

MAINE STATE LEGISLATURE

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114th MAINE LEGISLATURE

FIRST REGULAR SESSION - 1989

Legislative Document

No. 949

H.P. 697

House of Representatives, March 28, 1989

Submitted by the Department of Agriculture, Food and Rural Resources pursuant to Joint Rule 24.

Reference to the Committee on Agriculture suggested and ordered printed.

A handwritten signature in cursive script that reads "Ed Pert".

EDWIN H. PERT, Clerk

Presented by Representative TARDY of Palmyra.

Cosponsored by Representative WHITCOMB of Waldo, Senator PERKINS of Hancock and Representative RIDLEY of Shapleigh.

STATE OF MAINE

IN THE YEAR OF OUR LORD
NINETEEN HUNDRED AND EIGHTY-NINE

An Act to Clarify the Farmland Adjacency Law.



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

3 **Sec. 1. 7 MRSA §41, sub-§7,** as enacted by PL 1987, c. 650, is
amended to read:

5
7 **7. Public records.** For purposes of administering this
regulatory program, to create in each municipality and each
9 county registry of deeds a register of farmland which will
provide a public record and enable disclosure to potential buyers
11 of real estate and the public regarding the existence of active
farming operations in the community which may be incompatible
with residential development on lands in the immediate vicinity;
13 and

15 **Sec. 2. 7 MRSA §42, sub-§4,** as enacted by PL 1987, c. 650, is
repealed and the following enacted in its place:

17
19 **4. Farmland.** "Farmland" means any tract or tracts of land,
the use of which is commercial farming and which consists of 5 or
21 more contiguous acres, and has produced a gross income which
averages at least \$300 per acre for at least 3 of the previous 6
calendar years.

23
25 Only that portion of land owned by the landowner which is
actually in production shall be considered as farmland, and land
27 not in production such as woodlots, homes, farm buildings and
lawns shall not be considered as farmland.

29 **Sec. 3. 7 MRSA §42-A** is enacted to read:

31 **§42-A. Notice of intent**

33 Any owner who intends to register farmland shall give notice
of intent to register at least 30 days prior to the registration
35 to all abutting landowners, as indicated on municipal or state
tax records. The owner shall use forms provided by the
37 department for this purpose.

39 **Sec. 4. 7 MRSA §43, sub-§§1, 3, 4 and 5,** as enacted by PL 1987,
c. 650, are amended to read:

41
43 **1. Filing.** An owner of farmland may register, in the
office of the municipality or municipalities in which the
45 farmland is located, all or any designated portion of the
farmland upon which the owner applies or intends to apply
agricultural chemicals. The registration shall occur between
47 April 15, 1988, and May 1, 1988, or January 15th and February 1st
of 1989, 1990 or 1991. In the event there is no official
49 municipal office, the registration shall take place with the town
assessor. In case the farmland is located in the unorganized
51 territory, the registration shall take place in the office of the
county in which the farmland is located. A registration made

1 under this chapter remains effective until withdrawn in
2 accordance with subsection 4. A copy of the municipal or county
3 registration and any amendment or withdrawal bearing the
4 certification of a notary public that the copy is a true and
5 accurate copy shall also be recorded in the registry of deeds of
6 the county in which the registered farmland or any abutting
7 property is located, indexed in the Grantor index under the
8 entry "farmland" and filed under "F."

9
10 3. Notice of registration. The owner registering farmland
11 shall notify all abutting landowners, as indicated on municipal
12 or state tax records, of the registration by sending by
13 registered certified mail, return receipt requested, to abutting
14 landowners a ~~copy of the registration information filed pursuant~~
15 ~~to subsection 1~~ statement of registration on a form provided by
16 the department.

17
18 4. Withdrawal from registry. An owner of farmland must
19 withdraw the farmland from registration ~~if~~ when it no longer
20 qualifies meets the standards for qualifications under this
21 chapter. An owner of registered farmland may, at any time,
22 withdraw the farmland from registration by filing a written
23 notice of withdrawal in the municipal office or other office in
24 which the farmland was registered. Any abutters shall be
25 notified as provided in subsection 3.

