**RESOLUTION # 16**

**RIGHT TO FARM PROGRAM**

**WHEREAS**, the Right to Farm Act provides eligible, responsible farmers with protection from restrictive local government ordinances, as well as from public and private nuisance actions, provided those farmers operate in accordance with agricultural management practices (AMPs) that have been adopted by the State Agriculture Development Committee (SADC) or whose site-specific agricultural management practices have been approved by county agriculture development boards (CADBs) consistent with the Act and SADC regulations; and

**WHEREAS**, the Right to Farm Act gives primary jurisdiction in resolving complaints against agricultural operations to CADBs and ultimately to the SADC if the decisions of the county boards are appealed, and the SADC offers a voluntary Agricultural Mediation Program as an alternative to that more formal process, since mediation can help disputing parties quickly resolve their problems, thereby saving all parties both time and costly legal fees; and

**WHEREAS,** the SADC has continued distribution of Right to Farm-related outreach and educational materials, including a Right to Farm Guidebook and fact sheets on the Right to Farm Act and Agricultural Mediation that were developed in collaboration with Rutgers Cooperative Extension; and

**WHEREAS**, the 2018 Farm Bill was signed into law on December 20, 2018, (and recently was extended while Congress works to craft the next Farm Bill), enabling the United States Department of Agriculture (USDA) Agricultural Mediation Program to allow its grant funding for state agricultural mediation programs to be used on farmer-neighbor/Right to Farm, lease, and farm transition issues, as well as any issues that a state’s Secretary of Agriculture considers appropriate for better serving the agricultural community; and

**WHEREAS**, the SADC continues to focus its Right to Farm outreach efforts on increasing awareness and understanding of Right to Farm among all audiences, but particularly local officials and CADBs through webinars, workshops, continuing education efforts and other means; and

**WHEREAS**, the agricultural community continues to view Right to Farm as critically important, with Right to Farm consistently ranked among the top issues in the New Jersey Farm Bureau’s annual ranking of its top-10 policy issues, as well as ranking in the top-three each year among the resolutions at this Convention; and

**WHEREAS**, the New Jersey State Board of Agriculture convened a Right to Farm subcommittee to discuss ways in which the administration of the Right to Farm Law in New Jersey can be strengthened, streamlined, and modernized to deal with the evolving landscape Garden State farmers find themselves facing; and

**WHEREAS**, that committee has identified the three main aspects of approaching Right to Farm issues that it sees as absolutely necessary in applying Right to Farm law concepts, and they are that Right to Farm issues should be decided in a way that is timely, decisive, and affordable; and

**WHEREAS**, legislation should be advanced that would allow farmers to recover reasonable costs and attorney fees incurred in defense of bad-faith complaints against commercial agricultural operations, much the way Wisconsin’s Right to Farm Law recently helped a farmer recover legal fees after multi-year litigation found that his practices did not, as litigants had claimed, deprive the public of recreational use of a waterway; and

**WHEREAS**, regular notice to all landowners that agriculture is a publicly endorsed land use greatly enhances the education of newcomers and longtime residents alike about the protections of the Right to Farm Act and can help municipalities head off conflicts between farmers and other residents before they become confrontational; and

**WHEREAS**, the New Jersey Legislature recently passed, and the Governor signed into law, legislation to establish housing of equine-related farm employees in facilities with horses under certain conditions as "Right to Farm" permissible activity and requiring the SADC to adopt an Agricultural Management Practice that permits such housing; and

**WHEREAS**, as a result of the collaboration between the SADC, Department staff and representatives of New Jersey’s aquaculture industry, the Legislature passed and the Governor signed into law legislation extending Right to Farm protections to shellfish aquaculture activities and operations; and

**WHEREAS**, in April 2023, the SADC approved proposed rules updating the Commercial Vegetable Production AMP, Commercial Tree Fruit Production AMP, On-Farm Compost Operations and Fencing AMP for Wildlife Control to address outdated references to publications, fact sheets, and regulatory citations, automatically incorporate future versions of referenced documents, and address other required updates; and

**WHEREAS,** in July 2023, the SADC approved proposed rules updating the Agricultural Mediation Program to ensure the program can be used for all case types included in the 2018 Farm Bill, including farmer-neighbor disputes, lease issues, family farm transition issues, and others as determined by state Secretaries of Agriculture, and to include a continuing education requirement for the program’s mediators; and

**WHEREAS**, statutes and regulations concerning seasonal on-farm retail markets mandate that the market be closed for 90 **consecutive** days each year to qualify as a “seasonal on-farm market” and thus receive Right to Farm protection; and

**WHEREAS**, these mandates for 90 consecutive days’ closure create situations in which employees of the market side of the farm operation may be laid off for the 90-day closure, as well as limiting the sales opportunities such markets could have from extended seasons due to technology and/or the sales of *Jersey Raised* livestock products that can be produced year-round instead of being tied to a given season; and

**WHEREAS**, the State Board has formed a subcommittee to examine evolving issues in Right to Farm, to include areas in the program that have become controversial in recent years; and

**WHEREAS,** the SADC has informed counties that a recent trend of municipalities insisting that farmers asserting Right to Farm protection from complaints must “exhaust all local remedies,” such as planning and zoning boards, before taking a case before the County Agricultural Development Board is not how the progression of such complaints should proceed.

