

# Pre-Emptive Right to Purchase

Agricultural Stewardship Association



## Helping to Keep Protected Farmland Affordable and Accessible



### UNDERSTANDING PRE-EMPTIVE RIGHT TO PURCHASE AS A CONSERVATION TOOL

Nearly 30 percent of New York farms are managed by farmers aged 65 years or older, and the vast majority do not have young farmers ready to take over the operation. Yet surveys show that most older farmers want to see their land remain in farming and are open to various ways to make this possible. For younger farmers, the main challenge is finding farmland that is affordable and accessible.

Farmland is already primed for development, with its large cleared fields, access to road frontage, and steadily rising development pressure in New York State. In many areas of the state, rising farmland prices and competition from non-farming buyers increasingly push the cost of farmland out of reach.



Conservation easements make the property permanently available for current and future farming but do not necessarily guarantee that the farmland will stay in production or in the hands of farmers. To make the protected land more affordable and accessible to farmers and to keep the land in active production, additional restrictions can voluntarily be placed on the farmland. The landowner can either donate or get paid for relinquishing these additional rights, called a Pre-Emptive Right to Purchase or Pre-Emptive Purchase Right (PPR).



### WHAT IS A PRE-EMPTIVE PURCHASE RIGHT?

A Pre-Emptive Purchase Right is a tool to keep farmland affordable, accessible, and in active production. PPRs not only protect land from development but also make sure that protected land is sold at its agricultural use value to a qualified, working farmer. Agricultural use value is the restricted fair market value of a property based on its productive commercial agricultural use rather than its potential value for development.



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## HOW DO THEY WORK?

PPRs are a type of "farmer ownership and affordability provision" that can be included in a voluntary agricultural conservation easement and are triggered when the landowner wants to sell the property. They require a landowner to sell their farm to a qualified farmer at the appraised agricultural use value. If no farmer is found, ASA has the right to step in and purchase the land. ASA then owns the property until a qualified farmer is found to purchase the property. The goal of a PPR agreement is to make farmland affordable and accessible for the next generation of farmers and keep it in active agricultural production.



## HOW ARE PRE-EMPTIVE PURCHASE RIGHTS VALUED?

As with conservation easements, an appraiser determines the value of the preemptive purchase right, which can be incorporated into an easement project. The initial grantor of the PPR can either be compensated for the value or take an additional tax deduction if it is donated.

PPR restrictions are useful in reducing the value of farmland that is intended to remain in agricultural production. This can benefit both current and future landowners in the sale and resale of farmland and for estate tax purposes. By restricting the real estate market to farmers, PPRs can prevent the creation of "estate farms" and escalating values of conserved lands that would make it attractive for non-farmers to purchase.

Working farm easements and preemptive purchase rights are being used to keep hundreds of protected farms in active farm ownership in Massachusetts and Vermont, and they increasingly are being used in New York. As land prices continue to rise in Washington and Rensselaer counties, ASA believes that preemptive purchase rights will be an especially valuable tool to make sure that farmland remains affordable and accessible for the next generation of farmers.

## For more information on PPR's, please contact:

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See our website for more information

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