-23.3-4; and qualifies as a self-generator or net-metered
32 project.

33 (b) The certificate of conformity may include such requirements the office deems
34 necessary to assure that the renewable energy facility will remain in conformity with this chapter.

1 (c) The office may adopt rules and regulations to carry out the provisions of this chapter,
2 including establishing application requirements and reasonable licensing fees based on the size of
3 the proposed renewable energy facility. Such fees shall be shared equally with the municipality in
4 which the renewable energy facility is located.

5 **2-23.3-6. Applicability of other laws.** – Renewable energy facilities shall be exempt
6 from property taxation.

7 **2-23.3-7. Construction.** – This chapter, being necessary for the welfare of the state and
8 its inhabitants, shall be liberally construed so as to effectuate its purposes.

9 **2-23.3-8. Severability.** – If any clause, sentence, paragraph, section, or part of this
10 chapter shall be adjudged by any court of competent jurisdiction to be invalid, that judgment shall
11 not affect, impair, or invalidate the remainder of the chapter, but shall be confined in its operation
12 to the clause, sentence, paragraph, section, or part directly involved in the controversy in which
13 that judgment shall have been rendered.

14 SECTION 2. Section 45-24-37 of the General Laws in Chapter 45-24 entitled "Zoning
15 Ordinances" is hereby amended to read as follows:

16 **45-24-37. General provisions -- Permitted uses.** -- (a) The zoning ordinance provides a
17 listing of all land uses and/or performance standards for uses which are permitted within the
18 zoning use districts of the municipality.

19 (b) Notwithstanding any other provision of this chapter, the following uses are permitted
20 uses within all residential zoning use districts of a municipality and all industrial and commercial
21 zoning use districts except where residential use is prohibited for public health or safety reasons:

- 22 (1) Households;
- 23 (2) Community residences; and
- 24 (3) Family day care homes.

25 (c) Any time a building or other structure used for residential purposes, or a portion of a
26 building containing residential units, is rendered uninhabitable by virtue of a casualty such as fire
27 or flood, the owner of the property is allowed to park, temporarily, mobile and manufactured
28 home or homes, as the need may be, elsewhere upon the land, for use and occupancy of the
29 former occupants for a period of up to twelve (12) months, or until the building or structure is
30 rehabilitated and otherwise made fit for occupancy. The property owner, or a properly designated
31 agent of the owner, is only allowed to cause the mobile and manufactured home or homes to
32 remain temporarily upon the land by making timely application to the local building official for
33 the purposes of obtaining the necessary permits to repair or rebuild the structure.

34 (d) Notwithstanding any other provision of this chapter, appropriate access for people

1 with disabilities to residential structures is allowed as a reasonable accommodation for any
2 person(s) residing, or intending to reside, in the residential structure.

3 (e) Notwithstanding any other provision of this chapter, an accessory family dwelling
4 unit in an owner-occupied, single-family residence shall be permitted as a reasonable
5 accommodation only for family members with disabilities. The appearance of the structure shall
6 remain that of a single-family residence and there shall be an internal means of egress between
7 the principal unit and the accessory family dwelling unit. If possible, no additional exterior
8 entrances should be added. Where additional entrance is required, placement should generally be
9 in the rear or side of the structure. When the structure is serviced by an individual sewage
10 disposal system, the applicant shall have the existing or any new system approved by the
11 department of environmental management. The zoning enforcement officer shall require that a
12 declaration of the accessory family dwelling unit for the family member or members and its
13 restrictions be recorded in the land evidence records and filed with the zoning enforcement officer
14 and the building official. Once the family member or members with disabilities no longer resides
15 in the premises on a permanent basis, or the title is transferred, the property owner shall notify the
16 zoning official in writing, and the accessory family dwelling unit shall no longer be permitted,
17 unless there is a subsequent, valid application.

18 (f) When used in this section the terms "people with disabilities" or "member or
19 members with disabilities" means a person(s) who has a physical or mental impairment which
20 substantially limits one or more major life activities, as defined in section 34-37-3 of the general
21 laws.

22 (g) Notwithstanding any other provisions of this chapter, plant agriculture is a permitted
23 use within all zoning districts of a municipality, including all industrial and commercial zoning
24 districts, except where prohibited for public health or safety reasons or the protection of wildlife
25 habitat.

26 (h) Notwithstanding any other provisions of this chapter, renewable energy facilities
27 located on farms in accordance with chapter 2-23.3 are permitted uses within all zoning districts
28 of a municipality.

29 SECTION 3. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

A N A C T

RELATING TO AGRICULTURE AND FORESTRY - RENEWABLE ENERGY FACILITIES

1 This act would provide for the siting and operating standards for farm based renewable
2 energy facilities.

3 This act would take effect upon passage.

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