

APR 09 '12 608

BY GOVERNOR PUBLIC LAW

## STATE OF MAINE

—  
IN THE YEAR OF OUR LORD  
TWO THOUSAND AND TWELVE

—  
S.P. 548 - L.D. 1649

**An Act To Authorize the Registration of Farmland**

**Mandate preamble.** This measure requires one or more local units of government to expand or modify activities so as to necessitate additional expenditures from local revenues but does not provide funding for at least 90% of those expenditures. Pursuant to the Constitution of Maine, Article IX, Section 21, 2/3 of all of the members elected to each House have determined it necessary to enact this measure.

**Emergency preamble.** Whereas, acts and resolves of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

**Whereas,** maintaining agricultural production capacity is vital to rural economies; and

**Whereas,** conflict may arise from siting nonfarm development adjacent to farmland; and

**Whereas,** this legislation will reduce potential conflict by alerting buyers when they are purchasing property abutting farmland; and

**Whereas,** in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

**Be it enacted by the People of the State of Maine as follows:**

**Sec. 1.** 7 MRSA §52, sub-§1, as enacted by PL 1989, c. 478, §1, is amended to read:

**1. Abutting land.** "Abutting land" means real estate ~~which~~ that shares a common boundary, or portion of a boundary, with land that is held in common ownership with land registered or being considered for registration under this chapter when the abutting real estate is within ~~100~~ 50 feet of the land registered or being considered for registration. Abutting land includes, but is not limited to, land separated by a road and within ~~100~~ 50

feet of land that is held in common ownership with land registered or being considered for registration under this chapter.

**Sec. 2. 7 MRSA §52, sub-§3-A**, as enacted by PL 2007, c. 649, §2, is amended to read:

**3-A. Farm product.** "Farm product" means those plants and animals useful to humans and includes, but is not limited to, forages and sod crops, grains and food crops, dairy products, poultry and poultry products, bees, livestock and livestock products and fruits, berries, vegetables, flowers, seeds, grasses, Christmas trees and other similar products.

**Sec. 3. 7 MRSA §52, sub-§4**, as enacted by PL 1989, c. 478, §1, is amended to read:

**4. Farmland.** "Farmland" means any tract or tracts of land used for commercial farming:

- A. That consists of 5 or more contiguous acres;
- B. That has produced a gross ~~income averaging no less than \$300 per acre for 3 or more of the previous 6 calendar years~~ annual farming income of at least \$2,000 per year from the sales value of farm products in one of the 2, or 3 of the 5, calendar years preceding the date of application for registration under this chapter; and
- C. ~~Where use of agricultural chemicals has occurred; and~~
- D. That ~~includes only the~~ is land on which ~~the crop a~~ a farm product is produced.

"Farmland" does not include land used for woodlots, ~~Christmas tree production~~, homes, farm buildings, roads, ~~pastures~~, lawns or any area covered with noncrop vegetation that borders abutting land.

**Sec. 4. 7 MRSA §52, sub-§6** is enacted to read:

**6. Incompatible use.** "Incompatible use" means the development or use of abutting land for a well, drinking water spring or water supply intake point when that use is initiated on abutting land that is within 50 feet of farmland after that farmland has been registered under this chapter.

**Sec. 5. 7 MRSA §53-A**, as enacted by PL 1989, c. 478, §1, is amended to read:

#### **§53-A. Eligibility**

Any owner who intends to register land as farmland pursuant to section 53-B shall:

**1. Application.** Submit an application for review by the soil and water conservation district in which the land is located in accordance with the provisions of Title 12, section 6-A. ~~Owners of land must apply for review by March 1st of the year in which registration is desired.~~ The owner shall use an application provided by the department; and

2. **Notice of intent.** Give notice of intent to register to all abutting landowners, as indicated on municipal or state tax records, ~~by May 15th of the year in which registration is desired~~ a minimum of 15 days prior to submitting registration materials under section 53-B or 53-I. Abutters ~~shall~~ must be notified on a form provided by the department; ~~and.~~

~~3. **Farm and Open Space Tax Law.** Only register land classified as farmland under the Farm and Open Space Tax Law, Title 36, chapter 105, subchapter X.~~

**Sec. 6. 7 MRSA §53-B**, as enacted by PL 1989, c. 478, §1, is amended to read:

**§53-B. Registration in 1990 and 1991**

An owner of land may register any designated portion of that land ~~which~~ that qualifies as farmland under this chapter as follows.

1. **Registration dates.** Registration ~~shall~~ must occur between June 1st and June 15th of 1990 or 1991.

2. **Place of registration.** Registration ~~shall~~ must occur in the office of the municipality in which the land is located. In the event there is no official municipal office, the registration ~~shall~~ must take place with the town assessor. In the event the farmland is located in the unorganized territory, the registration ~~shall~~ must take place in the office of the county in which the land is located.

3. **Effective date.** A registration ~~shall take~~ takes effect 15 days after receipt of notice by the municipality and abutting owners. If review proceedings are initiated under section 54, the registration is effective when upheld by the municipality.

