

ASSEMBLY, No. 99

STATE OF NEW JERSEY

Introduced Pending Technical Review by Legislative Counsel

PRE-FILED FOR INTRODUCTION IN THE 1996 SESSION

By Assemblyman ROONEY

1 AN ACT concerning the conveyance of certain lands, providing for
2 certain rights of first refusal thereon, and supplementing Title 13 of
3 the Revised Statutes.

4

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

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8 1. As used in this act:

9 "Commissioner" means the Commissioner of the Department of
10 Environmental Protection.

11 "Convey" means to sell, exchange, or lease.

12 "Landowner" means a watershed landowner or an owner of land
13 described pursuant to section 3 of this act.

14 "Purchase" means to buy, exchange, or lease.

15 "Watershed land" means those lands located above or upstream
16 from a terminal water supply reservoir or surface water intake,
17 including the land surrounding tributaries or feeder streams entering
18 the water supply reservoir.

19 "Watershed landowner" means any county, municipality, county
20 utilities authority, municipal utilities authority, or public utility, or any
21 subsidiary or agency thereof, that owns watershed land.

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23 2. Every watershed landowner who contracts to convey any
24 watershed land, or any interest therein or option thereon, shall
25 transmit, by certified mail, to the Commissioner of Environmental
26 Protection and the governing bodies and park commissions of all
27 counties and municipalities in which the watershed land to be
28 conveyed is located, a written notice that a contract of conveyance has
29 been executed for that watershed land. The notice shall set forth the
30 terms and conditions of the executed contract of conveyance and shall
31 have attached a copy of that contract. The notice shall also include
32 any other information that the commissioner may reasonably require
33 by regulation adopted pursuant to the "Administrative Procedure Act,"
34 P.L.1968, c.410 (C.52:14B-1 et seq.).

1 3. Any owner of land that is zoned by a municipality as or for
2 recreation, conservation, open space, agriculture, wetland, woodland,
3 or parkland, or for any similar purpose; or any owner of at least 25
4 contiguous acres of land located in a county of the first class; or any
5 owner of at least 50 contiguous acres of land located in a county of
6 the second class, who contracts to convey all or any portion of that
7 land, or any interest therein or option thereon, shall transmit, by
8 certified mail, to the commissioner and the governing bodies and park
9 commissions of all counties and municipalities in which the land to be
10 conveyed is located, a written notice that a contract of conveyance has
11 been executed for that land. The notice shall set forth the terms and
12 conditions of the executed contract of conveyance and shall have
13 attached a copy of that contract. The notice shall also include any
14 other information that the commissioner may reasonably require by
15 regulation adopted pursuant to the "Administrative Procedure Act."
16

17 4. a. The commissioner shall have the right of first refusal to
18 purchase any watershed land or any land described pursuant to section
19 3 of this act that is to be conveyed upon substantially similar terms and
20 conditions as those in the contract of conveyance for that land.

21 b. If the commissioner does not exercise that right of first refusal
22 to purchase within 30 days following the date of receipt of the notice
23 of executed contract of conveyance, the governing body of each
24 county in which the watershed land or land described pursuant to
25 section 3 of this act, as the case may be, is located shall have the next
26 such right of first refusal to purchase any such land that is located
27 within its jurisdiction.

28 c. If the governing body of the county in which such land is located
29 does not exercise its right of first refusal to purchase within 30 days
30 following the date of expiration of the commissioner's right of first
31 refusal, the governing body of each municipality in which the
32 watershed land or land described pursuant to section 3 of this act, as
33 the case may be, is located shall have the next such right of first refusal
34 to purchase any such land that is located within its jurisdiction,
35 provided that the governing body of each such municipality exercises
36 that right within 30 days following the date of expiration of the
37 county's right of first refusal.

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39 5. a. In order to exercise its right of first refusal to purchase
40 pursuant to this act, the commissioner, governing body of a county, or
41 governing body of a municipality, as the case may be, shall transmit,
42 by certified mail, to the landowner, a written notice within the
43 applicable 30-day period prescribed in section 4 of this act.

44 If no such notices are transmitted by the commissioner, the
45 governing body of a county, or the governing body of a municipality
46 within the applicable 30-day periods set forth in section 4 of this act,

1 the landowner may convey the watershed land or land described
2 pursuant to section 3 of this act, as the case may be, to the proposed
3 purchaser named in the executed contract of conveyance upon the
4 terms and conditions specified therein, or to the proposed purchaser's
5 assignee as provided in that executed contract of conveyance.

