

P.L.2010, CHAPTER 70, *approved September 9, 2010*
Assembly, No. 2217 (*First Reprint*)

1 **AN ACT** concerning the Highlands region and the expiration date of
2 the special appraisal process for the acquisition of lands for
3 recreation and conservation and farmland preservation purposes,
4 and amending P.L.1999, c.152.

5

6 **BE IT ENACTED** by the Senate and General Assembly of the State
7 of New Jersey:

8

9 ¹ Section 3 of P.L.1999, c.152 (C.13:8C-3) is amended to read
10 as follows:

11 3. As used in sections 1 through 42 of this act:

12 "Acquisition" or "acquire" means the obtaining of a fee simple or
13 lesser interest in land, including but not limited to a development
14 easement, a conservation restriction or easement, or any other
15 restriction or easement permanently restricting development, by
16 purchase, installment purchase agreement, gift, donation, eminent
17 domain by the State or a local government unit, or devise; except
18 that any acquisition of lands by the State for recreation and
19 conservation purposes by eminent domain shall be only as
20 authorized pursuant to section 28 of this act;

21 "Bonds" means bonds issued by the trust pursuant to this act;

22 "Commissioner" means the Commissioner of Environmental
23 Protection;

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

27 "Constitutionally dedicated moneys" means any moneys made
28 available pursuant to Article VIII, Section II, paragraph 7 of the
29 State Constitution or through the issuance of bonds, notes or other
30 obligations by the trust, as prescribed by Article VIII, Section II,
31 paragraph 7 of the State Constitution and this act, or any moneys
32 from other sources deposited in the trust funds established pursuant
33 to sections 19, 20, and 21 of this act, and appropriated by law, for
34 any of the purposes set forth in Article VIII, Section II, paragraph 7
35 of the State Constitution or this act;

36 "Convey" or "conveyance" means to sell, donate, exchange,
37 transfer, or lease for a term of 25 years or more;

38 "Cost" means the expenses incurred in connection with: all
39 things deemed necessary or useful and convenient for the
40 acquisition or development of lands for recreation and conservation
41 purposes, the acquisition of development easements or fee simple

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 AEN committee amendments adopted May 13, 2010.

1 titles to farmland, or the preservation of historic properties, as the
2 case may be; the execution of any agreements or franchises deemed
3 by the Department of Environmental Protection, State Agriculture
4 Development Committee, or New Jersey Historic Trust, as the case
5 may be, to be necessary or useful and convenient in connection with
6 any project funded in whole or in part using constitutionally
7 dedicated moneys; the procurement or provision of appraisal,
8 archaeological, architectural, conservation, design, engineering,
9 financial, geological, historic research, hydrological, inspection,
10 legal, planning, relocation, surveying, or other professional advice,
11 estimates, reports, services, or studies; the purchase of title
12 insurance; the undertaking of feasibility studies; the establishment
13 of a reserve fund or funds for working capital, operating,
14 maintenance, or replacement expenses and for the payment or
15 security of principal or interest on bonds, as the Director of the
16 Division of Budget and Accounting in the Department of the
17 Treasury may determine; and reimbursement to any fund of the
18 State of moneys that may have been transferred or advanced
19 therefrom to any fund established by this act, or any moneys that
20 may have been expended therefrom for, or in connection with, this
21 act;

22 "Department" means the Department of Environmental
23 Protection;

24 "Development" or "develop" means, except as used in the
25 definitions of "acquisition" and "development easement" in this
26 section, any improvement made to a land or water area designed to
27 expand and enhance its utilization for recreation and conservation
28 purposes, and shall include the construction, renovation, or repair of
29 any such improvement, but shall not mean shore protection or beach
30 nourishment or replenishment activities;

31 "Development easement" means an interest in land, less than fee
32 simple title thereto, which interest represents the right to develop
33 that land for all nonagricultural purposes and which interest may be
34 transferred under laws authorizing the transfer of development
35 potential;

36 "Farmland" means land identified as having prime or unique
37 soils as classified by the Natural Resources Conservation Service in
38 the United States Department of Agriculture, having soils of
39 Statewide importance according to criteria adopted by the State Soil
40 Conservation Committee, established pursuant to R.S.4:24-3, or
41 having soils of local importance as identified by local soil
42 conservation districts, and which land qualifies for differential
43 property taxation pursuant to the "Farmland Assessment Act of
44 1964," P.L.1964, c.48 (C.54:4-23.1 et seq.), and any other land on
45 the farm that is necessary to accommodate farm practices as
46 determined by the State Agriculture Development Committee;

47 "Farmland preservation," "farmland preservation purposes" or
48 "preservation of farmland" means the permanent preservation of

1 farmland to support agricultural or horticultural production as the
2 first priority use of that land;

3 "Garden State Farmland Preservation Trust Fund" means the
4 Garden State Farmland Preservation Trust Fund established
5 pursuant to section 20 of this act;

6 "Garden State Green Acres Preservation Trust Fund" means the
7 Garden State Green Acres Preservation Trust Fund established
8 pursuant to section 19 of this act;

9 "Garden State Historic Preservation Trust Fund" means the
10 Garden State Historic Preservation Trust Fund established pursuant
11 to section 21 of this act;

12 "Green Acres bond act" means: P.L.1961, c.46; P.L.1971, c.165;
13 P.L.1974, c.102; P.L.1978, c.118; P.L.1983, c.354; P.L.1987, c.265;
14 P.L.1989, c.183; P.L.1992, c.88; P.L.1995, c.204; and any State
15 general obligation bond act that may be approved after the date of
16 enactment of this act for the purpose of providing funding for the
17 acquisition or development of lands for recreation and conservation
18 purposes or for farmland preservation purposes ;