26
27 5. Amendment of registration. Amendments ~~or withdrawals~~
28 ~~from to registrations of land registered~~ may only be made during
29 ~~the periods April 15, 1988, to May 1, 1988, or from~~ January 15th
30 to February 1st of each year thereafter. Any abutters shall be
31 notified as provided in subsection 3.

32
33 Sec. 5. 7 MRSA §44, sub-§4, as enacted by PL 1987, c. 650, is
34 amended to read:

35
36 4. Assistance from department. Upon request of any
37 municipality, the department shall provide technical assistance
38 and, if requested, shall issue written advisory opinions in
39 connection with the determinations the municipality must make
40 under this section.

41
42 Sec. 6. 7 MRSA §46, sub-§3, as enacted by PL 1987, c. 650, is
43 repealed and the following enacted in its place:

44
45 3. Exemption. This section shall not apply to:

46
47 A. Any lot or parcel of land which, together with any
48 adjoining lot or parcel in the same ownership, was one acre
49 or less in area as of January 1, 1988;

50
51 B. Those subdivisions for which a completed application as
defined by former Title 30, section 4956, subsection 2,

1 paragraph C-1, or Title 30-A, section 4551, subsection 2,
3 paragraph A, has been filed or approved in the 2 years
 preceding the registration; or

5 C. A lot on which an inconsistent activity has been allowed
7 by permit granted by a state or local government in the 2
 years preceding the registration.

9 Sec. 7. 7 MRSA §47, as enacted by PL 1987, c. 650, is amended
11 to read:

13 **§47. Variance**

15 An owner of real estate may apply to the municipal zoning
17 board of appeals or other municipal body hearing zoning appeals,
19 or, in the case of areas within its jurisdiction, the Maine Land
21 Use Regulation Commission, for a variance permitting an
23 inconsistent development upon or use of land which is otherwise
 prohibited under section 46. Such a variance shall be issued
 only upon the finding that the land in question cannot yield a
 reasonable return unless a variance is granted and that the other
 pertinent criteria set-forth listed in Title 30 30-A, section
 4963 4504, subsection 3, for-variances are satisfied.

25

27

STATEMENT OF FACT

29 In this bill, the definition of "farmland" is changed to
31 expand eligibility criteria. The gross income requirement of
33 \$300 per acre for at least 3 of the previous 5 years is changed
35 to the previous 6 years to allow for a biennial crop like
 blueberries. The definition of farmland to be registered is
 clarified to limit eligibility to only that land which is
 actually in production, explicitly excluding, by example,
 woodlots, homes, farm buildings and lawns.

37

39 Section 3 of the bill adds a requirement that a farmer
41 notify the abutters of the land the farmer intends to register at
43 least 30 days prior to the registration process at the municipal
 level. This is intended to improve communication between the
 farmer and neighbors before the actual registration.

43

45 Section 4 of the bill clarifies the procedure for
47 registering a copy with the registry of deeds. To assure that a
49 prospective buyer will encounter the registration during a title
 search and to ensure uniform practice in each registry of deeds,
 the registration must be indexed in the Grantor index under "F"
 for farmland.

51

 Section 4 also requires an applicant to send information to
 abutters by certified mail and requires the use of a form

1 provided by the department. It also clarifies that withdrawals
3 may be made at any time but amendments may only be made during
the registration period.

5 Section 5 of the bill allows the department to assist the
7 municipality in its proceedings to determine eligibility of the
land to be registered by issuing a written advisory opinion upon
request.

9
11 Section 6 of the bill preserves preexisting rights for those
subdivisions which have filed a complete application or have been
13 approved in the 2 years before the registration and to those
activities which have been granted a state or local permit in the
15 2 years before registration, and provides an exemption for small
lots.

17 Section 7 of the bill allows the zoning board to consider
whether the land can yield a reasonable return in addition to the
19 other statutory criteria.