

STATE OF MAINE

—
IN THE YEAR OF OUR LORD
TWO THOUSAND TWENTY-ONE

—
H.P. 413 - L.D. 568

**An Act To Establish a Working Farmland Access and Protection Program
within the Department of Agriculture, Conservation and Forestry and a
Working Farmland Access and Protection Fund within the Land for Maine's
Future Program**

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

Whereas, agriculture is critically important to the State's economy and food supply, and, because the State's working farms positively contribute to their communities as well as the State's overall quality of life, it is in the public interest to strengthen the agricultural sector by preserving productive agricultural soils, working farmland and open space land; and

Whereas, the United States Department of Agriculture, Natural Resources Conservation Service has defined, mapped and classified the State's most productive agricultural soil types as prime farmland, unique farmland, farmland of statewide importance and farmland of local importance throughout the State; and

Whereas, the preservation and conservation of farmland and open space land, agricultural and natural resources based businesses, productive agricultural soils and maintenance of open space land are important to the people of the State, as evidenced by the Constitution of Maine, Article IX, Section 8 and the farm and open space tax law in the Maine Revised Statutes, Title 36, chapter 105, subchapter 10, which confers current use property tax assessment to prevent the conversion of farmland and open space land to nonagricultural uses; and

Whereas, the protection of farmland is identified as a conservation priority by the Land for Maine's Future program; and

Whereas, the Land for Maine's Future Board has, since 1987, awarded partial funding to 42 farms in 9 counties to protect 9,882 acres of working farmland; and

Whereas, farmland protection projects funded by the Land for Maine's Future Board leverage matching funds from a variety of partners, including the United States Department

of Agriculture, Natural Resources Conservation Service, land trusts, municipalities, water districts and nongovernmental organizations; and

Whereas, for these reasons it is critically important that this legislation take effect before the expiration of the 90-day period; 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. 5 MRSA §6201, sub-§3, as amended by PL 1993, c. 728, §3, is further amended to read:

3. Matching funds. "Matching funds" means any combination of public and private funds used in conjunction with the Land for Maine's Future Fund ~~or~~ the Public Access to Maine Waters Fund and the Maine Working Farmland Access and Protection Fund for the purpose of this chapter, including, but not limited to: private contributions of cash or securities; money from municipal or other public agencies; money from a federal matching program, subject to the limitations of applicable federal and state laws, in an amount authorized by the federal program; contributions of real property, or interest in real property, that serves the acquisition needs of the State as determined by the Land for Maine's Future Board; in-kind contributions; or any combination of those funds. Contributions of land or interest in land must be valued, for purposes of this section, in the amount of their appraised value.

Sec. 2. 5 MRSA §6201, sub-§4-A is enacted to read:

4-A. Working farmland or working farmland property. "Working farmland" or "working farmland property" means land managed as a farm and available for commercial production of agricultural products, as defined in Title 7, section 152, subsection 2.

Sec. 3. 5 MRSA §6203, sub-§3, as amended by PL 2021, c. 33, §1, is further amended to read:

3. Fund proceeds. The proceeds of the Land for Maine's Future Fund may be applied and expended to:

A. Acquire property or an interest in property that is determined by the board to be of state significance under the guidelines of this chapter;

B. When interest in land is acquired with proceeds from the Land for Maine's Future Fund, fund minor capital improvements on such lands and on adjoining lands in the same ownership or under the same management to improve accessibility, as long as these improvements do not exceed 5% of the appraised value of the acquired property; and

~~C. When interest in farmland is acquired with proceeds from the Land for Maine's Future Fund, fund the development of a business plan and capital improvements to provide for the land's continuing use as a working farm, as long as these improvements do not exceed 5% of the appraised value of the acquired property. Capital~~

~~improvements under this paragraph may also be made on adjoining farmland in the same ownership or under the same management; and~~

D. When land or interest in land is acquired with proceeds from the Land for Maine's Future Fund, fund minor capital investments in the stewardship and management of that land. Stewardship and management investments under this paragraph must be held in a dedicated stewardship endowment and identified for use on the funded property. Stewardship and management investments may not exceed 5% of the appraised value of the acquired property.

Sec. 4. 5 MRSA §6203-C is enacted to read:

§6203-C. Maine Working Farmland Access and Protection Fund

1. Fund established. The Maine Working Farmland Access and Protection Fund, referred to in this section as "the fund," is established and is administered by the board in cooperation with the Commissioner of Agriculture, Conservation and Forestry under the provisions of this chapter and Title 7, section 164. The fund consists of the proceeds from the sale of bonds authorized for the purposes set forth in subsection 3 and funds received as contributions from private and public sources for those purposes. The fund must be held separate and apart from all other money, funds and accounts. Eligible investment earnings credited to the assets of the fund become part of the assets of the fund. Any balance remaining in the fund at the end of a fiscal year must be carried forward for the next fiscal year.