19 "Historic preservation," "historic preservation purposes," or
20 "preservation of historic properties" means any work relating to the
21 conservation, improvement, interpretation, preservation, protection,
22 rehabilitation, renovation, repair, restoration, or stabilization of any
23 historic property, and shall include any work related to providing
24 access thereto for disabled or handicapped persons;

25 "Historic property" means any area, building, facility, object,
26 property, site, or structure approved for inclusion, or which meets
27 the criteria for inclusion, in the New Jersey Register of Historic
28 Places pursuant to P.L.1970, c.268 (C.13:1B-15.128 et seq.);

29 "Indoor recreation" means active recreation that otherwise is or
30 may be pursued outdoors but, for reasons of extending the season or
31 avoiding inclement weather, is or may be pursued indoors within a
32 fully or partially enclosed building or other structure, and includes
33 basketball, ice skating, racquet sports, roller skating, swimming,
34 and similar recreational activities and sports as determined by the
35 Department of Environmental Protection;

36 "Land" or "lands" means real property, including improvements
37 thereof or thereon, rights-of-way, water, lakes, riparian and other
38 rights, easements, privileges and all other rights or interests of any
39 kind or description in, relating to, or connected with real property;

40 "Local government unit" means a county, municipality, or other
41 political subdivision of the State, or any agency, authority, or other
42 entity thereof; except, with respect to the acquisition and
43 development of lands for recreation and conservation purposes,
44 "local government unit" means a county, municipality, or other
45 political subdivision of the State, or any agency, authority, or other
46 entity thereof the primary purpose of which is to administer,
47 protect, acquire, develop, or maintain lands for recreation and
48 conservation purposes;

- 1 "New Jersey Historic Trust" means the entity established
2 pursuant to section 4 of P.L.1967, c.124 (C.13:1B-15.111);
- 3 "Notes" means the notes issued by the trust pursuant to this act;
- 4 "Permitted investments" means any of the following securities;
- 5 (1) Bonds, debentures, notes or other evidences of indebtedness
6 issued by any agency or instrumentality of the United States to the
7 extent such obligations are guaranteed by the United States or by
8 another such agency the obligations (including guarantees) of which
9 are guaranteed by the United States;
- 10 (2) Bonds, debentures, notes or other evidences of indebtedness
11 issued by any corporation chartered by the United States, including,
12 but not limited to, Governmental National Mortgage Association,
13 Federal Land Banks, Federal Home Loan Mortgage Corporation,
14 Federal National Mortgage Association, Federal Home Loan Banks,
15 Federal Intermediate Credit Banks, Banks for Cooperatives,
16 Tennessee Valley Authority, United States Postal Service, Farmers
17 Home Administration, Resolution Funding Corporation, Export-
18 Import Bank, Federal Financing Bank and Student Loan Marketing
19 Association;
- 20 (3) Bonds, debentures, notes or commercial paper rated in the
21 highest two rating categories without regard to rating subcategories
22 (derogation) by all nationally recognized investment rating agencies
23 or by a nationally recognized investment rating agency if rated by
24 only one nationally recognized investment rating agency;
- 25 (4) Repurchase agreements or investment agreements issued by
26 (i) a commercial bank or trust company or a national banking
27 association, each having a capital stock and surplus of more than
28 \$100,000,000, or (ii) an insurance company with the highest rating
29 provided by a nationally recognized insurance company rating
30 agency, or (iii) a broker/dealer, or (iv) a corporation; provided that
31 the credit of such commercial bank or trust company or national
32 banking association or insurance company or broker/dealer or
33 corporation, as the case may be, is rated (or, in the case of a
34 broker/dealer or corporation, whose obligations thereunder are
35 guaranteed by a commercial bank or trust company or a national
36 banking association or insurance company with the highest rating
37 provided by a nationally recognized insurance company rating
38 agency or corporation whose credit is rated) not lower than the
39 "AA" category without regard to rating subcategories (derogation)
40 of any two nationally recognized investment rating agencies then
41 rating the State; provided that any such agreement shall provide for
42 the investment of funds and shall be collateralized by obligations
43 described in paragraph 1 or paragraph 2 or paragraph 3 above at a
44 level of at least one hundred and two (102) percent in principal
45 amount of those obligations;
- 46 "Pinelands area" means the pinelands area as defined pursuant to
47 section 3 of P.L.1979, c.111 (C.13:18A-3);

1 "Pinelands regional growth area" means a regional growth area
2 established pursuant to the pinelands comprehensive management
3 plan adopted pursuant to P.L.1979, c.111 (C.13:18A-1 et seq.);

4 "Project" means all things deemed necessary or useful and
5 convenient in connection with the acquisition or development of
6 lands for recreation and conservation purposes, the acquisition of
7 development easements or fee simple titles to farmland, or the
8 preservation of historic properties, as the case may be;

9 "Qualifying open space referendum county" means any county
10 that has: (1) approved and implemented, and is collecting and
11 expending the revenue from, an annual levy authorized pursuant to
12 P.L.1997, c.24 (C.40:12-15.1 et seq.) for an amount or at a rate
13 equivalent to at least one half of one cent per \$100 of assessed
14 value of real property, or for an amount or at a rate established by
15 the county and in effect as of April 1, 1999, whichever is greater; or
16 (2) adopted an alternative means of funding for the same or similar
17 purposes as an annual levy, which the Department of Environmental
18 Protection, in consultation with the committee and the New Jersey
19 Historic Trust, approves to be stable and reasonably equivalent in
20 effect to an annual levy;

