

SENATE No. 2175

The Commonwealth of Massachusetts

PRESENTED BY:

Michael J. Rodrigues

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act reforming agricultural preservation restrictions.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	
<i>Michael J. Rodrigues</i>	<i>First Bristol and Plymouth</i>	
<i>Donald F. Humason, Jr.</i>	<i>Second Hampden and Hampshire</i>	
<i>Keiko M. Orrall</i>	<i>12th Bristol</i>	
<i>Paul A. Schmid, III</i>	<i>8th Bristol</i>	
<i>John W. Scibak</i>	<i>2nd Hampshire</i>	
<i>Stephen Kulik</i>	<i>1st Franklin</i>	<i>10/4/2017</i>

SENATE No. 2175

By Mr. Rodrigues, a petition (accompanied by bill, Senate, No.) (subject to Joint Rule 12) of Michael J. Rodrigues, Donald F. Humason, Jr., Keiko M. Orrall, Paul A. Schmid, III and others for legislation to reform agricultural preservation restrictions. Environment, Natural Resources and Agriculture.

The Commonwealth of Massachusetts

**In the One Hundred and Ninetieth General Court
(2017-2018)**

An Act reforming agricultural preservation restrictions.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Section 31 of Chapter 184 of the General Laws, as so appearing, is hereby
2 amended by striking out the third paragraph and inserting in place thereof the following
3 paragraph:-

4 “An agricultural preservation restriction means a right, whether or not stated in the form
5 of a restriction, easement, covenant or condition, in any deed, will or other instrument executed
6 by or on behalf of the owner of the land appropriate to retaining land or water areas
7 predominately in their agricultural farming or forest use, to forbid or limit any or all (a)
8 construction or placing of buildings except for those used for agricultural purposes or for
9 dwellings used for family living by the land owner, his immediate family or employees; and (b)
10 excavation, dredging or removal of loam, peat, gravel, soil, rock or other mineral substance in
11 such a manner as to adversely affect the land's overall future agricultural potential. Such
12 agricultural preservation restrictions shall be subject to the provisions of section 31A and in

13 perpetuity except as released under the provisions of section 32. All other customary rights and
14 privileges of ownership shall be retained by the owner including the right to privacy and to carry
15 out all regular farming practices.

16 SECTION 2. Said chapter 184, as so appearing, is hereby amended by inserting after
17 Section 31, the following section:-

18 Section 31A. Any agricultural preservation restriction, as defined in section 31, in any
19 deed, will or other instrument executed by or on behalf of the owner of the land subject to a
20 written agreement with the department of agricultural resources shall, unless specified in the
21 agreement, prohibit the department from (i) exercising any right of refusal option; (ii) exercising
22 any right to assign or assignment of option to purchase any land held in an agricultural
23 preservation restriction at fair market agricultural value; or (iii) exercising any other similar right
24 at the time of sale held by the department. The department may exercise a right of refusal option
25 upon notice of sale of land from the owner of land subject to an agricultural preservation
26 restriction where a right of first refusal option is expressly specified in a written agreement
27 between the owner and the department; provided however, the owner of land subject to an
28 agreement shall, where the department has exercised a right of first refusal option and prior to
29 any sale, transfer, conveyance or assignment of ownership made by the department, have 30 days
30 to exercise a right to accept or reject any bona fide offer received by the department from a
31 prospective buyer.