

Memo



**To: Municipal and County Farmland Preservation Program Administrators
Municipal Agriculture Advisory Committee Members
County Agriculture Development Board Members
Non-Profit Preservation Partners**

From: Susan E. Payne, Executive Director

Date: 4/5/2021

Re: Right to Farm Act Amendment P.L.2020, c.154. - housing of equine-related farm employees in facilities with horses under certain conditions as "Right to Farm" permissible activity

P.L.2020 c.154 recently amended the Right to Farm Act (RTFA) and extends Right to Farm (RTF) eligibility to year-round, full-time agricultural, equine laborers. We have attached a copy of the new law.

Please note this new legislation extends RTF protection eligibility to the housing of *"full-time, year-round equine-related farm employees in the same building or facility as horses."* The law explicitly excludes eligibility for the housing of migrant or seasonal employees/workers. This bill is significant because, for the first time, the housing of "agricultural laborers" will be eligible for RTF protection.

The law directs the SADC to adopt implementing regulations but does not set a deadline. The SADC has added the development of a corresponding Agricultural Management Practice (AMP) to our work calendar; however, this will take some time.

To avoid a lack of service to the equine community before the AMP adoption, the SADC sought advice from the Office of the Attorney General (OAG) regarding the ability of County Agriculture Development Boards (CADBs) to hear and process RTF complaints or Site Specific Agricultural Management Practice (SSAMP) requests under the new law prior to SADC's adoption of a new AMP. Based on the advice received, the SADC has determined that CADBs can now accept RTF cases enabled by the new law's provisions because the law is very detailed, and the new legislation has not disturbed the existing RTF procedures for issuing an SSAMP wherein CADBs can hear and decide matters that are not the subject of adopted AMPs.

If you have any questions regarding this issue, please contact Alison Reynolds, Legal Specialist at alison.reynolds@ag.nj.gov.

[First Reprint]

SENATE, No. 1245

STATE OF NEW JERSEY
219th LEGISLATURE

INTRODUCED FEBRUARY 3, 2020

Sponsored by:

Senator VIN GOPAL

District 11 (Monmouth)

Senator NILSA I. CRUZ-PEREZ

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District 11 (Monmouth)

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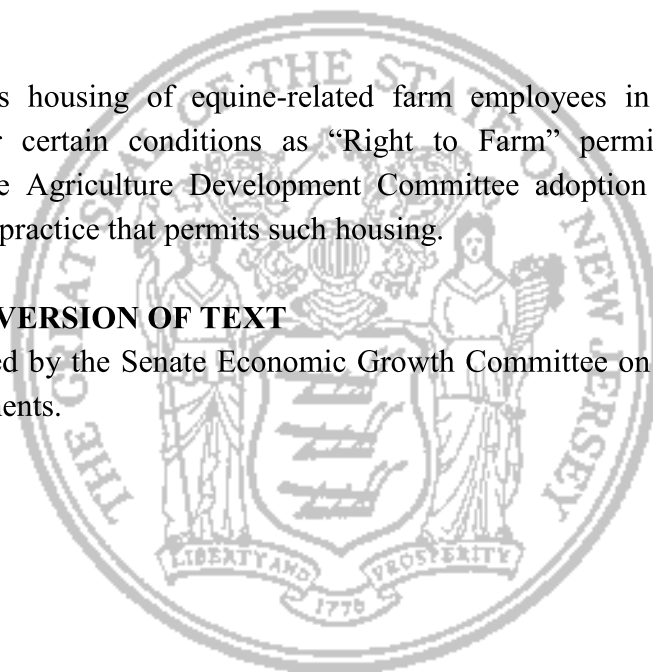
Assemblywomen Swain and Downey

SYNOPSIS

Establishes housing of equine-related farm employees in facilities with horses under certain conditions as “Right to Farm” permissible activity; requires State Agriculture Development Committee adoption of agricultural management practice that permits such housing.

CURRENT VERSION OF TEXT

As reported by the Senate Economic Growth Committee on June 25, 2020, with amendments.



(Sponsorship Updated As Of: 11/16/2020)

1 AN ACT concerning housing equine-related farm employees in
2 certain farm buildings and related agricultural management
3 practices, and amending and supplementing P.L.1983, c.31.

4
5 **BE IT ENACTED** *by the Senate and General Assembly of the State*
6 *of New Jersey:*

7
8 1. Section 3 of P.L.1983, c.31 (C.4:1C-3) is amended to read:

9 3. As used in ¹**["this act"]** P.L.1983, c.31 (C.4:1C-1 et seq.)¹ :

10 "Board" or "county board" means a county agriculture
11 development board established pursuant to section 7 of P.L.1983,
12 c.32 (C.4:1C-14).