21 "Qualifying open space referendum municipality" means any
22 municipality that has: (1) approved and implemented, and is
23 collecting and expending the revenue from, an annual levy
24 authorized pursuant to P.L.1997, c.24 (C.40:12-15.1 et seq.) for an
25 amount or at a rate equivalent to at least one half of one cent per
26 \$100 of assessed value of real property, or for an amount or at a rate
27 established by the municipality and in effect as of April 1, 1999,
28 whichever is greater; or (2) adopted an alternative means of funding
29 for the same or similar purposes as an annual levy, which the
30 Department of Environmental Protection, in consultation with the
31 committee and the New Jersey Historic Trust, approves to be stable
32 and reasonably equivalent in effect to an annual levy;

33 "Qualifying tax exempt nonprofit organization" means a
34 nonprofit organization that is exempt from federal taxation pursuant
35 to section 501 (c)(3) of the federal Internal Revenue Code, 26
36 U.S.C. s.501 (c)(3), and which qualifies for a grant pursuant to
37 section 27, 39, or 41 of this act;

38 "Recreation and conservation purposes" means the use of lands
39 for beaches, biological or ecological study, boating, camping,
40 fishing, forests, greenways, hunting, natural areas, parks,
41 playgrounds, protecting historic properties, water reserves,
42 watershed protection, wildlife preserves, active sports, or a similar
43 use for either public outdoor recreation or conservation of natural
44 resources, or both; and

45 "Trust" means the Garden State Preservation Trust established
46 pursuant to section 4 of this act.¹

47 (cf: P.L.2005, c.281, s.1)

1 '【1.】2.' Section 26 of P.L.1999, c.152 (C.13:8C-26) is
2 amended to read as follows:

3 26. a. Moneys appropriated from the Garden State Green Acres
4 Preservation Trust Fund to the Department of Environmental
5 Protection shall be used by the department to:

6 (1) Pay the cost of acquisition and development of lands by the
7 State for recreation and conservation purposes;

8 (2) Provide grants and loans to assist local government units to
9 pay the cost of acquisition and development of lands for recreation
10 and conservation purposes; and

11 (3) Provide grants to assist qualifying tax exempt nonprofit
12 organizations to pay the cost of acquisition and development of
13 lands for recreation and conservation purposes.

14 b. The expenditure and allocation of constitutionally dedicated
15 moneys for recreation and conservation purposes shall reflect the
16 geographic diversity of the State to the maximum extent practicable
17 and feasible.

18 c. (1) Notwithstanding the provisions of section 5 of P.L.1985,
19 c.310 (C.13:18A-34) or this act, or any rule or regulation adopted
20 pursuant thereto, to the contrary, the value of a pinelands
21 development credit, allocated to a parcel pursuant to P.L.1979,
22 c.111 (C.13:18A-1 et seq.) and the pinelands comprehensive
23 management plan adopted pursuant thereto, shall be made utilizing
24 a value to be determined by either appraisal, regional averaging
25 based upon appraisal data, or a formula supported by appraisal data.
26 The appraisal and appraisal data shall consider as appropriate: land
27 values in the pinelands regional growth areas; land values in
28 counties, municipalities, and other areas reasonably contiguous to,
29 but outside of, the pinelands area; and other relevant factors as may
30 be necessary to maintain the environmental, ecological, and
31 agricultural qualities of the pinelands area.

32 (2) No pinelands development credit allocated to a parcel of
33 land pursuant to P.L.1979, c.111 (C.13:18A-1 et seq.) and the
34 pinelands comprehensive management plan adopted pursuant
35 thereto that is acquired or obtained in connection with the
36 acquisition of the parcel for recreation and conservation purposes
37 by the State, a local government unit, or a qualifying tax exempt
38 nonprofit organization using constitutionally dedicated moneys in
39 whole or in part may be conveyed in any manner. All such
40 pinelands development credits shall be retired permanently.

41 d. 【(1) (a) For State fiscal years 2000 through 2004 only, when
42 the department, a local government unit, or a qualifying tax exempt
43 nonprofit organization seeks to acquire lands for recreation and
44 conservation purposes using constitutionally dedicated moneys in
45 whole or in part or Green Acres bond act moneys in whole or in
46 part, it shall conduct or cause to be conducted an appraisal or
47 appraisals of the value of the lands that shall be made using the land
48 use zoning of the lands (i) in effect at the time of proposed

1 acquisition, and (ii) in effect on November 3, 1998 as if that land
2 use zoning is still in effect at the time of proposed acquisition. The
3 higher of those two values shall be utilized by the department, a
4 local government unit, or a qualifying tax exempt nonprofit
5 organization as the basis for negotiation with the landowner with
6 respect to the acquisition price for the lands. The landowner shall
7 be provided with both values determined pursuant to this
8 subparagraph.

9 A landowner may waive any of the requirements of this
10 paragraph and may agree to sell the lands for less than the values
11 determined pursuant to this paragraph.

12 (b) After the date of enactment of P.L.2001, c.315 and through
13 June 30, 2004, in determining the two values required pursuant to
14 subparagraph (a) of this paragraph, the appraisal shall be made
15 using not only the land use zoning but also the Department
16 of Environmental Protection wastewater, water quality and
17 watershed management rules and regulations and associated
18 requirements and standards applicable to the lands subject to the
19 appraisal (i) in effect at the time of proposed acquisition, and (ii) in
20 effect on November 3, 1998 as if those rules and regulations and
21 associated requirements and standards are still in effect at the time
22 of proposed acquisition.

23 (2) The requirements of this subsection shall be in addition to
24 any other requirements of law, rule, or regulation not inconsistent
25 therewith.

