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ASSEMBLY, No. 2768

STATE OF NEW JERSEY
219th LEGISLATURE

INTRODUCED FEBRUARY 13, 2020

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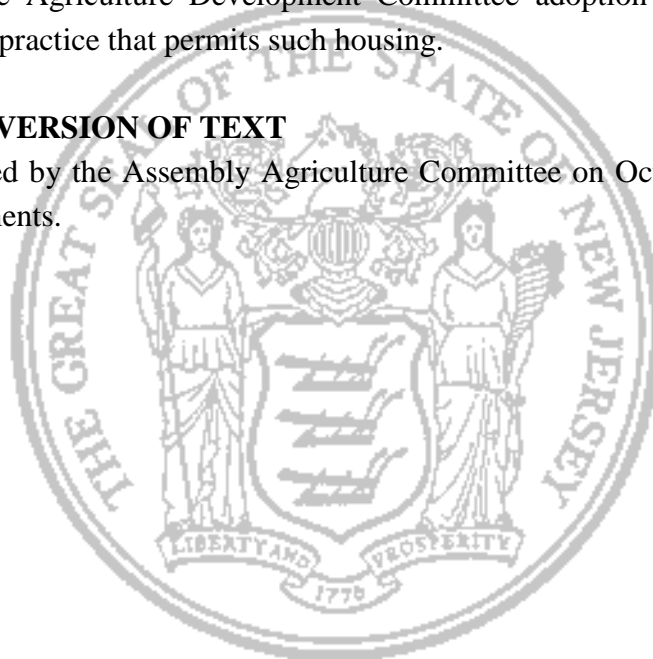
Assemblywomen Swain and Downey

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 Assembly Agriculture Committee on October 22, 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, c.32
12 (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 worth
15 \$2,500 or more annually, and satisfying the eligibility criteria for
16 differential property taxation pursuant to the "Farmland Assessment
17 Act of 1964," P.L.1964, c.48 (C.54:4-23.1 et seq.), (2) a farm
18 management unit less than five acres, producing agricultural or
19 horticultural products worth \$50,000 or more annually and otherwise
20 satisfying the eligibility criteria for differential property taxation
21 pursuant to the "Farmland Assessment Act of 1964," P.L.1964, c.48
22 (C.54:4-23.1 et seq.), or (3) a farm management unit that is a
23 beekeeping operation producing honey or other agricultural or
24 horticultural apiary-related products, or providing crop pollination
25 services, worth \$10,000 or more annually.

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

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

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

36 "Farm market" means a facility used for the wholesale or retail
37 marketing of the agricultural output of a commercial farm, and
38 products that contribute to farm income, except that if a farm market is
39 used for retail marketing at least 51% of the annual gross sales of the
40 retail farm market shall be generated from sales of agricultural output
41 of the commercial farm, or at least 51% of the sales area shall be
42 devoted to the sale of agricultural output of the commercial farm, and
43 except that if a retail farm market is located on land less than five acres
44 in area, the land on which the farm market is located shall produce

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:

¹Assembly AAN committee amendments adopted October 22, 2020.

1 annually agricultural or horticultural products worth at least \$2,500.

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

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

10

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

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

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

36 b. Process and package the agricultural output of the commercial
37 farm;

38 c. Provide for the operation of a farm market, including the
39 construction of building and parking areas in conformance with
40 municipal standards;

41 d. Replenish soil nutrients and improve soil tilth;

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

43 f. Clear woodlands using open burning and other techniques,
44 install and maintain vegetative and terrain alterations and other
45 physical facilities for water and soil conservation and surface water
46 control in wetland areas;

47 g. Conduct on-site disposal of organic agricultural wastes;

1 h. Conduct agriculture-related educational and farm-based
2 recreational activities provided that the activities are related to
3 marketing the agricultural or horticultural output of the commercial
4 farm;

5 i. Engage in the generation of power or heat from biomass, solar,
6 or wind energy, provided that the energy generation is consistent with
7 the provisions of P.L.2009, c.213 (C.4:1C-32.4 et al.), as applicable,
8 and the rules and regulations adopted therefor and pursuant to section
9 3 of P.L.2009, c.213 (C.4:1C-9.2); **[and]**

10 j. Engage in any other agricultural activity as determined by the
11 State Agriculture Development Committee and adopted by rule or
12 regulation pursuant to the provisions of the "Administrative Procedure
13 Act," P.L.1968, c.410 (C.52:14B-1 et seq.) ; and

14 k. House any ¹full-time, year-round¹ equine-related farm
15 employee in the same building or facility as horses in ¹[an area or on a
16 level of the building or facility separate from where horses are boarded
17 or housed] accordance with the provisions of section 3 of P.L. , c.
18 (C.) (pending before the Legislature as this bill)¹.
19 (cf: P.L.2009, c.213, s.2)

20
21 3. (New section) a. The committee shall adopt, pursuant to the
22 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.):

23 (1) rules and regulations to implement subsection ¹**[k.] j.**¹ of
24 section 6 of P.L.1983, c.31 (C.4:1C-9); and

25 (2) an agricultural management practice that permits the housing
26 of ¹**[an] a full-time, year-round¹** equine-related farm employee in the
27 same building in which horses are housed or boarded ¹on a separate
28 floor or in a separate addition of the building from where the horses
29 are housed or boarded¹.

30 b. Except as provided in subsection ¹**[c.] d.**¹ of this section, the
31 rules and regulations and agricultural practices adopted pursuant to
32 subsection a. of this section shall, notwithstanding any local health
33 code or zoning ordinance to the contrary, authorize:

34 (1) the construction, installation, and provision of housing for any
35 ¹full-time, year-round¹ equine-related farm employee as part of any
36 building or facility constructed, or approved to be constructed, on a
37 commercial farm for the housing or boarding of horses; and

38 (2) any ¹full-time, year-round¹ equine-related farm employee to be
39 housed in the same building or facility where horses are housed or
40 boarded provided that the ¹full-time, year-round¹ equine-related farm
41 employee housing ¹**[is established in a separate room or area or on a**
42 **separate level in the building or facility from where horses are boarded**
43 **or housed]** meets the specifications set forth in subsection c. of this
44 section¹.

1 c. ¹Full-time, year-round equine-related farm employee housing
2 established in the same building or facility where horses are housed or
3 boarded shall be located:

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

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

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

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

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

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

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

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

43 ¹i. This section shall apply only to housing constructed, installed
44 or provided in connection with barns, stables, or other farm structures
45 housing horses. Housing for any farm employee shall not be provided

1 in any structures housing any other type of farm animal or domestic
2 livestock other than horses.¹

3

4 4. This act shall take effect immediately.