13 "Commercial farm" means (1) a farm management unit of no less
14 than five acres producing agricultural or horticultural products
15 worth \$2,500 or more annually, and satisfying the eligibility criteria
16 for differential property taxation pursuant to the "Farmland
17 Assessment Act of 1964," P.L.1964, c.48 (C.54:4-23.1 et seq.), (2)
18 a farm management unit less than five acres, producing agricultural
19 or horticultural products worth \$50,000 or more annually and
20 otherwise satisfying the eligibility criteria for differential property
21 taxation pursuant to the "Farmland Assessment Act of 1964,"
22 P.L.1964, c.48 (C.54:4-23.1 et seq.), or (3) a farm management unit
23 that is a beekeeping operation producing honey or other agricultural
24 or horticultural apiary-related products, or providing crop
25 pollination services, worth \$10,000 or more annually.

26 "Committee" means the State Agriculture Development
27 Committee established pursuant to section 4 of P.L.1983, c.31
28 (C.4:1C-4).

29 ¹**["Equine-related farm employee" means any person employed**
30 **by the owner or operator of a commercial farm to provide proper**
31 **care and ensure the safety of horses on the commercial farm,**
32 **including, but not limited to, a groom or other employee working in**
33 **a stable.]**¹

34 "Farm management unit" means a parcel or parcels of land,
35 whether contiguous or noncontiguous, together with agricultural or
36 horticultural buildings, structures and facilities, producing
37 agricultural or horticultural products, and operated as a single
38 enterprise.

39 "Farm market" means a facility used for the wholesale or retail
40 marketing of the agricultural output of a commercial farm, and
41 products that contribute to farm income, except that if a farm
42 market is used for retail marketing at least 51% of the annual gross
43 sales of the retail farm market shall be generated from sales of
44 agricultural output of the commercial farm, or at least 51% of the

EXPLANATION – Matter enclosed in bold-faced brackets **["thus"]** in the above bill is
not enacted and is intended to be omitted in the law.

Matter underlined **thus** is new matter

Matter enclosed in superscript numerals has been adopted as follows:

¹Senate SEG committee amendments adopted June 25, 2020.

1 sales area shall be devoted to the sale of agricultural output of the
2 commercial farm, and except that if a retail farm market is located
3 on land less than five acres in area, the land on which the farm
4 market is located shall produce annually agricultural or horticultural
5 products worth at least \$2,500.

6 ¹"Full-time, year-round equine-related farm employee" means
7 any person employed by the owner or operator of a commercial
8 farm on a full-time, year-round basis to provide proper care and
9 ensure the safety of horses on the commercial farm, including, but
10 not limited to, a groom or other employee working in a stable.
11 "Full-time, year-round equine-related farm employee" shall not
12 include a migrant, seasonal, or temporary employee.¹

13 (cf: P.L.2015, c.75, s.1)

14
15 2. Section 6 of P.L.1983, c.31 (C.4:1C-9) is amended to read as
16 follows:

17 6. Notwithstanding the provisions of any municipal or county
18 ordinance, resolution, or regulation to the contrary, the owner or
19 operator of a commercial farm, located in an area in which, as of
20 December 31, 1997 or thereafter, agriculture is a permitted use
21 under the municipal zoning ordinance and is consistent with the
22 municipal master plan, or which commercial farm is in operation as
23 of the effective date of P.L.1998, c.48 (C.4:1C-10.1 et al.), and the
24 operation of which conforms to agricultural management practices
25 recommended by the committee and adopted pursuant to the
26 provisions of the "Administrative Procedure Act," P.L.1968, c.410
27 (C.52:14B-1 et seq.), or whose specific operation or practice has
28 been determined by the appropriate county board, or in a county
29 where no county board exists, the committee, to constitute a
30 generally accepted agricultural operation or practice, and all
31 relevant federal or State statutes or rules and regulations adopted
32 pursuant thereto, and which does not pose a direct threat to public
33 health and safety may:

34 a. Produce agricultural and horticultural crops, trees and forest
35 products, livestock, and poultry and other commodities as described
36 in the Standard Industrial Classification for agriculture, forestry,
37 fishing and trapping or, after the operative date of the regulations
38 adopted pursuant to section 5 of P.L.2003, c.157 (C.4:1C-9.1),
39 included under the corresponding classification under the North
40 American Industry Classification System;

41 b. Process and package the agricultural output of the
42 commercial farm;

43 c. Provide for the operation of a farm market, including the
44 construction of building and parking areas in conformance with
45 municipal standards;

46 d. Replenish soil nutrients and improve soil tilth;

47 e. Control pests, predators and diseases of plants and animals;