26 (3) This subsection shall not:

27 (a) apply if the land use zoning of the lands at the time of
28 proposed acquisition, and the Department of Environmental
29 Protection wastewater, water quality and watershed management
30 rules and regulations and associated requirements and standards
31 applicable to the lands at the time of proposed acquisition, have not
32 changed since November 3, 1998;

33 (b) apply in the case of lands to be acquired with federal moneys
34 in whole or in part;

35 (c) apply in the case of lands to be acquired in accordance with
36 subsection c. of this section;

37 (d) apply to projects funded using constitutionally dedicated
38 moneys appropriated pursuant to the annual appropriations act for
39 State fiscal year 2000 (P.L.1999, c.138); or

40 (e) alter any requirements to disclose information to a
41 landowner pursuant to the "Eminent Domain Act of 1971,"
42 P.L.1971, c.361 (C.20:3-1 et seq.).] (Deleted by amendment,
43 P.L. , c.) (pending before the Legislature as this bill)

44 e. Moneys appropriated from the fund may be used to match
45 grants, contributions, donations, or reimbursements from federal aid
46 programs or from other public or private sources established for the
47 same or similar purposes as the fund.

1 f. Moneys appropriated from the fund shall not be used by
2 local government units or qualifying tax exempt nonprofit
3 organizations to acquire lands that are already permanently
4 preserved for recreation and conservation purposes, as determined
5 by the department.

6 g. Whenever lands are donated to the State by a public utility,
7 as defined pursuant to Title 48 of the Revised Statutes, for
8 recreation and conservation purposes, the commissioner may make
9 and keep the lands accessible to the public, unless the commissioner
10 determines that public accessibility would be detrimental to the
11 lands or any natural resources associated therewith.

12 h. Whenever the State acquires land for recreation and
13 conservation purposes, the agency in the Department of
14 Environmental Protection responsible for administering the land
15 shall, within six months after the date of acquisition, inspect the
16 land for the presence of any buildings or structures thereon which
17 are or may be historic properties and, within 60 days after
18 completion of the inspection, provide to the New Jersey Historic
19 Preservation Office in the department (1) a written notice of its
20 findings, and (2) for any buildings or structures which are or may
21 be historic properties discovered on the land, a request for
22 determination of potential eligibility for inclusion of the historic
23 building or structure in the New Jersey Register of Historic Places.
24 Whenever such a building or structure is discovered, a copy of the
25 written notice provided to the New Jersey Historic Preservation
26 Office shall also be sent to the New Jersey Historic Trust and to the
27 county historical commission or advisory committee, the county
28 historical society, the local historic preservation commission or
29 advisory committee, and the local historical society if any of those
30 entities exist in the county or municipality wherein the land is
31 located.

32 i. [(1) Commencing July 1, 2004 and until five years after the
33 date of enactment of P.L.2001, c.315, when the department, a local
34 government unit, or a qualifying tax exempt nonprofit organization
35 seeks to acquire lands for recreation and conservation purposes
36 using constitutionally dedicated moneys in whole or in part or
37 Green Acres bond act moneys in whole or in part, it shall conduct
38 or cause to be conducted an appraisal or appraisals of the value of
39 the lands that shall be made using the Department of Environmental
40 Protection wastewater, water quality and watershed management
41 rules and regulations and associated requirements and standards
42 applicable to the lands subject to the appraisal (a) in effect at the
43 time of proposed acquisition, and (b) in effect on November 3, 1998
44 as if those rules and regulations and associated requirements and
45 standards are still in effect at the time of proposed acquisition. The
46 higher of those two values shall be utilized by the department, a
47 local government unit, or a qualifying tax exempt nonprofit
48 organization as the basis for negotiation with the landowner with

1 respect to the acquisition price for the lands. The landowner shall
2 be provided with both values determined pursuant to this paragraph.
3 A landowner may waive any of the requirements of this paragraph
4 and may agree to sell the lands for less than the values determined
5 pursuant to this paragraph.

6 (2) The requirements of this subsection shall be in addition to
7 any other requirements of law, rule, or regulation not inconsistent
8 therewith.

9 (3) This subsection shall not:

10 (a) apply if the Department of Environmental Protection
11 wastewater, water quality and watershed management rules and
12 regulations and associated requirements and standards applicable to
13 the lands at the time of proposed acquisition have not changed since
14 November 3, 1998;

15 (b) apply in the case of lands to be acquired with federal moneys
16 in whole or in part;

17 (c) apply in the case of lands to be acquired in accordance with
18 subsection c. of this section; or

19 (d) alter any requirements to disclose information to a
20 landowner pursuant to the "Eminent Domain Act of 1971,"
21 P.L.1971, c.361 (C.20:3-1 et seq.).] (Deleted by amendment,
22 P.L. , c.) (pending before the Legislature as this bill)

23 j. (1) Commencing on the date of enactment of P.L.2004,
24 c.120 (C.13:20-1 et al.) [or July 1, 2004, whichever is later, and
25 through June 30, 2009,] and through June 30, 2014 for lands
26 located in the Highlands Region as defined pursuant to section 3 of
27 P.L.2004, c.120 (C.13:20-3), when the department, a local
28 government unit, or a qualifying tax exempt nonprofit organization
29 seeks to acquire lands for recreation and conservation purposes
30 using constitutionally dedicated moneys in whole or in part or
31 Green Acres bond act moneys in whole or in part, it shall conduct
32 or cause to be conducted an appraisal or appraisals of the value of
33 the lands that shall be made using (a) the land use zoning of the
34 lands, and any State environmental laws or Department of
35 Environmental Protection rules and regulations that may affect the
36 value of the lands, subject to the appraisal and in effect at the time
37 of proposed acquisition, and (b) the land use zoning of the lands,
38 and any State environmental laws or Department of Environmental
39 Protection rules and regulations that may affect the value of the
40 lands, subject to the appraisal and in effect on January 1, 2004. The
41 higher of those two values shall be utilized by the department, a
42 local government unit, or a qualifying tax exempt nonprofit
43 organization as the basis for negotiation with the landowner with
44 respect to the acquisition price for the lands. The landowner shall
45 be provided with both values determined pursuant to this paragraph.
46 A landowner may waive any of the requirements of this
47 paragraph and may agree to sell the lands for less than the values
48 determined pursuant to this paragraph.