**NOW, THEREFORE, BE IT RESOLVED**, that we, the delegates to the 110th State Agricultural Convention, assembled in Atlantic City, New Jersey, on February 5-6, 2025, strongly support New Jersey’s Right to Farm Act, and that we urge the SADC to continue developing, prioritizing and adopting AMPs that establish standards for Right-to-Farm protection for certain agricultural practices, in conjunction with the New Jersey Agricultural Experiment Station and Rutgers University and with direct farmer input, and that we call upon the Governor and Legislature to appropriate a minimum of $300,000 in the FY2026 state budget for the SADC and counties to adequately administer the Act.

**BE IT FURTHER RESOLVED**, that we urge the SADC to promptly adopt AMPs to fully implement recent expansions of Right to Farm Act protections for both the establishment of employee housing on equine operations, and for aquaculture activities and operations, and we urge CADBs that have been advised by the SADC that they may entertain and decide issues related to these recent RTF Act amendments prior to the SADC’s adoption of the applicable AMP to do so if necessary and possible.

**BE IT FURTHER RESOLVED,** that the delegates support expanded Right to Farm protection for farm labor housing and urge SADC to look into providing Right to Farm protection for farm labor housing in other types of agriculture, in addition to equine operations, through the legislative process.

**BE IT FURTHER RESOLVED**, that we call upon the SADC to take the necessary steps to ensure that owners of deed-restricted farms enjoy the same flexibility in adapting their agricultural operations to achieve economic viability as do owners of non-deed-restricted farms in compliance with both the Right to Farm Act, specifically in the areas of marketing and agritourism, and consistent with the terms of the farmland preservation deed of easement, including but not limited to: innovative agricultural farming, use of the farm as a movie-location, and agrivoltaics (when installed according to AMPs).

**BE IT FURTHER RESOLVED**, that we urge the State Board to continue reviewing surveys, meeting with the SADC staff, and exploring the opportunity for an RTF ombudsman in NJDA.

**BE IT FURTHER RESOLVED**, that we urge the passage of legislation to discourage repeated harassment suits against farmers, including requiring complainants to pay all reasonable legal fees and associated costs the farmer may incur to defend against complaints where the farmer is determined to be operating in compliance with all appropriate AMPs or is otherwise entitled to Right to Farm protection.

**BE IT FURTHER RESOLVED**, that we urge the SADC to send a representative to meet with those regulatory agencies involved in aquaculture to educate on what the Right to Farm law is, its procedures, how it can be used, and to answer any questions and address concerns from the agencies.

**BE IT FURTHER RESOLVED**, that we support the SADC’s recent proposed rule amendments updating the Agricultural Mediation Program to ensure the program can be used for all case types included in the 2018 Farm Bill, including farmer-neighbor disputes, lease issues, family farm transition issues, and other issues as determined by state Secretaries of Agriculture, and to include a continuing education requirement for the program’s mediators.

**BE IT FURTHER RESOLVED**, that we urge the Legislature and SADC to re-examine the statutes and regulations regarding “seasonal” on-farm markets to determine if the requirement for 90 **consecutive** days of closure could be changed simply to 90 days throughout the year for the market to be closed, thus reducing the need for farmers to lay off on-farm market workers for the 90 days of closure and to expand their sales abilities to include agricultural products available year-round and not just seasonally.

**BE IT FURTHER RESOLVED**, that we support the State Board’s work to form a subcommittee to examine evolving issues in Right to Farm, to include areas in the program that have been controversial in recent years, and we strongly urge that subcommittee to reach out to both county boards of agriculture and the CADBs for a broader perspective.

**BE IT FURTHER RESOLVED,** that SADC should request a reaffirmation from the Attorney General regarding the jurisdiction of the CADBs that can be sent to municipalities and judges that ignore the statutory requirement that Right to Farm conflicts must be taken to the CADBs first to determine Right to Farm eligibility and jurisdiction.

**BE IT FURTHER RESOLVED**, that we support measures to be taken to increase the capacity of CADB’s by, for example having SADC provide training to all CADB members and coordinators, providing municipal land use training to cadb members and providing grants to CADB’s to secure necessary technical experts.

**BE IT FURTHER RESOLVED**, that counties and municipalities should be notified by the SADC of the proper progression of hearing venues is for cases in which farmers are fighting back against complaints under the banner of Right to Farm.

**BE IT FURTHER RESOLVED**, that SADC should reaffirm the policy that farmers have the right to choose to go directly to their CADB (or SADC if their county has no CADB) for a determination of Right to Farm eligibility and/or Sight Specific AMP hearing instead of being forced by the CADB or municipality to proceed through the municipal land use process first, e.g., planning board or board of adjustment.

**BE IT FURTHER RESOLVED,** that in order for local and county officials to fully understand issues facing farmers in their jurisdictions, particularly issues involving Right to Farm, that as many municipalities as possible reinstate Agriculture Advisory Boards, which can serve as valuable reference points for such cases.