- 1 f. Clear woodlands using open burning and other techniques,
 2 install and maintain vegetative and terrain alterations and other
 3 physical facilities for water and soil conservation and surface water
 4 control in wetland areas;
- 5 g. Conduct on-site disposal of organic agricultural wastes;
- 6 h. Conduct agriculture-related educational and farm-based
 7 recreational activities provided that the activities are related to
 8 marketing the agricultural or horticultural output of the commercial
 9 farm;
- 10 i. Engage in the generation of power or heat from biomass,
 11 solar, or wind energy, provided that the energy generation is
 12 consistent with the provisions of P.L.2009, c.213 (C.4:1C-32.4 et
 13 al.), as applicable, and the rules and regulations adopted therefor
 14 and pursuant to section 3 of P.L.2009, c.213 (C.4:1C-9.2); **and**
- 15 j. Engage in any other agricultural activity as determined by
 16 the State Agriculture Development Committee and adopted by rule
 17 or regulation pursuant to the provisions of the "Administrative
 18 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) ; and
- 19 k. House any ¹full-time, year-round¹ equine-related farm
 20 employee in the same building or facility as horses in ¹[an area or
 21 on a level of the building or facility separate from where horses are
 22 boarded or housed] accordance with the provisions of section 3 of
 23 P.L. , c. (C.) (pending before the Legislature as this bill)¹.
 24 (cf: P.L.2009, c.213, s.2)
- 25
- 26 3. (New section) a. The committee shall adopt, pursuant to the
 27 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
 28 seq.):
- 29 (1) rules and regulations to implement subsection ¹**[k.] j.**¹ of
 30 section 6 of P.L.1983, c.31 (C.4:1C-9); and
- 31 (2) an agricultural management practice that permits the housing
 32 of ¹**[an]** a full-time, year-round¹ equine-related farm employee in
 33 the same building in which horses are housed or boarded ¹on a
 34 separate floor or in a separate addition of the building from where
 35 the horses are housed or boarded¹.
- 36 b. Except as provided in subsection ¹**[c.] d.**¹ of this section,
 37 the rules and regulations and agricultural practices adopted pursuant
 38 to subsection a. of this section shall, notwithstanding any local
 39 health code or zoning ordinance to the contrary, authorize:
- 40 (1) the construction, installation, and provision of housing for
 41 any ¹full-time, year-round¹ equine-related farm employee as part of
 42 any building or facility constructed, or approved to be constructed,
 43 on a commercial farm for the housing or boarding of horses; and
- 44 (2) any ¹full-time, year-round¹ equine-related farm employee to
 45 be housed in the same building or facility where horses are housed
 46 or boarded provided that the ¹full-time, year-round¹ equine-related
 47 farm employee housing ¹**[is]** established in a separate room or area

1 or on a separate level in the building or facility from where horses
2 are boarded or housed] meets the specifications set forth in
3 subsection c. of this section¹.

4 c. Full-time, year-round equine-related farm employee
5 housing established in the same building or facility where horses
6 are housed or boarded shall be located:

7 (1) on a separate floor of the building or facility above a floor
8 where horses are housed or boarded and separated from the floor on
9 which horses are housed or boarded by a ceiling and floor with at
10 least the fire rating required for separation between residential and
11 non-residential uses pursuant to the State Uniform Construction
12 Code; or

13 (2) on the same level of the building or facility where horses are
14 housed or boarded in an addition that is completely separated from
15 the part of the building or facility where horses are housed or
16 boarded by a wall that qualifies the addition as a separate building
17 for the purposes of the State Uniform Construction Code.

18 The floor on which, or the addition in which, full-time, year-
19 round farm employee housing is established shall have a ventilation
20 system separate from the ventilation system operating on a floor or
21 in an addition where horses are housed or boarded.

22 d.¹ The construction, installation, and provision of housing
23 pursuant to this section shall comply with any other provision of the
24 State Uniform Construction Code and Department of Community
25 Affairs standards and requirements which do not exclude the
26 construction, installation, or provision of housing units in the same
27 building as the boarding of horses under the State Uniform
28 Construction Code¹.

29 [d.] e.¹ No certificate of occupancy shall be denied for housing
30 of [an] a full-time, year-round¹ equine-related farm employee in a
31 building where horses are housed or boarded if the housing
32 complies with the provisions of subsections a.¹ b. [and] c.¹
33 d., and i.¹ of this section.

34 [e.] f.¹ Housing constructed, installed, or provided pursuant to
35 this section shall [not be construed to be a farm labor camp or
36 migrant labor camp for the purposes of] be used only as housing for
37 full-time, year-round equine-related farm employees, and shall not
38 be used to house any migrant or seasonal employee or worker.

39 g. This section shall not apply to housing constructed, installed,
40 or provided pursuant to¹ the “Seasonal Farm Labor Act,” P.L.1945,
41 c.71 (C.34:9A-1 et seq.) and housing constructed, installed, or
42 provided pursuant to this section¹ shall not be subject to any
43 provisions of that act.

44 [f.] h.¹ Housing constructed, installed, or provided pursuant to
45 this section shall be exempt from the provisions and requirements
46 of P.L.1966, c.168 (C.2A:42-74 et seq.).

1 ¹i. This section shall apply only to housing constructed,
2 installed or provided in connection with barns, stables, or other
3 farm structures housing horses. Housing for any farm employee
4 shall not be provided in any structures housing any other type of
5 farm animal or domestic livestock other than horses.¹

6

7 4. This act shall take effect immediately.