1 The provisions of this paragraph shall be applicable only to lands
2 the owner of which at the time of proposed acquisition is the same
3 person who owned the lands on the date of enactment of P.L.2004,
4 c.120 (C.13:20-1 et al.) and who has owned the lands continuously
5 since that enactment date, or is an immediate family member of that
6 person.

7 (2) [A landowner whose lands are subject to the provisions of
8 paragraph (1) of this subsection shall choose to have the lands
9 appraised in accordance with this subsection or in accordance with
10 the provisions of either subsection d. or subsection i. of this section
11 to the extent that the subsection is applicable and has not expired.]
12 (Deleted by amendment, P.L. _____, c. _____) (pending before the
13 Legislature as this bill)

14 (3) The requirements of this subsection shall be in addition to
15 any other requirements of law, rule, or regulation not inconsistent
16 therewith.

17 (4) This subsection shall not:

18 (a) apply in the case of lands to be acquired with federal moneys
19 in whole or in part;

20 (b) [apply in the case of lands to be acquired in accordance with
21 subsection c. of this section] (Deleted by amendment, P.L. _____, c. _____)
22 (pending before the Legislature as this bill) ; or

23 (c) alter any requirements to disclose information to a
24 landowner pursuant to the "Eminent Domain Act of 1971,"
25 P.L.1971, c.361 (C.20:3-1 et seq.).

26 (5) For the purposes of this subsection, "immediate family
27 member" means a spouse, child, parent, sibling, aunt, uncle, niece,
28 nephew, first cousin, grandparent, grandchild, father-in-law,
29 mother-in-law, son-in-law, daughter-in-law, stepparent, stepchild,
30 stepbrother, stepsister, half brother, or half sister, whether the
31 individual is related by blood, marriage, or adoption.

32 k. The department shall adopt guidelines for the evaluation and
33 priority ranking process which shall be used in making decisions
34 concerning the acquisition of lands by the State for recreation and
35 conservation purposes using moneys from the Garden State Green
36 Acres Preservation Trust Fund and from any other source. The
37 guidelines shall be designed to provide, to the maximum extent
38 practicable and feasible, that such moneys are spent equitably
39 among the geographic areas of the State. The guidelines, and any
40 subsequent revisions thereto, shall be published in the New Jersey
41 Register. The adoption of the guidelines or of the revisions thereto,
42 shall not be subject to the requirements of the "Administrative
43 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.).

44 l. In making decisions concerning the acquisition of lands by
45 the State for recreation and conservation purposes using moneys
46 from the Garden State Green Acres Preservation Trust Fund, in the
47 evaluation and priority ranking process the department shall accord
48 three times the weight to acquisitions of lands that would protect

1 water resources, and two times the weight to acquisitions of lands
2 that would protect flood-prone areas, as those criteria are compared
3 to the other criteria in the priority ranking process.

4 m. The department, pursuant to the "Administrative Procedure
5 Act," P.L.1968, c.410 (C.52:14B-1 et seq.), shall adopt rules and
6 regulations that establish standards and requirements regulating any
7 activity on lands acquired by the State for recreation and
8 conservation purposes using constitutionally dedicated moneys to
9 assure that the activity on those lands does not diminish the
10 protection of surface water or groundwater resources.

11 Any rules and regulations adopted pursuant to this subsection
12 shall not apply to activities on lands acquired prior to the adoption
13 of the rules and regulations.

14 n. (1) The department, within three months after the date of the
15 first meeting of the Highland Water Protection and Planning
16 Council established pursuant to section 4 of P.L.2004, c.120
17 (C.13:20-4), shall consult with and solicit recommendations from
18 the council concerning land preservation strategies and acquisition
19 plans in the Highlands Region as defined in section 3 of P.L.2004,
20 c.120 (C.13:20-3).

21 The council's recommendations shall also address strategies and
22 plans concerning establishment by the department of a methodology
23 for prioritizing the acquisition of land in the Highlands preservation
24 area, as defined in section 3 of P.L.2004, c.120 (C.13:20-3), for
25 recreation and conservation purposes using moneys from the
26 Garden State Green Acres Preservation Trust Fund, especially with
27 respect to (a) any land that has declined substantially in value due
28 to the implementation of the "Highlands Water Protection and
29 Planning Act," P.L.2004, c.120 (C.13:20-1 et al.), and (b) any major
30 Highlands development, as defined in section 3 of P.L.2004, c.120
31 (C.13:20-3), that would have qualified for an exemption pursuant to
32 paragraph (3) of subsection a. of section 30 of P.L.2004, c.120
33 (C.13:20-28) but for the lack of a necessary State permit as
34 specified in subparagraph (b) or (c), as appropriate, of paragraph (3)
35 of subsection a. of section 30 of P.L.2004, c.120 (C.13:20-28), and
36 for which an application for such a permit had been submitted to the
37 Department of Environmental Protection and deemed by the
38 department to be complete for review on or before March 29, 2004.
39 The recommendations may also include a listing of specific parcels
40 in the Highlands preservation area that the council is aware of that
41 meet the criteria of subparagraph (a) or (b) of this paragraph and for
42 that reason should be considered by the department as a priority for
43 acquisition, but any such list shall remain confidential
44 notwithstanding any provision of P.L.1963, c.73 (C.47:1A-1 et seq.)
45 or any other law to the contrary.

