

[First Reprint]

SENATE, No. 1004

STATE OF NEW JERSEY
214th LEGISLATURE

INTRODUCED FEBRUARY 4, 2010

Sponsored by:

Senator STEVEN V. OROHO

District 24 (Sussex, Hunterdon and Morris)

Senator MICHAEL J. DOHERTY

District 23 (Warren and Hunterdon)

SYNOPSIS

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

CURRENT VERSION OF TEXT

As reported by the Senate Environment and Energy Committee on March 15, 2010, with amendments.



(Sponsorship Updated As Of: 6/22/2010)

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 ¹1. 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
42 titles to farmland, or the preservation of historic properties, as the
43 case may be; the execution of any agreements or franchises deemed
44 by the Department of Environmental Protection, State Agriculture

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:

¹Senate SEN committee amendments adopted March 15, 2010.

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

19 "Department" means the Department of Environmental
20 Protection;

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

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

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

44 "Farmland preservation," "farmland preservation purposes" or
45 "preservation of farmland" means the permanent preservation of
46 farmland to support agricultural or horticultural production as the
47 first priority use of that land;

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

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

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

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

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

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

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

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

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

47 "New Jersey Historic Trust" means the entity established
48 pursuant to section 4 of P.L.1967, c.124 (C.13:1B-15.111);

1 "Notes" means the notes issued by the trust pursuant to this act;

2 "Permitted investments" means any of the following securities;

3 (1) Bonds, debentures, notes or other evidences of indebtedness
4 issued by any agency or instrumentality of the United States to the
5 extent such obligations are guaranteed by the United States or by
6 another such agency the obligations (including guarantees) of which
7 are guaranteed by the United States;

8 (2) Bonds, debentures, notes or other evidences of indebtedness
9 issued by any corporation chartered by the United States, including,
10 but not limited to, Governmental National Mortgage Association,
11 Federal Land Banks, Federal Home Loan Mortgage Corporation,
12 Federal National Mortgage Association, Federal Home Loan Banks,
13 Federal Intermediate Credit Banks, Banks for Cooperatives,
14 Tennessee Valley Authority, United States Postal Service, Farmers
15 Home Administration, Resolution Funding Corporation, Export-
16 Import Bank, Federal Financing Bank and Student Loan Marketing
17 Association;

18 (3) Bonds, debentures, notes or commercial paper rated in the
19 highest two rating categories without regard to rating subcategories
20 (derogation) by all nationally recognized investment rating agencies
21 or by a nationally recognized investment rating agency if rated by
22 only one nationally recognized investment rating agency;

23 (4) Repurchase agreements or investment agreements issued by
24 (i) a commercial bank or trust company or a national banking
25 association, each having a capital stock and surplus of more than
26 \$100,000,000, or (ii) an insurance company with the highest rating
27 provided by a nationally recognized insurance company rating
28 agency, or (iii) a broker/dealer, or (iv) a corporation; provided that
29 the credit of such commercial bank or trust company or national
30 banking association or insurance company or broker/dealer or
31 corporation, as the case may be, is rated (or, in the case of a
32 broker/dealer or corporation, whose obligations thereunder are
33 guaranteed by a commercial bank or trust company or a national
34 banking association or insurance company with the highest rating
35 provided by a nationally recognized insurance company rating
36 agency or corporation whose credit is rated) not lower than the
37 "AA" category without regard to rating subcategories (derogation)
38 of any two nationally recognized investment rating agencies then
39 rating the State; provided that any such agreement shall provide for
40 the investment of funds and shall be collateralized by obligations
41 described in paragraph 1 or paragraph 2 or paragraph 3 above at a
42 level of at least one hundred and two (102) percent in principal
43 amount of those obligations;

44 "Pinelands area" means the pinelands area as defined pursuant to
45 section 3 of P.L.1979, c.111 (C.13:18A-3);

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

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

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

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

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

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

42 "Trust" means the Garden State Preservation Trust established
43 pursuant to section 4 of this act.¹
44 (cf: P.L.2005, c.281, s.1)

