

CHAPTER 6-B**OPTIONS TO PURCHASE AT AGRICULTURAL VALUE****§141. Definitions**

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings. [PL 2025, c. 471, Pt. B, §1 (NEW).]

1. Option to purchase at agricultural value. "Option to purchase at agricultural value" means any agreement in recordable form between the fee owner of working farmland property and one or more qualified holders that permits a qualified holder to control, either directly or indirectly, the purchase price of the working farmland property for the primary purpose of making available and affordable, and preserving the permanent availability and affordability of, that property for working farmland.

[PL 2025, c. 471, Pt. B, §1 (NEW).]

2. Qualified holder or holder. "Qualified holder" or "holder" means:

A. A governmental entity authorized to hold an interest in real property; [PL 2025, c. 471, Pt. B, §1 (NEW).]

B. A nonprofit organization organized under state law whose purposes include the permanent protection of working farmland or the enlargement of working farmland opportunities for farmers; or [PL 2025, c. 471, Pt. B, §1 (NEW).]

C. A nonprofit organization organized under state law whose purposes or powers include retaining or protecting working farmland or providing access to working farmland. [PL 2025, c. 471, Pt. B, §1 (NEW).]

[PL 2025, c. 471, Pt. B, §1 (NEW).]

3. Third-party right of enforcement. "Third-party right of enforcement" means a right provided in an option to purchase at agricultural value to enforce any of its terms granted by the grantor and holder of the option to purchase at agricultural value to a governmental entity or nonprofit organization that meets the qualifications of a holder.

[PL 2025, c. 471, Pt. B, §1 (NEW).]

4. Working farmland or working farmland property. "Working farmland" or "working farmland property" has the same meaning as in Title 5, section 6201, subsection 4-A.

[PL 2025, c. 471, Pt. B, §1 (NEW).]

SECTION HISTORY

PL 2025, c. 471, Pt. B, §1 (NEW).

§142. Creation; conveyance; acceptance; duration; filing

1. Option to purchase at agricultural value. Except as otherwise provided in this chapter, an option to purchase at agricultural value may be created, conveyed, recorded, assigned, released, modified, terminated or otherwise altered or affected in the same manner as other options to purchase real property created by written instrument. An option to purchase at agricultural value may include a 3rd-party right of enforcement and may be incorporated into an agricultural easement or be an independent document suitable for recording.

[PL 2025, c. 471, Pt. B, §1 (NEW).]

2. Right or duty. A right or duty in favor of or against a qualified holder may not arise under an option to purchase at agricultural value unless it is accepted in writing by the qualified holder.

[PL 2025, c. 471, Pt. B, §1 (NEW).]

3. Limitation. Except as provided in this chapter, an option to purchase at agricultural value is unlimited in duration unless a change of circumstances renders the option to purchase at agricultural value no longer in the public interest as determined in an action under section 143, subsection 2.

[PL 2025, c. 471, Pt. B, §1 (NEW).]

4. Filing. An option to purchase at agricultural value must be recorded in the county registry of deeds, and a copy of the recorded option to purchase at agricultural value must be filed with the Department of Agriculture, Conservation and Forestry together with a map showing with specificity the location of the affected property on the form or forms that the department requires.

[PL 2025, c. 471, Pt. B, §1 (NEW).]

5. Other interest. An interest in real property in existence at the time an option to purchase at agricultural value is created is not affected by the option to purchase at agricultural value unless the fee owner of the interest is a party to the option to purchase at agricultural value or consents to the option to purchase at agricultural value.

[PL 2025, c. 471, Pt. B, §1 (NEW).]

6. Right to enter real property. The written instrument creating an option to purchase at agricultural value must designate how and when representatives of the holder of an option to purchase at agricultural value are entitled to enter the real property to ensure compliance.

[PL 2025, c. 471, Pt. B, §1 (NEW).]

SECTION HISTORY

PL 2025, c. 471, Pt. B, §1 (NEW).

§143. Judicial actions

1. Fee owners; qualified holders. An action affecting an option to purchase at agricultural value may be brought or intervened in by:

A. A fee owner of an interest in the real property burdened by the option to purchase at agricultural value; [PL 2025, c. 471, Pt. B, §1 (NEW).]

B. A qualified holder of the benefit of the option to purchase at agricultural value; [PL 2025, c. 471, Pt. B, §1 (NEW).]

C. The municipality in which the real property burdened by the option to purchase at agricultural value is located; or [PL 2025, c. 471, Pt. B, §1 (NEW).]

D. The Attorney General. [PL 2025, c. 471, Pt. B, §1 (NEW).]

[PL 2025, c. 471, Pt. B, §1 (NEW).]

2. Power of court. The court has the following powers.

A. The court may enforce an option to purchase at agricultural value by injunction or other proceeding at law or in equity. [PL 2025, c. 471, Pt. B, §1 (NEW).]

B. Acting in accordance with charitable trust principles, the court may modify, terminate or deny equitable enforcement of an option to purchase at agricultural value in an action brought by a party under subsection 1. In taking such an action, the court must find that, due to a change in circumstance, the option to purchase at agricultural value no longer serves the public interest in protecting or enhancing the protection of working farmland or related businesses of the State. The Attorney General must be made a party to any action under this paragraph, and written notice must be provided to the Commissioner of Agriculture, Conservation and Forestry. [PL 2025, c. 471, Pt. B, §1 (NEW).]

C. If the court modifies, terminates or denies equitable enforcement of an option to purchase at agricultural value, the court may order payment by the fee owner of money or other damages to the holder or the State. The holder or the State shall apply the same in a manner consistent with the purposes of this law as approved by the court. [PL 2025, c. 471, Pt. B, §1 (NEW).]

[PL 2025, c. 471, Pt. B, §1 (NEW).]

