

2016 -- H 8075

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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2016

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A N A C T

RELATING TO STATE AFFAIRS AND GOVERNMENT - FARMLAND PRESERVATION  
ACT

Introduced By: Representatives Naughton, Ajello, Handy, Amore, and Fogarty

Date Introduced: April 14, 2016

Referred To: House Environment and Natural Resources

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 42-82-5 of the General Laws in Chapter 42-82 entitled "Farmland  
2 Preservation Act" is hereby amended to read as follows:

3 **42-82-5. Duties of the commission.** -- (a) The commission shall:

4 (1) Develop the criteria necessary for defining agricultural land under this chapter;

5 (2) Make a reasonably accurate inventory of all land in the state, which meets the  
6 definition of agricultural land;

7 (3) Prepare and adopt rules for administration of the purchase of development rights and  
8 criteria for the selection of parcels for which the development rights may be purchased, and the  
9 conditions under which they will be purchased;

10 (4) Draw up and publish the covenant and enumerate the specific development rights to  
11 be purchased by the state;

12 (5) Inform the owners, public officials and other citizens and interested persons of the  
13 provisions of this chapter; and

14 (6) Approve and submit within ninety (90) days after the end of each fiscal year, an  
15 annual report to the governor, the speaker of the house of representatives, the president of the  
16 senate, and the secretary of state of its activities during that fiscal year. The report shall provide:  
17 an operating statement summarizing meetings or hearings held, including meeting minutes,  
18 subjects addressed, decisions rendered, petitions granted, rules or regulations promulgated,

1 studies conducted, policies and plans developed, approved, or modified, and programs  
2 administered or initiated; a consolidated financial statement of all funds received and expended  
3 including the source of the funds, a listing of any staff supported by these funds, and a summary  
4 of any clerical, administrative or technical support received; a summary of performance during  
5 the previous fiscal year including accomplishments, shortcomings and remedies; a synopsis of  
6 hearings, examinations and investigations or any legal matters related to the authority of the  
7 commission; a summary of any training courses held pursuant to subsection 42-82-5(a)(7); a  
8 summary of land acquired and conserved during the fiscal year; an annually updated inventory of  
9 all land in the state which meets the definition of agricultural land; a briefing on anticipated  
10 activities in the upcoming fiscal year; findings and recommendation for improvements. The  
11 report shall be posted electronically as prescribed in § 42-20-8.2. The director of the department  
12 of administration shall be responsible for the enforcement of this provision; and

13 (7) Conduct a training course for newly appointed and qualified members and new  
14 designees of ex officio members within six (6) months of their qualification or designation. The  
15 course shall be developed by the chair, approved by the commission and conducted by the  
16 commission. The commission may approve the use of any commission or staff members or other  
17 individuals to assist with training. The course shall include instruction in the following areas; the  
18 provisions of chapters 42-82, 42-46, 36-14, and 38-2; and the commission's rules and regulations.  
19 The director of the department of administration shall, within ninety (90) days of the effective  
20 date of this act [May 3, 2006] prepare and disseminate training materials relating to the provisions  
21 of chapters 42-46, 36-14 and 38-2.

22 (b) At any time after fulfilling the requirements of subsection (a), the commission, on  
23 behalf of the state, may acquire any development rights that may from time to time be offered by  
24 the owners of agricultural land. The commission may accept or negotiate at a price not in excess  
25 of the value established by an independent appraisal prepared for the commission, or for one of  
26 the commission's partners, for the respective property. Additionally, said appraisal shall be  
27 reviewed in a manner consistent with the rules and regulations of the commission. The value of  
28 the development rights for all of the purposes of this section shall be the difference between the  
29 value of the property for its highest and best use and its value for agricultural purposes as defined  
30 in this chapter. In determining the value of the property for its highest and best use, consideration  
31 shall be given to sales of comparable properties in the general area, use of which is unrestricted at  
32 the time of sale. The seller of the development rights shall have the option of accepting payment  
33 in full at the time of transfer or accepting payment on an installment basis in cash or with the  
34 principal paid by tax exempt financial instruments of the state with interest on the unpaid balance

1 equal to the interest paid by the state on bonds sold during the preceding twelve (12) month  
2 period. Any matter pending in the superior court may be settled by the parties subject to approval  
3 by a referee. At any time after a matter has been referred to a referee, even after an award is made  
4 by the referee, but before payment thereof, the petitioner may withdraw his or her petition upon  
5 payment of appraisal fees incurred by the state together with all court costs, and the award shall  
6 become null and void.

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

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

15 (e) The commission may consider petitions by the owner of land from which the state  
16 has purchased the development rights to repurchase those development rights from the state. The  
17 petition must be accompanied by a certificate from the municipalities in which the land lies  
18 stating that two-thirds ( 2/3) of the city or town council has approved the proposed development.  
19 The petition shall set forth the facts and circumstances upon which the commission shall consider  
20 approval, and the commission shall deny approval unless at least seven (7) of its members  
21 determine by vote that there is an overriding necessity to relinquish control of the development  
22 rights. The commission shall hold at least one public hearing in a city or town from which a  
23 certificate has been received, prior to its consideration of the petition, which shall be announced  
24 in one newspaper of local circulation. The expenses, if any, of the hearing shall be borne by the  
25 petitioner. If the commission approves the sale of the development rights, it shall receive the  
26 value of the development rights at the time of this sale, to be determined in the same manner as  
27 provided for by subsection (d). Proceeds of the sale shall be returned to the agricultural land  
28 preservation fund.

29 SECTION 2. This act shall take effect upon passage.

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EXPLANATION  
BY THE LEGISLATIVE COUNCIL  
OF

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1           This act would allow the agricultural lands preservation commission to resell land  
2 without being subject to the first right to purchase by the municipality in which the land is  
3 situated contained in existing law (§37-7-5).

4           This act would take effect upon passage.

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