2. Grants. The board may make grants to state agencies and designated cooperating entities for the purposes identified in subsection 3. Grants are made according to rules adopted by the board. Rules adopted pursuant to this subsection are routine technical rules as defined in chapter 375, subchapter 2-A.

3. Fund proceeds. The proceeds of the fund may be applied and expended to acquire property or interests in property that are designed to protect access to working farmland. The board shall include as a condition of an acquisition or grant made under this section the requirement that the protected property may not be used, altered or developed in a manner that precludes its availability for commercial production of agricultural products.

4. Matching funds. For each grant made under this section, the board shall require the applicant or the grant recipient to provide matching funds at least equal to the amount of the grant.

5. Uses of the fund. When an interest in land or an interest in working farmland is acquired with proceeds from the fund, the board may fund minor capital investments in the stewardship of that land. Funds for stewardship investments must be held in a dedicated stewardship endowment and identified for use on the funded property. The stewardship investments may not exceed 5% of the appraised value of the acquired property.

A. When an interest in land is acquired with proceeds from the fund, the board may fund minor capital improvements on the land and on adjoining lands in the same ownership or under the same management to improve public access, as long as these improvements do not exceed 5% of the appraised value of the acquired property.

B. When an interest in working farmland is acquired with proceeds from the fund, the board may fund the development of a business plan and capital improvements to provide for the land's continuing use as working farmland, as long as these

improvements do not exceed 5% of the appraised value of the acquired property. Capital improvements under this paragraph may also be made on adjoining farmland in the same ownership or under the same management.

Sec. 5. 7 MRSA §164 is enacted to read:

§164. Maine Working Farmland Access and Protection Program

1. Program established; administration. The Maine Working Farmland Access and Protection Program, referred to in this section as "the program," is established to provide protection to strategically significant working farmland properties as defined in Title 5, section 6201, subsection 4-A whose continued availability to commercial agricultural businesses is essential to the long-term future of the economic sector. The department shall administer the program either directly or by contract with a suitable organization.

2. Review panel. The department shall establish a review panel to advise the commissioner in the operation of the program, including, but not limited to, evaluating applications and recommending to the department applicants for participation in the program.

3. Selection criteria. The selection criteria with which to evaluate applications for protection of working farmland property under the program must include, but are not limited to:

A. The interest of the owner of the working farmland property to make the farmland available via lease or transfer the protected property to another farmer or other farmers to advance the department's goal of preserving and increasing access to farmland for new and growing farms;

B. The threat of conversion of the working farmland property such that it would become unavailable for commercial production of agricultural products;

C. The percentage of soils classified by the United States Department of Agriculture as prime farmland, unique farmland, farmland of statewide importance and farmland of local importance;

D. The agricultural structures and improvements associated with the working farmland property;

E. The economic viability of the working farmland property in terms of current and potential future commercial agricultural activities in local, regional and statewide markets; connection of the working farmland property to agricultural services including processors, aggregators and distributors; and number of on-farm jobs supported by the working farmland property;

F. The proximity of other working farmland properties in the town or region;

G. The degree of community support for the proposed protection of the working farmland property;

H. The multiple natural resources values associated with the working farmland property, including open space land, forested land and wetlands; riparian buffers; wildlife habitat; and freshwater aquifers; and

I. Whether the applicant is from or serving an underserved or underprivileged community as defined by the department by rule. Rules adopted under this paragraph are routine technical rules pursuant to Title 5, chapter 375, subchapter 2-A.

4. Grant agreements. The commissioner shall enter into grant agreements with state agencies and cooperating entities for the purpose of receiving grants from the Maine Working Farmland Access and Protection Fund under Title 5, section 6203-C.

Sec. 6. Appropriations and allocations. The following appropriations and allocations are made.

**AGRICULTURE, CONSERVATION AND FORESTRY, DEPARTMENT OF
Maine Working Farmland Access and Protection Fund N360**

Initiative: Provides a base allocation to establish the Maine Working Farmland Access and Protection Fund to allow expenditure of contributions received from private and public sources for the acquisition of property or interests in property that are designed to protect access to working farmland.

OTHER SPECIAL REVENUE FUNDS	2021-22	2022-23
All Other	\$500	\$500
OTHER SPECIAL REVENUE FUNDS TOTAL	<u>\$500</u>	<u>\$500</u>

Emergency clause. In view of the emergency cited in the preamble, this legislation takes effect when approved.