The fact that a working farmland property might be used for more valuable economic purposes may not be considered when determining whether an option to purchase at agricultural value is no longer in the public interest. [PL 2025, c. 471, Pt. B, §1 (NEW).]

SECTION HISTORY

PL 2025, c. 471, Pt. B, §1 (NEW).

§144. Scope of option to purchase at agricultural value

An option to purchase at agricultural value may include any of the following agreements affecting working farmland property: [PL 2025, c. 471, Pt. B, §1 (NEW).]

1. Resale price of working farmland property. Limitations on the resale price of working farmland property, which may include provisions for payments to the holder; [PL 2025, c. 471, Pt. B, §1 (NEW).]

2. Amount of equity appreciation. Limitations on the amount of equity appreciation that a fee owner may derive from ownership of working farmland property; [PL 2025, c. 471, Pt. B, §1 (NEW).]

3. Improvements to working farmland property. Limitations on the type, extent, use or dollar value of improvements that may be made to working farmland property; [PL 2025, c. 471, Pt. B, §1 (NEW).]

4. Uses to which working farmland property may be devoted. Restrictions on the uses to which working farmland property may be devoted, which must be consistent with the purposes of this chapter; [PL 2025, c. 471, Pt. B, §1 (NEW).]

5. Options to purchase. The grant of rights of first refusal or options to purchase to qualified holders or their assigns, subject to the terms and conditions of the option to purchase at agricultural value; [PL 2025, c. 471, Pt. B, §1 (NEW).]

6. Maintenance and insurance of working farmland property. The obligation to maintain, operate and insure working farmland property; [PL 2025, c. 471, Pt. B, §1 (NEW).]

7. Construction and materials. The right to restrict or specify types of buildings, structures and materials that may be used in improvements on working farmland property; [PL 2025, c. 471, Pt. B, §1 (NEW).]

8. Acts that may enhance affordability of working farmland property. The right to prohibit, limit or require other acts that may enhance or allow the affordability and availability of working farmland property over time to beginning farmers in the future. For the purposes of this subsection, "beginning farmer" means an individual who has not operated a farm for more than 10 years; and [PL 2025, c. 471, Pt. B, §1 (NEW).]

9. Right of qualified holders to enter and inspect. In accordance with section 142, subsection 6, the right to provide qualified holders periodic entry and inspection of farmland real property at reasonable times and after reasonable notice. [PL 2025, c. 471, Pt. B, §1 (NEW).]

SECTION HISTORY

PL 2025, c. 471, Pt. B, §1 (NEW).

§145. Validity

An option to purchase at agricultural value is valid and enforceable, notwithstanding any of the following conditions. [PL 2025, c. 471, Pt. B, §1 (NEW).]

1. Not appurtenant to interest in real property. The option to purchase at agricultural value is not appurtenant and does not run with an interest in real property.

[PL 2025, c. 471, Pt. B, §1 (NEW).]

2. Assignable to another holder. The option to purchase at agricultural value can be or has been assigned to another qualified holder.

[PL 2025, c. 471, Pt. B, §1 (NEW).]

3. Not recognized at common law. The option to purchase at agricultural value is not of a character traditionally recognized at common law.

[PL 2025, c. 471, Pt. B, §1 (NEW).]

4. Imposes negative burden. The option to purchase at agricultural value imposes a negative burden.

[PL 2025, c. 471, Pt. B, §1 (NEW).]

5. Imposes affirmative obligations. The option to purchase at agricultural value imposes affirmative obligations upon the fee owner of an interest in the burdened property or the qualified holder.

[PL 2025, c. 471, Pt. B, §1 (NEW).]

6. Benefit does not touch or concern real property. The benefit of the option to purchase at agricultural value is held by a qualified holder who has not retained property that would benefit from enforcement of the option to purchase at agricultural value, or the benefit does not touch or concern real property in any other way.

[PL 2025, c. 471, Pt. B, §1 (NEW).]

7. No privity of estate or contract. There is no privity of estate or privity of contract.

[PL 2025, c. 471, Pt. B, §1 (NEW).]

8. Does not run to successors or assigns. The option to purchase at agricultural value does not run to the successors or assigns of the qualified holder.

[PL 2025, c. 471, Pt. B, §1 (NEW).]

9. Unreasonable restraint on alienability. The option to purchase at agricultural value may be considered to be an unreasonable restraint on alienability.

[PL 2025, c. 471, Pt. B, §1 (NEW).]

10. Violation of rule against perpetuities. The option to purchase at agricultural value may violate the rule against perpetuities.

[PL 2025, c. 471, Pt. B, §1 (NEW).]

SECTION HISTORY

PL 2025, c. 471, Pt. B, §1 (NEW).

§146. Application

1. Interest created after effective date. This chapter applies to any interest that complies with this chapter created after the effective date of this chapter, whether designated as an option to purchase at agricultural value or an equitable servitude, restriction, easement or other interest in the property.

[PL 2025, c. 471, Pt. B, §1 (NEW).]

2. Option to purchase at agricultural value created before effective date. This chapter applies to any option to purchase at agricultural value created before the effective date of this chapter if the option to purchase at agricultural value would have been enforceable had it been created after the effective date of this chapter, unless retroactive application contravenes the Constitution of Maine or the United States Constitution.

[PL 2025, c. 471, Pt. B, §1 (NEW).]

3. Chapter does not invalidate interest. This chapter does not invalidate any interest, whether designated as an option to purchase at agricultural value or an equitable servitude, restriction, easement or other interest in property, that is otherwise enforceable under other laws of this State.

[PL 2025, c. 471, Pt. B, §1 (NEW).]

SECTION HISTORY

PL 2025, c. 471, Pt. B, §1 (NEW).

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