45
46 ¹[1.] 2.¹ Section 26 of P.L.1999, c.152 (C.13:8C-26) is
47 amended to read as follows:

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

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

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

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

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

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

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

39 d. [(1) (a) For State fiscal years 2000 through 2004 only, when
40 the department, a local government unit, or a qualifying tax exempt
41 nonprofit organization seeks to acquire lands for recreation and
42 conservation purposes using constitutionally dedicated moneys in
43 whole or in part or Green Acres bond act moneys in whole or in
44 part, it shall conduct or cause to be conducted an appraisal or
45 appraisals of the value of the lands that shall be made using the land
46 use zoning of the lands (i) in effect at the time of proposed
47 acquisition, and (ii) in effect on November 3, 1998 as if that land
48 use zoning is still in effect at the time of proposed acquisition. The

1 higher of those two values shall be utilized by the department, a
2 local government unit, or a qualifying tax exempt nonprofit
3 organization as the basis for negotiation with the landowner with
4 respect to the acquisition price for the lands. The landowner shall
5 be provided with both values determined pursuant to this
6 subparagraph.

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

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

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

24 (3) This subsection shall not:

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

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

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

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

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

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

46 f. Moneys appropriated from the fund shall not be used by
47 local government units or qualifying tax exempt nonprofit
48 organizations to acquire lands that are already permanently

1 preserved for recreation and conservation purposes, as determined
2 by the department.

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

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

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

1 and may agree to sell the lands for less than the values determined
2 pursuant to this paragraph.

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

6 (3) This subsection shall not:

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

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

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

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

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

43 A landowner may waive any of the requirements of this
44 paragraph and may agree to sell the lands for less than the values
45 determined pursuant to this paragraph.

46 The provisions of this paragraph shall be applicable only to lands
47 the owner of which at the time of proposed acquisition is the same
48 person who owned the lands on the date of enactment of P.L.2004,

1 c.120 (C.13:20-1 et al.) and who has owned the lands continuously
2 since that enactment date, or is an immediate family member of that
3 person.

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

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

14 (4) This subsection shall not:

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

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

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

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

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

41 l. In making decisions concerning the acquisition of lands by
42 the State for recreation and conservation purposes using moneys
43 from the Garden State Green Acres Preservation Trust Fund, in the
44 evaluation and priority ranking process the department shall accord
45 three times the weight to acquisitions of lands that would protect
46 water resources, and two times the weight to acquisitions of lands
47 that would protect flood-prone areas, as those criteria are compared
48 to the other criteria in the priority ranking process.

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

8 Any rules and regulations adopted pursuant to this subsection
9 shall not apply to activities on lands acquired prior to the adoption
10 of the rules and regulations.

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

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

43 (2) In making decisions concerning applications for funding
44 submitted by municipalities in the Highlands planning area, as
45 defined in section 3 of P.L.2004, c.120 (C.13:20-3), to acquire or
46 develop lands for recreation and conservation purposes using
47 moneys from the Garden State Green Acres Preservation Trust
48 Fund, in the evaluation and priority ranking process the department

1 shall accord a higher weight to any application submitted by a
2 municipality in the Highlands planning area that has amended its
3 development regulations in accordance with section 13 of P.L.2004,
4 c.120 (C.13:20-13) to establish one or more receiving zones for the
5 transfer of development potential from the Highlands preservation
6 area, as defined in section 3 of P.L.2004, c.120 (C.13:20-3), than
7 that which is accorded to comparable applications submitted by
8 other municipalities in the Highlands planning area that have not
9 made such amendments to their development regulations.

