HOUSE DOCKET, NO. 1732 FILED ON: 1/17/2013

HOUSE . . . . . No. 754

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 to protect farm viability .

PETITION OF:

NAME:	DISTRICT/ADDRESS:
Stephen Kulik	*1st Franklin*
Keiko M. Orrall	*12th Bristol*
Peter V. Kocot	*1st Hampshire*
Sarah K. Peake	*4th Barnstable*
Christopher M. Markey	*9th Bristol*
Denise Andrews	*2nd Franklin*
Carolyn C. Dykema	*8th Middlesex*
Anne M. Gobi	*5th Worcester*
Steven S. Howitt	*4th Bristol*
Michael R. Knapik	*Second Hampden and Hampshire*
Paul W. Mark	*2nd Berkshire*
Denise Provost	*27th Middlesex*
Paul A. Schmid, III	*8th Bristol*
John W. Scibak	*2nd Hampshire*
Bruce E. Tarr	*First Essex and Middlesex*
Chris Walsh	*6th Middlesex*

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By Mr. Kulik of Worthington, a petition (accompanied by bill, House, No. 754) of Stephen Kulik and others for legislation to prohibit certain restrictions on the use of land for agricultural purposes. Environment, Natural Resources and Agriculture.

The Commonwealth of Massachusetts

In the Year Two Thousand Thirteen

An Act to protect farm viability .

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

SECTION 1:

Chapter xxxxx of the General Laws is hereby amended by inserting after xxxxx the following section:---

Section xxxxx. No general by-law or ordinance shall prohibit, unreasonably regulate, or require a permit for commercial agriculture on land or in structures qualified under G.L. c. 40A, Sec. 3, or agricultural activities, operations, and practices associated therewith. Land divided by a public or private way or a waterway shall be considered one parcel. For the purposes of this section, the term "agriculture" shall be as defined in section 1A of chapter 128, and the term horticulture shall include the growing and keeping of nursery stock and the sale thereof. Said nursery stock shall be considered to be produced by the owner or lessee of the land if it is nourished, maintained, and managed while on the premises.

Section 2

Chapter 111 is hereby amended in section1 by inserting the following definitions:

Agricultural Commission - a standing committee of town government, created through a vote of Town Meeting and or appointed by the Board of Selectmen, chief elected official or governing body of the town, intended to protect and promote agriculture within a community.

Agricultural Advisory Committee – a committee established and managed by the Department of Agricultural Resources comprised of a representative of the Department of Agricultural Resources, Department of Public Health, Massachusetts Association of Health

Boards and Massachusetts Farm Bureau. The purpose of the Agricultural Review Board shall be to facilitate and harmonize the goals of protecting public health and encouraging agriculture and agricultural development. Activities of the Agricultural Review Board shall include but not be limited to review municipal board of health regulations as outlined in Section 31 F(b), the development educational materials and guidance, and the development/endorsement of model regulations. The Board shall at a minimum of four times annually, at the request of any two members, and at the call of the Commissioner of Agricultural Resources

SECTION 3:

Chapter 111 of the General Laws is hereby amended by inserting after section 31E the following section:

Section 31F (a) No local board of health (board) regulation (regulation) shall prohibit or unreasonably regulate commercial agriculture on land or in structures qualified under G.L. c. 40A, Sec. 3, or agricultural activities, operations, and practices associated therewith. For the purposes of this section, the term "agriculture" shall be as defined in section 1A of chapter 128.

(b) The applicability of any board regulation shall be deferred in effect as applied to agriculture until and unless the regulation is found to be consistent with Section 31F(a) as provided in this subsection.

(1) Within 21 days of the adoption of a regulation, the board of health shall:

a) submit a copy of the regulation which impacts agriculture to the agricultural commission within their community as defined in Chapter 111 section 1. Within 45 days of receipt, the agricultural commission shall hold an open public meeting to review the regulation and its potential impact on agriculture and subsequently submit written recommendations to the board of health. The regulations may go into immediate effect if the board of health adopts the recommendations of the agricultural commission or the two bodies agree upon a compromise set of regulation through a mutually agreed upon process and timeframe. In the absence of agreement, the two bodies shall submit to mediation under the auspices of the Massachusetts Office of Public Collaboration or other entity as identified by the Department of Agricultural Resourses.

b. in the event that an agricultural commission does not exist within the municipality, the board of health shall within 10 business days of approval, submit a copy of the proposed regulations electronically to the commissioner of the department of agricultural resources, ,..

The Department of Agricultural Resources shall have 45 business days days in which to present recommendations to the board of health. The Department shall rely on guidance and input provided by the Agricultural Advisory Committee in making such recommendations. The regulations may go into immediate effect if the board of health adopts the recommendations of

the department If the board disagrees with the department's recommendations, they both shall submit to mediation under the auspices of the Massachusetts Office of Public Collaboration.

c. The Department shall, on a quarterly basis, provide the Agricultural Advisory Committee with a brief synopsis of the bylaws submitted for approval and a description of any submittals which resulted in mediation.