46 (2) In making decisions concerning applications for funding
47 submitted by municipalities in the Highlands planning area, as
48 defined in section 3 of P.L.2004, c.120 (C.13:20-3), to acquire or

1 develop lands for recreation and conservation purposes using
2 moneys from the Garden State Green Acres Preservation Trust
3 Fund, in the evaluation and priority ranking process the department
4 shall accord a higher weight to any application submitted by a
5 municipality in the Highlands planning area that has amended its
6 development regulations in accordance with section 13 of P.L.2004,
7 c.120 (C.13:20-13) to establish one or more receiving zones for the
8 transfer of development potential from the Highlands preservation
9 area, as defined in section 3 of P.L.2004, c.120 (C.13:20-3), than
10 that which is accorded to comparable applications submitted by
11 other municipalities in the Highlands planning area that have not
12 made such amendments to their development regulations.

13 o. Notwithstanding any provision of P.L.1999, c.152 (C.13:8C-
14 1 et seq.) to the contrary, for State fiscal years 2005 through 2009,
15 the sum spent by the department in each of those fiscal years for the
16 acquisition of lands by the State for recreation and conservation
17 purposes using moneys from the Garden State Green Acres
18 Preservation Trust Fund in each county of the State shall be not
19 less, and may be greater if additional sums become available, than
20 the average annual sum spent by the department therefor in each
21 such county, respectively, for State fiscal years 2002 through 2004,
22 provided there is sufficient and appropriate lands within the county
23 to be so acquired by the State for such purposes.

24 (cf: P.L.2004, c.120, s.53)

25

26 '[2.] 3.' Section 38 of P.L.1999, c.152 (C.13:8C-38) is
27 amended to read as follows:

28 38. a. All acquisitions or grants made pursuant to section 37 of
29 P.L.1999, c.152 (C.13:8C-37) shall be made with respect to
30 farmland devoted to farmland preservation under programs
31 established by law.

32 b. The expenditure and allocation of constitutionally dedicated
33 moneys for farmland preservation purposes shall reflect the
34 geographic diversity of the State to the maximum extent practicable
35 and feasible.

36 c. The committee shall implement the provisions of section 37
37 of P.L.1999, c.152 (C.13:8C-37) in accordance with the procedures
38 and criteria established pursuant to the "Agriculture Retention and
39 Development Act," P.L.1983, c.32 (C.4:1C-11 et seq.) except as
40 provided otherwise by this act.

41 d. The committee shall adopt the same or a substantially
42 similar method for determining, for the purposes of this act, the
43 committee's share of the cost of a development easement on
44 farmland to be acquired by a local government as that which is
45 being used by the committee on the date of enactment of this act for
46 prior farmland preservation funding programs.

47 e. Notwithstanding the provisions of section 24 of P.L.1983,
48 c.32 (C.4:1C-31) or this act, or any rule or regulation adopted

1 pursuant thereto, to the contrary, whenever the value of a
2 development easement on farmland to be acquired using
3 constitutionally dedicated moneys in whole or in part is determined
4 based upon the value of any pinelands development credits
5 allocated to the parcel pursuant to P.L.1979, c.111 (C.13:18A-1 et
6 seq.) and the pinelands comprehensive management plan adopted
7 pursuant thereto, the committee shall determine the value of the
8 development easement by:

9 (1) conducting a sufficient number of fair market value
10 appraisals as it deems appropriate to determine the value for
11 farmland preservation purposes of the pinelands development
12 credits;

13 (2) considering development easement values in counties,
14 municipalities, and other areas (a) reasonably contiguous to, but
15 outside of, the pinelands area, which in the sole opinion of the
16 committee constitute reasonable development easement values in
17 the pinelands area for the purposes of this subsection, and (b) in the
18 pinelands area where pinelands development credits are or may be
19 utilized, which in the sole opinion of the committee constitute
20 reasonable development easement values in the pinelands area for
21 the purposes of this subsection;

22 (3) considering land values in the pinelands regional growth
23 areas;

24 (4) considering the importance of preserving agricultural lands
25 in the pinelands area; and

26 (5) considering such other relevant factors as may be necessary
27 to increase participation in the farmland preservation program by
28 owners of agricultural lands located in the pinelands area.

29 f. No pinelands development credit that is acquired or obtained
30 in connection with the acquisition of a development easement on
31 farmland or fee simple title to farmland by the State, a local
32 government unit, or a qualifying tax exempt nonprofit organization
33 using constitutionally dedicated moneys in whole or in part may be
34 conveyed in any manner. All such pinelands development credits
35 shall be retired permanently.

36 g. [(1) (a) For State fiscal years 2000 through 2004 only, when
37 the committee, a local government unit, or a qualifying tax exempt
38 nonprofit organization seeks to acquire a development easement on
39 farmland or the fee simple title to farmland for farmland
40 preservation purposes using constitutionally dedicated moneys in
41 whole or in part, it shall conduct or cause to be conducted an
42 appraisal or appraisals of the value of the lands that shall be made
43 using the land use zoning of the lands (i) in effect at the time of
44 proposed acquisition, and (ii) in effect on November 3, 1998 as if
45 that land use zoning is still in effect at the time of proposed
46 acquisition. The higher of those two values shall be utilized by the
47 committee, a local government unit, or a qualifying tax exempt
48 nonprofit organization as the basis for negotiation with the

1 landowner with respect to the acquisition price for the lands. The
2 landowner shall be provided with both values determined pursuant
3 to this subparagraph.

4 A landowner may waive any of the requirements of this
5 paragraph and may agree to sell the lands for less than the values
6 determined pursuant to this paragraph.