4. **Duration.** A registration made under this chapter ~~remains effective until~~ within the time frame provided under subsection 1 that has not been withdrawn in accordance with section 53-E remains in effect until April 1, 2013. To maintain registration under this chapter after April 1, 2013, a landowner must initially renew registration of the farmland in accordance with subsection 6 and every 5 years thereafter in accordance with section 53-I, subsection 4.

5. **Registry of deeds.** A copy of the municipal or county registration and any withdrawal bearing the certification of a notary public that the copy is a true and accurate copy ~~shall~~ must be recorded in the registry of deeds of the county in which the registered farmland or any abutting property is located, and ~~shall~~ must be indexed in the Grantor index under the entry "Farmland" and filed under "F."

6. **Renewal.** To renew a registration of farmland that was registered within the time frame provided under subsection 1, the landowner must submit to the department a copy of the notarized registration recorded with the registry of deeds under subsection 5 and comply with the renewal requirements under section 53-I, subsection 4.

A landowner who is unable to demonstrate compliance with all registration requirements under this section may apply for registration under section 53-I but after April 1, 2013 is no longer protected from inconsistent development under section 56, subsection 1.

Sec. 7. 7 MRSA §53-C, as enacted by PL 1989, c. 478, §1, is amended to read:

**§53-C. Registration contents and purpose**

The purpose of a registration is to provide a public record of the existence of actively used farmland in order to assist public disclosure ~~under section 55~~ and the setback of ~~incompatible~~ inconsistent development under section 56. A registration ~~shall~~ must include:

1. **Landowner.** The name and address of the landowner;

2. **Certification.** Certification by the applicable soil and water conservation district that the land is farmland in accordance with the provisions of Title 12, section 6-A;

~~3. **Farm and open space classification.** Notice from the municipal assessor that the land is classified under Title 36, chapter 105, subchapter X;~~

4. **Crops.** The types of farm products that are grown on the farmland to be registered;

5. **Acreage.** The acreage of farmland to be registered;

~~6. **Income.** The gross income of the farmland for each of the previous 6 years;~~

7. **Maps.** A copy of the municipal tax map, ~~where~~ when available, and a statement of the tax parcel number or numbers ~~which~~ that include the land at issue and any other maps needed to clearly show the location of the land, including a depiction of the distance between ~~crop-producing areas producing farm products~~ and any property boundary within 100 feet for farmland registered within the time frame provided under section 53-B, subsection 1 and 50 feet for farmland registered pursuant to section 53-I;

8. **Deed.** A copy of the registrant's deed; and

9. **Abutter.** The names and addresses of each abutting landowner to whom notice is being sent pursuant to section 53-D.

Records of registered farmland ~~shall~~ must be maintained by each municipality and county registry of deeds in accordance with the provisions of this chapter. Registration ~~shall~~ must be on forms provided by the department.

Sec. 8. 7 MRSA §53-E, as enacted by PL 1989, c. 478, §1, is amended to read:

**§53-E. Withdrawal**

An owner of farmland shall withdraw from registration any farmland that no longer qualifies for registration under this chapter. An owner of registered farmland may withdraw farmland from registration at any time by filing a written notice of withdrawal in the office in which the farmland was registered and filing a notarized copy of the withdrawal notice for recording with the registry of deeds in the county or counties where the registration was recorded. Portions of a registered tract of farmland may be withdrawn. Withdrawal from registration under this chapter does not constitute

withdrawal from classification under the Farm and Open Space Tax Law, Title 36, chapter 105, subchapter ~~10~~. Any abutter ~~shall~~ must be notified in the manner provided in section 53-D using a form provided by the department.

**Sec. 9.** 7 MRSA §53-F, as enacted by PL 1989, c. 478, §1, is repealed.

**Sec. 10.** 7 MRSA §53-G, as enacted by PL 1989, c. 478, §1, is repealed.

**Sec. 11.** 7 MRSA §53-H, sub-§6 is enacted to read:

**6. Renewal.** The department shall provide forms for renewal of farmland registered within the time frame provided under section 53-B, subsection 1 and forms for renewal of farmland registered pursuant to section 53-I.

**Sec. 12.** 7 MRSA §53-I is enacted to read:

**§53-I. Registration and renewal on or after July 1, 2012**

Beginning on July 1, 2012, an owner of land may register any designated portion of that land that qualifies as farmland under this chapter by filing the information required under section 53-C with the department and the appropriate registry of deeds in accordance with this section.

**1. Registry of deeds.** Beginning on July 1, 2012, a landowner registering farmland under this chapter shall file a notarized copy of the completed registration form accompanied by the information required under section 53-C with the registry of deeds of the county or counties in which the registered farmland and any abutting property is located.

**2. Effective date.** A registration is effective upon filing with the registry of deeds under subsection 1.

**3. Duration.** A registration made under this chapter remains effective for 5 years from the effective date unless withdrawn earlier in accordance with section 53-E.

**4. Renewal.** A landowner may renew a registration under this chapter for successive 5-year periods. To renew a registration, a landowner must notify abutters as provided under section 53-A, subsection 2 and submit a completed renewal application for certification by the soil and water conservation district under Title 12, section 6-A. Upon receiving certification from the soil and water conservation district, the landowner must file a notarized copy of the renewed registration with the registry of deeds under subsection 1 and submit a copy to the department. When a landowner submits an application for renewal and a review under Title 12, section 6-A prior to a registration lapsing, the registration on that farmland remains in effect until the application for renewal is approved or denied.