10 o. Notwithstanding any provision of P.L.1999, c.152 (C.13:8C-
11 1 et seq.) to the contrary, for State fiscal years 2005 through 2009,
12 the sum spent by the department in each of those fiscal years for the
13 acquisition of lands by the State for recreation and conservation
14 purposes using moneys from the Garden State Green Acres
15 Preservation Trust Fund in each county of the State shall be not
16 less, and may be greater if additional sums become available, than
17 the average annual sum spent by the department therefor in each
18 such county, respectively, for State fiscal years 2002 through 2004,
19 provided there is sufficient and appropriate lands within the county
20 to be so acquired by the State for such purposes.
21 (cf: P.L.2004, c.120, s.53)

22

23 '[2.] 3.' Section 38 of P.L.1999, c.152 (C.13:8C-38) is
24 amended to read as follows:

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

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

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

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

44 e. Notwithstanding the provisions of section 24 of P.L.1983,
45 c.32 (C.4:1C-31) or this act, or any rule or regulation adopted
46 pursuant thereto, to the contrary, whenever the value of a
47 development easement on farmland to be acquired using
48 constitutionally dedicated moneys in whole or in part is determined

1 based upon the value of any pinelands development credits
2 allocated to the parcel pursuant to P.L.1979, c.111 (C.13:18A-1 et
3 seq.) and the pinelands comprehensive management plan adopted
4 pursuant thereto, the committee shall determine the value of the
5 development easement by:

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

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

19 (3) considering land values in the pinelands regional growth
20 areas;

21 (4) considering the importance of preserving agricultural lands
22 in the pinelands area; and

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

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

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

1 A landowner may waive any of the requirements of this
2 paragraph and may agree to sell the lands for less than the values
3 determined pursuant to this paragraph.

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

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

18 (3) This subsection shall not:

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

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

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

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

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

42 i. **[(1) Commencing July 1, 2004 and until five years after the**
43 **date of enactment of P.L.2001, c.315, when the committee, a local**
44 **government unit, or a qualifying tax exempt nonprofit organization**
45 **seeks to acquire a development easement on farmland or the fee**
46 **simple title to farmland for farmland preservation purposes using**
47 **constitutionally dedicated moneys in whole or in part, it shall**
48 **conduct or cause to be conducted an appraisal or appraisals of the**

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

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

19 (3) This subsection shall not:

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

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

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

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

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

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

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

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

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

28 (4) This subsection shall not:

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

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

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

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

43 k. The committee and the Department of Environmental
44 Protection, pursuant to the "Administrative Procedure Act,"
45 P.L.1968, c.410 (C.52:14B-1 et seq.), shall jointly adopt rules and
46 regulations that establish standards and requirements regulating any
47 improvement on lands acquired by the State for farmland
48 preservation purposes using constitutionally dedicated moneys to

1 assure that any improvement does not diminish the protection of
2 surface water or groundwater resources.

3 Any rules and regulations adopted pursuant to this subsection
4 shall not apply to improvements on lands acquired prior to the
5 adoption of the rules and regulations.

6 1. (1) The committee, within three months after the date of the
7 first meeting of the Highland Water Protection and Planning
8 Council established pursuant to section 4 of P.L.2004, c.120
9 (C.13:20-4), shall consult with and solicit recommendations from
10 the council concerning farmland preservation strategies and
11 acquisition plans in the Highlands Region as defined in section 3 of
12 P.L.2004, c.120 (C.13:20-3).

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

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

45 m. Notwithstanding any provision of P.L.1999, c.152
46 (C.13:8C-1 et seq.) to the contrary, for State fiscal years 2005
47 through 2009, the sum spent by the committee in each of those
48 fiscal years for the acquisition by the committee of development

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1 easements and fee simple titles to farmland for farmland
2 preservation purposes using moneys from the Garden State
3 Farmland Preservation Trust Fund in each county of the State shall
4 be not less, and may be greater if additional sums become available,
5 than the average annual sum spent by the department therefor in
6 each such county, respectively, for State fiscal years 2002 through
7 2004, provided there is sufficient and appropriate farmland within
8 the county to be so acquired by the committee for such purposes.

9 (cf: P.L.2004, c.120, s.54)

10

11 **'[3.] 4.'** This act shall take effect immediately.