7 (b) After the date of enactment of P.L.2001, c.315 and through
8 June 30, 2004, in determining the two values required pursuant to
9 subparagraph (a) of this paragraph, the appraisal shall be made
10 using not only the land use zoning but also the Department of
11 Environmental Protection wastewater, water quality and watershed
12 management rules and regulations and associated requirements and
13 standards applicable to the lands subject to the appraisal (i) in effect
14 at the time of proposed acquisition, and (ii) in effect on November
15 3, 1998 as if those rules and regulations and associated
16 requirements and standards are still in effect at the time of proposed
17 acquisition.

18 (2) The requirements of this subsection shall be in addition to
19 any other requirements of law, rule, or regulation not inconsistent
20 therewith.

21 (3) This subsection shall not:

22 (a) apply if the land use zoning of the lands at the time of
23 proposed acquisition, and the Department of Environmental
24 Protection wastewater, water quality and watershed management
25 rules and regulations and associated requirements and standards
26 applicable to the lands at the time of proposed acquisition, have not
27 changed since November 3, 1998;

28 (b) apply in the case of lands to be acquired with federal moneys
29 in whole or in part;

30 (c) apply in the case of lands to be acquired in accordance with
31 subsection e. of this section;

32 (d) apply to projects funded using constitutionally dedicated
33 moneys appropriated pursuant to the annual appropriations act for
34 State fiscal year 2000 (P.L.1999, c.138); or

35 (e) alter any requirements to disclose information to a
36 landowner pursuant to the "Eminent Domain Act of 1971,"
37 P.L.1971, c.361 (C.20:3-1 et seq.). (Deleted by amendment,
38 P.L. , c.) (pending before the Legislature as this bill)

39 h. Any farmland for which a development easement or fee
40 simple title has been acquired pursuant to section 37 of P.L.1999,
41 c.152 (C.13:8C-37) shall be entitled to the benefits conferred by the
42 "Right to Farm Act," P.L.1983, c.31 (C.4:1C-1 et al.) and the
43 "Agriculture Retention and Development Act," P.L.1983, c.32
44 (C.4:1C-11 et al.).

45 i. [(1) Commencing July 1, 2004 and until five years after the
46 date of enactment of P.L.2001, c.315, when the committee, a local
47 government unit, or a qualifying tax exempt nonprofit organization
48 seeks to acquire a development easement on farmland or the fee

1 simple title to farmland for farmland preservation purposes using
2 constitutionally dedicated moneys in whole or in part, it shall
3 conduct or cause to be conducted an appraisal or appraisals of the
4 value of the lands that shall be made using the Department of
5 Environmental Protection wastewater, water quality and watershed
6 management rules and regulations and associated requirements and
7 standards applicable to the lands subject to the appraisal (a) in
8 effect at the time of proposed acquisition, and (b) in effect on
9 November 3, 1998 as if those rules and regulations and associated
10 requirements and standards are still in effect at the time of proposed
11 acquisition. The higher of those two values shall be utilized by the
12 committee, a local government unit, or a qualifying tax exempt
13 nonprofit organization as the basis for negotiation with the
14 landowner with respect to the acquisition price for the lands. The
15 landowner shall be provided with both values determined pursuant
16 to this paragraph. A landowner may waive any of the requirements
17 of this paragraph and may agree to sell the lands for less than the
18 values determined pursuant to this paragraph.

19 (2) The requirements of this subsection shall be in addition to
20 any other requirements of law, rule, or regulation not inconsistent
21 therewith.

22 (3) This subsection shall not:

23 (a) apply if the Department of Environmental Protection
24 wastewater, water quality and watershed management rules and
25 regulations and associated requirements and standards applicable to
26 the lands at the time of proposed acquisition have not changed since
27 November 3, 1998;

28 (b) apply in the case of lands to be acquired with federal moneys
29 in whole or in part;

30 (c) apply in the case of lands to be acquired in accordance with
31 subsection e. of this section; or

32 (d) alter any requirements to disclose information to a
33 landowner pursuant to the "Eminent Domain Act of 1971,"
34 P.L.1971, c.361 (C.20:3-1 et seq.).] (Deleted by amendment,
35 P.L. , c.) (pending before the Legislature as this bill)

36 j. (1) Commencing on the date of enactment of P.L.2004,
37 c.120 (C.13:20-1 et al.) 【or July 1, 2004, whichever is later, and
38 through June 30, 2009,】 and through June 30, 2014 for lands
39 located in the Highlands Region as defined pursuant to section 3 of
40 P.L.2004, c.120 (C.13:20-3), when the committee, a local
41 government unit, or a qualifying tax exempt nonprofit organization
42 seeks to acquire a development easement on farmland or the fee
43 simple title to farmland for farmland preservation purposes using
44 constitutionally dedicated moneys in whole or in part or Green
45 Acres bond act moneys in whole or in part , it shall conduct or
46 cause to be conducted an appraisal or appraisals of the value of the
47 lands that shall be made using (a) the land use zoning of the lands,
48 and any State environmental laws or Department of Environmental

1 Protection rules and regulations that may affect the value of the
2 lands, subject to the appraisal and in effect at the time of proposed
3 acquisition, and (b) the land use zoning of the lands, and any State
4 environmental laws or Department of Environmental Protection
5 rules and regulations that may affect the value of the lands, subject
6 to the appraisal and in effect on January 1, 2004. The higher of
7 those two values shall be utilized by the committee, a local
8 government unit, or a qualifying tax exempt nonprofit organization
9 as the basis for negotiation with the landowner with respect to the
10 acquisition price for the lands. The landowner shall be provided
11 with both values determined pursuant to this paragraph.

