

**SENATE, No. 3043**

**STATE OF NEW JERSEY**  
**217th LEGISLATURE**

INTRODUCED FEBRUARY 28, 2017

**Sponsored by:**

**Senator RAYMOND J. LESNIAK**

**District 20 (Union)**

**SYNOPSIS**

Limits “Highlands Water Protection and Planning Act” exemption for certain forestry activities to privately owned lands.

**CURRENT VERSION OF TEXT**

As introduced.



S3043 LESNIAK

2

1 AN ACT concerning certain forestry activities in the Highlands  
2 Region, and amending P.L.2004, c.120.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State  
5 of New Jersey:

6

7 1. Section 30 of P.L.2004, c.120 (C.13:20-28) is amended to  
8 read as follows::

9 30. a. The following are exempt from the provisions of **[this**  
10 **act]** P.L.2004, c.120 (C.13:20-1 et al.) , the regional master plan,  
11 any rules or regulations adopted by the Department of  
12 Environmental Protection pursuant to **[this act]** P.L.2004, c.120  
13 (C.13:20-1 et al.) , or any amendments to a master plan,  
14 development regulations, or other regulations adopted by a local  
15 government unit to specifically conform them with the regional  
16 master plan:

17 (1) the construction of a single family dwelling, for an  
18 individual's own use or the use of an immediate family member, on  
19 a lot owned by the individual on the date of enactment of **[this act]**  
20 P.L.2004, c.120 (C.13:20-1 et al.) or on a lot for which the  
21 individual has on or before May 17, 2004 entered into a binding  
22 contract of sale to purchase that lot;

23 (2) the construction of a single family dwelling on a lot in  
24 existence on the date of enactment of **[this act]** P.L.2004, c.120  
25 (C.13:20-1 et al.) , provided that the construction does not result in  
26 the ultimate disturbance of one acre or more of land or a cumulative  
27 increase in impervious surface by one-quarter acre or more;

28 (3) a major Highlands development that received on or before  
29 March 29, 2004:

30 (a) one of the following approvals pursuant to the "Municipal  
31 Land Use Law," P.L.1975, c.291 (C.40:55D-1 et seq.):

32 (i) preliminary or final site plan approval;

33 (ii) final municipal building or construction permit;

34 (iii) minor subdivision approval where no subsequent site plan  
35 approval is required;

36 (iv) final subdivision approval where no subsequent site plan  
37 approval is required; or

38 (v) preliminary subdivision approval where no subsequent site  
39 plan approval is required; and

40 (b) at least one of the following permits from the Department of  
41 Environmental Protection, if applicable to the proposed major  
42 Highlands development:

43 (i) a permit or certification pursuant to the "Water Supply  
44 Management Act," P.L.1981, c.262 (C.58:1A-1 et seq.);

**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.**

1 (ii) a water extension permit or other approval or authorization  
2 pursuant to the "Safe Drinking Water Act," P.L.1977, c.224  
3 (C.58:12A-1 et seq.);

4 (iii) a certification or other approval or authorization issued  
5 pursuant to the "The Realty Improvement Sewerage and Facilities  
6 Act (1954)," P.L.1954, c.199 (C.58:11-23 et seq.); or

7 (iv) a treatment works approval pursuant to the "Water Pollution  
8 Control Act," P.L.1977, c.74 (C.58:10A-1 et seq.); or

9 (c) one of the following permits from the Department of  
10 Environmental Protection, if applicable to the proposed major  
11 Highlands development, and if the proposed major Highlands  
12 development does not require one of the permits listed in  
13 subparagraphs (i) through (iv) of subparagraph (b) of this  
14 paragraph:

15 (i) a permit or other approval or authorization issued pursuant  
16 to the "Freshwater Wetlands Protection Act," P.L.1987, c.156  
17 (C.13:9B-1 et seq.); or

18 (ii) a permit or other approval or authorization issued pursuant to  
19 the "Flood Hazard Area Control Act," P.L.1962, c.19 (C.58:16A-50  
20 et seq.).

21 The exemption provided in this paragraph shall apply only to the  
22 land area and the scope of the major Highlands development  
23 addressed by the qualifying approvals pursuant to subparagraphs (a)  
24 and (b), or (c) if applicable, of this paragraph, shall expire if any of  
25 those qualifying approvals expire, and shall expire if construction  
26 beyond site preparation does not commence within three years after  
27 the date of enactment of **[this act]** P.L.2004, c.120 (C.13:20-1 et  
28 al.);

29 (4) the reconstruction of any building or structure for any reason  
30 within 125% of the footprint of the lawfully existing impervious  
31 surfaces on the site, provided that the reconstruction does not  
32 increase the lawfully existing impervious surface by one-quarter  
33 acre or more. This exemption shall not apply to the reconstruction  
34 of any agricultural or horticultural building or structure for a non-  
35 agricultural or non-horticultural use;

36 (5) any improvement to a single family dwelling in existence on  
37 the date of enactment of **[this act]** P.L.2004, c.120 (C.13:20-1 et  
38 al.) , including but not limited to an addition, garage, shed,  
39 driveway, porch, deck, patio, swimming pool, or septic system;

40 (6) any improvement, for non-residential purposes, to a place of  
41 worship owned by a nonprofit entity, society or association, or  
42 association organized primarily for religious purposes, or a public  
43 or private school, or a hospital, in existence on the date of  
44 enactment of **[this act]** P.L.2004, c.120 (C.13:20-1 et al.) ,  
45 including but not limited to new structures, an addition to an  
46 existing building or structure, a site improvement, or a sanitary  
47 facility;