6 b. The fact that watershed land or land described pursuant to
7 section 3 of this act is conveyed in accordance with the requirements
8 of this act to a person other than the State, a county, or a municipality
9 shall not exempt any future conveyance of that land from the
10 requirements of this act if the land continues to qualify as watershed
11 land or as land described pursuant to section 3 of this act.

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13 6. a. A landowner shall convey the watershed land or land
14 described pursuant to section 3 of this act, as the case may be, to the
15 commissioner or to a governing body, as the case may be, upon the
16 exercise of the commissioner's or a governing body's right of first
17 refusal to purchase pursuant to this act, and such conveyance shall not
18 be deemed a breach of the original executed contract of conveyance.

19 b. A landowner may convey the watershed land or land described
20 pursuant to section 3 of this act, as the case may be, to the
21 commissioner or to a governing body, as the case may be, upon the
22 exercise of the commissioner's or a governing body's right of first
23 refusal to purchase pursuant to this act under different terms and
24 conditions, including for less consideration, than as specified in the
25 original executed contract of conveyance, and such conveyance shall
26 not be deemed a breach of the original executed contract of
27 conveyance.

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29 7. If the commissioner, governing body of a county, or governing
30 body of a municipality does not exercise its right of first refusal
31 pursuant to this act, and the landowner has complied with all
32 applicable notice requirements pursuant to this act, the commissioner
33 and each such governing body shall execute a certificate to that effect
34 and stating that the right of first refusal to purchase of the
35 commissioner or the governing body, as the case may be, has not been
36 exercised, or has expired, for that particular conveyance. The
37 landowner shall record all such certificates with the county clerk.
38 Each such certificate shall be conclusive upon the commissioner or the
39 governing body, as the case may be, and the landowner in favor of all
40 persons who rely thereon in good faith.

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42 8. Every landowner shall include notice of the provisions of this act
43 in any contract of conveyance for watershed land or land described
44 pursuant to section 3 of this act, as the case may be.

1 9. Any conveyance or any contract of conveyance made in
2 violation of this act shall be voidable.

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4 10. This act shall not apply to lands subject to the provisions of
5 P.L.1989, c.28 (C.4:1C-38 et al.).

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7 11. Nothing in this act may be construed to limit any authority of
8 the State, the commissioner, any county, or any municipality to acquire
9 any watershed land, land described pursuant to section 3 of this act, or
10 any other lands, or interests therein or options thereon, in any other
11 manner as may be provided by law.

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13 12. This act shall take effect 90 days after enactment.

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16 STATEMENT

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18 This bill would grant to the State, through the Commissioner of
19 Environmental Protection, and to county and municipal governing
20 bodies within their respective jurisdictions, a right of first refusal to
21 purchase, exchange, or lease, as the case may be, (1) any watershed
22 land, or any interest therein or option thereon, that is owned by any
23 county, municipality, county utilities authority, municipal utilities
24 authority, or public utility, or any subsidiary or agency thereof; (2) all
25 or any portion of any tract of land that is zoned by a municipality as or
26 for recreation, conservation, open space, agriculture, wetland,
27 woodland, or parkland, or for any similar purpose; (3) all or any
28 portion of any tract of land in a county of the first class owned by any
29 one person or entity that is at least 25 contiguous acres, or any
30 interest therein or option thereon; and (4) all or any portion of any
31 tract of land in a county of the second class owned by any one person
32 or entity that is at least 50 contiguous acres, or any interest therein or
33 option thereon, that is under contract for sale, exchange, or lease. The
34 bill defines "watershed land" as those lands located above or upstream
35 from a terminal water supply reservoir or surface water intake,
36 including the land surrounding tributaries or feeder streams entering
37 the water supply reservoir.

38 The bill establishes notice requirements for any landowner affected
39 by the act. It also establishes procedures and deadlines that the
40 commissioner and the appropriate county and municipal governing
41 bodies must follow to exercise their respective rights of first refusal.

42 Any conveyance or any contract of conveyance made in violation
43 of the bill would be voidable.

44 Lands subject to the right of first refusal law for certain agricultural
45 lands, i.e., pursuant to P.L.1989, c.28 (C.4:1C-38 et al.), would be
46 exempted from the provisions of the bill.

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3 Establishes State's and local government's right of first refusal

4 regarding conveyances of certain large tracts of land.