12 A landowner may waive any of the requirements of this
13 paragraph and may agree to sell the lands for less than the values
14 determined pursuant to this paragraph.

15 The provisions of this paragraph shall be applicable only to lands
16 the owner of which at the time of proposed acquisition is the same
17 person who owned the lands on the date of enactment of P.L.2004,
18 c.120 (C.13:20-1 et al.) and who has owned the lands continuously
19 since that enactment date, is an immediate family member of that
20 person, or is a farmer as defined by the committee.

21 (2) **[A landowner whose lands are subject to the provisions of**
22 **paragraph (1) of this subsection shall choose to have the lands**
23 **appraised in accordance with this subsection or in accordance with**
24 **the provisions of either subsection g. or subsection i. of this section**
25 **to the extent that the subsection is applicable and has not expired.]**
26 (Deleted by amendment, P.L. , c.) (pending before the
27 Legislature as this bill)

28 (3) The requirements of this subsection shall be in addition to
29 any other requirements of law, rule, or regulation not inconsistent
30 therewith.

31 (4) This subsection shall not:

32 (a) apply in the case of lands to be acquired with federal moneys
33 in whole or in part;

34 (b) **[apply in the case of lands to be acquired in accordance with**
35 **subsection e. of this section]** (Deleted by amendment, P.L. , c.)
36 (pending before the Legislature as this bill) ; or

37 (c) alter any requirements to disclose information to a
38 landowner pursuant to the "Eminent Domain Act of 1971,"
39 P.L.1971, c.361 (C.20:3-1 et seq.).

40 (5) For the purposes of this subsection, "immediate family
41 member" means a spouse, child, parent, sibling, aunt, uncle, niece,
42 nephew, first cousin, grandparent, grandchild, father-in-law,
43 mother-in-law, son-in-law, daughter-in-law, stepparent, stepchild,
44 stepbrother, stepsister, half brother, or half sister, whether the
45 individual is related by blood, marriage, or adoption.

46 k. The committee and the Department of Environmental
47 Protection, pursuant to the "Administrative Procedure Act,"
48 P.L.1968, c.410 (C.52:14B-1 et seq.), shall jointly adopt rules and

1 regulations that establish standards and requirements regulating any
2 improvement on lands acquired by the State for farmland
3 preservation purposes using constitutionally dedicated moneys to
4 assure that any improvement does not diminish the protection of
5 surface water or groundwater resources.

6 Any rules and regulations adopted pursuant to this subsection
7 shall not apply to improvements on lands acquired prior to the
8 adoption of the rules and regulations.

9 1. (1) The committee, within three months after the date of the
10 first meeting of the Highland Water Protection and Planning
11 Council established pursuant to section 4 of P.L.2004, c.120
12 (C.13:20-4), shall consult with and solicit recommendations from
13 the council concerning farmland preservation strategies and
14 acquisition plans in the Highlands Region as defined in section 3 of
15 P.L.2004, c.120 (C.13:20-3).

16 The council's recommendations shall also address strategies and
17 plans concerning establishment by the committee of a methodology
18 for prioritizing the acquisition of development easements and fee
19 simple titles to farmland in the Highlands preservation area, as
20 defined in section 3 of P.L.2004, c.120 (C.13:20-3), for farmland
21 preservation purposes using moneys from the Garden State
22 Farmland Preservation Trust Fund, especially with respect to
23 farmland that has declined substantially in value due to the
24 implementation of the "Highlands Water Protection and Planning
25 Act," P.L.2004, c.120 (C.13:20-1 et al.). The recommendations
26 may also include a listing of specific parcels in the Highlands
27 preservation area that the council is aware of that have experienced
28 a substantial decline in value and for that reason should be
29 considered by the committee as a priority for acquisition, but any
30 such list shall remain confidential notwithstanding any provision of
31 P.L.1963, c.73 (C.47:1A-1 et seq.) or any other law to the contrary.

32 (2) In prioritizing applications for funding submitted by local
33 government units in the Highlands planning area, as defined in
34 section 3 of P.L.2004, c.120 (C.13:20-3), to acquire development
35 easements on farmland in the Highlands planning area using
36 moneys from the Garden State Farmland Preservation Trust Fund,
37 the committee shall accord a higher weight to any application
38 submitted by a local government unit to preserve farmland in a
39 municipality in the Highlands planning area that has amended its
40 development regulations in accordance with section 13 of P.L.2004,
41 c.120 (C.13:20-13) to establish one or more receiving zones for the
42 transfer of development potential from the Highlands preservation
43 area, as defined in section 3 of P.L.2004, c.120 (C.13:20-3), than
44 that which is accorded to comparable applications submitted by
45 other local government units to preserve farmland in municipalities
46 in the Highlands planning area that have not made such
47 amendments to their development regulations.

1 m. Notwithstanding any provision of P.L.1999, c.152
2 (C.13:8C-1 et seq.) to the contrary, for State fiscal years 2005
3 through 2009, the sum spent by the committee in each of those
4 fiscal years for the acquisition by the committee of development
5 easements and fee simple titles to farmland for farmland
6 preservation purposes using moneys from the Garden State
7 Farmland Preservation Trust Fund in each county of the State shall
8 be not less, and may be greater if additional sums become available,
9 than the average annual sum spent by the department therefor in
10 each such county, respectively, for State fiscal years 2002 through
11 2004, provided there is sufficient and appropriate farmland within
12 the county to be so acquired by the committee for such purposes.
13 (cf: P.L.2004, c.120, s.54)

14

15 ~~'[3.]~~ 4. This act shall take effect immediately.

16

17

18

19

20 Extends expiration date of special appraisal process for Green
21 Acres and farmland preservation programs from 2009 to 2014 for
22 lands in Highlands Region.