- 1 (7) an activity conducted on privately owned lands in  
2 accordance with an approved woodland management plan pursuant  
3 to section 3 of P.L.1964, c.48 (C.54:4-23.3) or a forest stewardship  
4 plan approved pursuant to section 3 of P.L.2009, c.256 (C.13:1L-  
5 31), or the normal harvesting on privately owned lands of forest  
6 products in accordance with a forest management plan or forest  
7 stewardship plan approved by the State Forester;
- 8 (8) the construction or extension of trails with non-impervious  
9 surfaces on publicly owned lands or on privately owned lands  
10 where a conservation or recreational use easement has been  
11 established;
- 12 (9) the routine maintenance and operations, rehabilitation,  
13 preservation, reconstruction, or repair of transportation or  
14 infrastructure systems by a State entity or local government unit,  
15 provided that the activity is consistent with the goals and purposes  
16 of **【this act】** P.L.2004, c.120 (C.13:20-1 et al.) and does not result  
17 in the construction of any new through-capacity travel lanes;
- 18 (10) the construction of transportation safety projects and bicycle  
19 and pedestrian facilities by a State entity or local government unit,  
20 provided that the activity does not result in the construction of any  
21 new through-capacity travel lanes;
- 22 (11) the routine maintenance and operations, rehabilitation,  
23 preservation, reconstruction, repair, or upgrade of public utility  
24 lines, rights of way, or systems, by a public utility, provided that the  
25 activity is consistent with the goals and purposes of **【this act】**  
26 P.L.2004, c.120 (C.13:20-1 et al.);
- 27 (12) the reactivation of rail lines and rail beds existing on the  
28 date of enactment of **【this act】** P.L.2004, c.120 (C.13:20-1 et al.);
- 29 (13) the construction of a public infrastructure project approved  
30 by public referendum prior to January 1, 2005 or a capital project  
31 approved by public referendum prior to January 1, 2005;
- 32 (14) the mining, quarrying, or production of ready mix concrete,  
33 bituminous concrete, or Class B recycling materials occurring or  
34 which are permitted to occur on any mine, mine site, or construction  
35 materials facility existing on June 7, 2004;
- 36 (15) the remediation of any contaminated site pursuant to  
37 P.L.1993, c.139 (C.58:10B-1 et seq.);
- 38 (16) any lands of a federal military installation existing on the  
39 date of enactment of **【this act】** P.L.2004, c.120 (C.13:20-1 et al.)  
40 that lie within the Highlands Region;
- 41 (17) a major Highlands development located within an area  
42 designated as Planning Area 1 (Metropolitan), or Planning Area 2  
43 (Suburban), as designated pursuant to P.L.1985, c.398 (C.52:18A-  
44 196 et seq.) as of March 29, 2004, that on or before March 29, 2004  
45 has been the subject of a settlement agreement and stipulation of  
46 dismissal filed in the Superior Court, or a builder's remedy issued  
47 by the Superior Court, to satisfy the constitutional requirement to  
48 provide for the fulfillment of the fair share obligation of the

1 municipality in which the development is located. The exemption  
2 provided pursuant to this paragraph shall expire if construction  
3 beyond site preparation does not commence within three years after  
4 receiving all final approvals required pursuant to the "Municipal  
5 Land Use Law," P.L.1975, c.291 (C.40:55D-1 et seq.).

6 b. The exemptions provided in subsection a. of this section  
7 shall not be construed to alter or obviate the requirements of any  
8 other applicable State or local laws, rules, regulations, development  
9 regulations, or ordinances.

10 c. Nothing in **【this act】** P.L.2004, c.120 (C.13:20-1 et al.) shall  
11 be construed to alter the funding allocation formulas established  
12 pursuant to the "Garden State Preservation Trust Act," P.L.1999,  
13 c.152 (C.13:8C-1 et seq.).

14 d. Nothing in **【this act】** P.L.2004, c.120 (C.13:20-1 et al.) shall  
15 be construed to repeal, reduce, or otherwise modify the obligation  
16 of counties, municipalities, and other municipal and public agencies  
17 of the State to pay property taxes on lands used for the purpose and  
18 for the protection of a public water supply, without regard to any  
19 buildings or other improvements thereon, pursuant to R.S.54:4-3.3.  
20 (cf: P.L.2009, c.256, s.11)

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22 2. This act shall take effect immediately.

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STATEMENT

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27 The bill would limit the exemption in the "Highlands Water  
28 Protection and Planning Act" for forestry activities conducted in  
29 accordance with an approved woodland management plan or a  
30 forest stewardship plan, or the normal harvesting of forest products  
31 in accordance with a forest management plan or forest stewardship  
32 plan approved by the State Forester, to only apply to such activities  
33 on privately owned lands. Under current law, these activities are  
34 exempt from the provisions of the "Highlands Water Protection and  
35 Planning Act," the regional master plan, any rules or regulations  
36 adopted by the Department of Environmental Protection pursuant  
37 thereto, or any amendments to a master plan, development  
38 regulations, or other regulations adopted by a local government unit  
39 to specifically conform them with the regional master plan. Under  
40 this bill, these activities would only be exempt if they occur on  
41 privately owned lands.