**Sec. 13.** 7 MRSA §54, sub-§5 is enacted to read:

5. Order to withdraw. If the department or a municipality finds that farmland registered under this chapter is not eligible for registration, the department or municipality shall order the landowner to file for withdrawal under section 53-E.

**Sec. 14. 7 MRSA §55**, as enacted by PL 1989, c. 478, §1, is repealed.

**Sec. 15. 7 MRSA §56**, as enacted by PL 1989, c. 478, §1, is amended to read:

**§56. Prohibited acts**

**1. Inconsistent development.** ~~No~~ An owner of abutting land may not undertake or allow any inconsistent development upon or use of land within 100 feet of ~~properly~~ registered farmland that was properly registered within the time frame provided under section 53-B, subsection 1 and has been continuously and properly registered since the initial registration.

**1-A. Incompatible use.** Except as provided in section 57, an owner of abutting land may not undertake or allow an incompatible use within 50 feet of farmland properly registered under section 53-I.

**2. Building permit.** Except as provided in section 57, ~~no~~ a municipality may not issue a building or use permit allowing any development ~~which~~ or use that is prohibited under subsection 1 or 1-A.

**3. Exemption.** This section ~~shall~~ does not apply to:

A. ~~Any~~ For land adjacent to farmland registered within the time frame provided under section 53-B, subsection 1, a lot or parcel of land which that, together with any adjoining lot or parcel in the same ownership, was one acre or less in area as of January 1, 1988;

A-1. For land adjacent to farmland registered pursuant to section 53-I, a lot or parcel of land that, together with any adjoining lot or parcel in the same ownership, was one acre or less in area as of January 1, 2012;

B. Those subdivisions for which a completed application as described in former Title 30, section 4956, subsection 2, paragraph C-1, or Title 30-A, section 4403, subsection 3, has been filed or approved in the 2 years preceding the registration; or

C. A lot on which inconsistent development or incompatible use has been allowed by permit granted by a state or local government in the 2 years preceding the registration.

**Sec. 16. 7 MRSA §57**, as enacted by PL 1989, c. 478, §1, is amended to read:

**§57. Variance**

An owner of real estate may apply to the municipal zoning board of appeals or other municipal body hearing zoning appeals, or, in the case of areas within its jurisdiction, the Maine Land Use Regulation Commission, for a variance permitting an inconsistent development upon or incompatible use of land ~~which that~~ is otherwise prohibited under

section 56. Notwithstanding Title 30-A, section 4353, subsection 4, a variance may be issued if adherence to section 56 renders a parcel of land subdivided prior to registration of the farmland unusable for residential purposes. Any variance granted for such a purpose shall ~~must~~ be conditioned to provide the maximum feasible setback from the abutting registered farmland.

**Sec. 17. 7 MRSA §58, sub-§2, ¶A**, as enacted by PL 1989, c. 478, §1, is repealed.

**Sec. 18. 12 MRSA §6-A**, as amended by PL 2007, c. 649, §6, is further amended to read:

**§6-A. Farmland registration**

In addition to the powers assigned in section 6, a soil and water conservation district shall review applications for the registration of farmland pursuant to Title 7, chapter 2-B. The district shall, by majority vote of the supervisors, certify whether the land described in the application:

1. **Acreage.** Consists of 5 or more contiguous acres;

2. **Farm products.** Includes only land ~~where agricultural chemicals, as defined in Title 7, section 52, were~~ used in the production of farm products, as defined in Title 7, section 52, subsection 3-A, in ~~3 or more of the previous 6~~ one of the 2, or 3 of the 5, calendar years preceding the date of application for registration under Title 7, chapter 2-B; and

3. **Relationship to boundary established.** Is within ~~100~~ 50 feet of any property boundary and that the application includes a depiction of the distance between any ~~crop-producing~~ area producing farm products under consideration and any property boundary within ~~100~~ 50 feet that is sufficient to determine the impact of Title 7, section 56, subsection ~~1, 1-A~~ on abutting land.

4. **Renewal.** For farmland registered within the time frame provided under section 53-B, subsection 1, continues to meet the eligibility requirements of Title 7, section 53-A that were in effect at the time the land was registered.

~~A district shall complete its review under this section must be completed by May 1st of the calendar year in which the application is made~~ within 60 days of receiving an application.

**Sec. 19. Directive to the Department of Agriculture, Food and Rural Resources.** The Department of Agriculture, Food and Rural Resources shall revise forms and other materials to be provided under the Maine Revised Statutes, Title 7, section 53-H to accommodate the registration of farmland under Title 7, chapter 2-B. The department shall consult with the soil and water conservation districts on the process for review and certification of farmland under Title 12, section 6-A. If needed, the department may submit legislation to revise requirements and implement an efficient process for the registration of farmland.

**Emergency clause.** In view of the emergency cited in the preamble, this legislation takes effect July 1, 2012.