

**HOUSE . . . . . No. 2618**

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**The Commonwealth of Massachusetts**

PRESENTED BY:

*Stephen Kulik*

*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 maintaining land in agriculture.

PETITION OF:

| NAME:                         | DISTRICT/ADDRESS:    | DATE ADDED:      |
|-------------------------------|----------------------|------------------|
| <i>Stephen Kulik</i>          | <i>1st Franklin</i>  | <i>1/19/2017</i> |
| <i>John W. Scibak</i>         | <i>2nd Hampshire</i> |                  |
| <i>Steven S. Howitt</i>       | <i>4th Bristol</i>   |                  |
| <i>Gailanne M. Cariddi</i>    | <i>1st Berkshire</i> |                  |
| <i>Kathleen O'Connor Ives</i> | <i>First Essex</i>   |                  |

**HOUSE . . . . . No. 2618**

By Mr. Kulik of Worthington, a petition (accompanied by bill, House, No. 2618) of Stephen Kulik and others relative to farmland land transfer estate taxes . Revenue.

**The Commonwealth of Massachusetts**

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

An Act maintaining land in agriculture.

*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. The purpose of this act is to reduce the conversion of farmland out of  
2 agricultural use following the death of a farmland owner by reducing the tax burden on the  
3 heir(s) and to encourage a landowner’s heir(s) to maintain the property in agricultural use.

4 SECTION 2. Section 1 of chapter 65C of the Massachusetts General Laws is hereby  
5 amended by deleting subsections (a) and (b) and inserting in its place the following:-

6 “(a) “Agricultural Use”, uses that meet the definitions of agricultural use as defined in  
7 section 1 of chapter 61A; horticultural uses as defined in section 2 of chapter 61A; or forestland  
8 with a forest management plan as defined in section 1 of chapter 61.

9 (b) "Code", the Internal Revenue Code of the United States, as amended and in effect on  
10 January first, nineteen hundred and seventy-five.

11 (c) "Commissioner", the commissioner of revenue.”

12 SECTION 3. Section 3 of chapter 65C is hereby amended by adding after subsection (d)  
13 the following:-

14 “(e) In addition to the exemption provided in subsection (a) and the deductions provided  
15 in subsection (b) an estate that is approved by the commissioner of agriculture may elect to  
16 exempt from the value of the gross estate not more than 5 million dollars of real property that has  
17 either: been in agricultural use for the two years preceding the time of death; or 3 of the five  
18 years preceding the time of death provided that there has not also been any uses incompatible  
19 with the agricultural use of the property in any year that the property was not used for  
20 agriculture.

21 unless the property is restricted by a non-development covenant that: is approved by the  
22 commissioner of agriculture, is for the purposes of maintaining the land in agricultural use;  
23 precludes non-agricultural development of the land, is recorded at the registry of deeds in the  
24 county(ies) or district(s) in which the property is located, and does not expire within 10 years  
25 after the date of death, then the commissioner shall forthwith cause to be recorded in the registry  
26 of deeds of the count(ies) or district(s) in which the property is situated a statement which shall  
27 constitute a lien upon the land covered by such election for such exemption under the provisions  
28 of this subsection (e). The statement shall name the owner or owners of record, the difference  
29 between the estate taxes paid under this election, and the estate taxes that would have otherwise  
30 been paid had the election not been made (the “savings”) and shall include a description of the  
31 land adequate for identification. Unless such a statement is recorded the lien shall not be  
32 effective with respect to a bona fide purchaser or other transferee without actual knowledge of  
33 such lien. Upon application by any record owner, such liens shall be released by the  
34 commissioner with respect to any property upon the facts being established by their records or by

35 affidavits or otherwise that all assessments have been paid, or it being more than 10 years past  
36 the date of death, no assessment being due. All recording fees paid pursuant to the provisions of  
37 this subsection whether for statements of liens, certificates, releases or otherwise shall be borne  
38 by the owner of record of the land.

39           Upon a change of use or a sale for a change of use, the landowner shall immediately  
40 notify the commissioner and the commissioner of agriculture of such sale or change of use and  
41 an assessment shall be due to the commonwealth. Such assessment shall be calculated based on  
42 the date of a sale for a change of use, or based on the last date of use in agriculture as follows:

43           If the change of use or sale is within 1 year of the time of death the assessment shall be  
44 105 per cent of the savings;

45           If the change of use or sale is within 2 years, but more than 1 year from the time of death  
46 the assessment shall be 110 per cent of the savings;

47           If the change of use or sale is within 3 years, but more than 2 years from the time of death  
48 the assessment shall be 115 per cent of the savings;

49           If the change of use or sale is within 4 years, but more than 3 years from the time of death  
50 the assessment shall be 120 per cent of the savings;

51           If the change of use or sale is within 5 years, but more than 4 years from the time of death  
52 the assessment shall be 125 per cent of the savings;

53           If the change of use or sale is within 6 years, but more than 5 years from the time of death  
54 the assessment shall be 115 per cent of the savings;

55           If the change of use or sale is within 7 years, but more than 6 years from the time of death  
56 the assessment shall be 105 per cent of the savings;

57           If the change of use or sale is within 8 years, but more than 7 years from the time of death  
58 the assessment shall be 95 per cent of the savings;

59           If the change of use or sale is within 9 years, but more than 8 years from the time of death  
60 the assessment shall be 85 per cent of the savings;

61           If the change of use or sale is within 10 years, but more than 9 years from the time of  
62 death the assessment shall be 75 per cent of the savings; and

63           If the change of use or sale is after 10 years from the time of death, there shall be no  
64 assessment due.

65           Lack of agricultural use for less than 9 months shall not be considered a change of use.

66           If a change of use or a sale for a change of use occurs only on a portion of such land then  
67 the assessment shall be prorated based on the proportional value of the property at the time of the  
68 sale or change of use.

69           Funds paid to the commonwealth pursuant to such assessments shall be deposited to the  
70 Agricultural Reserve and Security Fund and used to further the purposes of this act.

71           The commissioner, in consultation with the commissioner of agriculture may promulgate  
72 such rules and regulations and prescribe the use of such forms and procedures as the  
73 commissioner deems appropriate to and consistent with effectuation of the purposes of this  
74 chapter including but not limited to further determining agricultural use and valuing the  
75 proportional value of the property in the event of a partial sale or change of use.

76           Property restricted by an agricultural preservation restriction as defined by MGL chapter  
77 184 section 31 and signed by the commissioner of agriculture shall be deemed to be restricted by  
78 a non-development covenant that: is approved by the commissioner of agriculture for the  
79 purposes of maintaining the land in agricultural use; precludes non-agricultural development of  
80 the land, and does not expire within 10 years after the date of death.