

ASSEMBLY, No. 990

STATE OF NEW JERSEY

Introduced Pending Technical Review by Legislative Counsel

PRE-FILED FOR INTRODUCTION IN THE 1996 SESSION

By Assemblymen MORAN and CONNORS

1 AN ACT providing for a deduction from the New Jersey gross income  
2 tax for the value of certain lands donated to the State of New  
3 Jersey and supplementing Title 54A of the New Jersey Statutes.

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

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8 1. This act shall be known and may be cited as the "Open Space  
9 and Environmentally Sensitive Real Property Preservation Act."

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11 2. As used in this act:

12 "Environmentally sensitive real property" means that real property  
13 that supports a unique, diverse, or fragile ecosystem or that is  
14 ecologically significant, and shall include, but not limited to, coastal  
15 and estuary lands and waters, farmland, fresh and saltwater wetlands,  
16 flood plains, stream corridors, aquifer recharge areas, steep slopes, bay  
17 island corridors, forests or other woodlands, and land areas  
18 surrounding enclosed embayments;

19 "Real property" means real property, including improvements  
20 thereon, rights-of-way, water, riparian and other rights, easements,  
21 privileges, and all other rights or interests of any kind or description  
22 in, relating to or connected with real property;

23 "Undeveloped real property" means real property whose land area  
24 contains not more than 2% impervious ground cover.

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26 3. Each taxpayer shall be allowed to deduct from his gross income  
27 an amount equal to the present day fair market value of the interest in  
28 any undeveloped or environmentally sensitive real property that the  
29 taxpayer donates to the State of New Jersey, pursuant to law, for the  
30 purpose of preserving that real property in an undeveloped or natural  
31 state. In order to qualify for the deduction a taxpayer shall present  
32 proof that the real property, or interest therein, donated has been  
33 certified by the Commissioner of Environmental Protection as meeting  
34 the criteria for this deduction.

1       4. The Commissioner of Environmental Protection shall, within 30  
2 days of application on a form prescribed by the commissioner, issue a  
3 certification to any taxpayer who donated to the State of New Jersey,  
4 pursuant to law, any undeveloped or environmentally sensitive real  
5 property, or any interest therein, resulting in the real property being  
6 held in an undeveloped or natural state. The application shall indicate  
7 the appraised fair market value of the real property, or interest therein,  
8 certified by an independent and qualified real estate appraiser. The  
9 amount of the appraisal, if accepted by the commissioner, shall  
10 constitute the amount of the tax deduction. The commissioner shall,  
11 within 60 days of the effective date of this act, adopt rules or  
12 regulations describing real property eligible for the gross income tax  
13 deduction and the method to apply for the certification.

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15       5. If the deduction of the value of the donation of real property, or  
16 interest therein, pursuant to this act would reduce the taxable income  
17 below zero, the amount of the tax deduction remaining after the  
18 taxable income reaches zero may be applied to the taxable income in  
19 the following year or years until the deduction is expended.

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21       6. The Director of the Division of Taxation in the Department of  
22 the Treasury shall, after consultation with the Commissioner of  
23 Environmental Protection, promulgate regulations necessary to carry  
24 out the purposes of this act.

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26       7. Nothing in this act shall be construed to require the State to  
27 accept any real property, or interest therein, offered in donation.

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29       8. This act shall take effect immediately and be retroactive to  
30 January 1, 1989.

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#### STATEMENT

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35       The purpose of this bill is to encourage the donation and thus the  
36 preservation of open space and environmentally sensitive land through  
37 the use of tax incentives.

38       This bill provides taxpayers with a deduction from their gross  
39 income under the New Jersey gross income tax equal to the fair market  
40 value of the interest in undeveloped or environmentally sensitive real  
41 property donated by the taxpayer to the State of New Jersey to be held  
42 in an undeveloped or natural state.

43       The bill provides that the Commissioner of Environmental  
44 Protection will certify that the donation has been made. The amount  
45 of the deduction will be the fair market value of the land based on an  
46 appraisal to be performed by an independent appraiser hired by the

1 taxpayer. The appraisal may be rejected by the commissioner. The bill  
2 further provides that land that may be donated to the State for the tax  
3 deduction must be either environmentally sensitive land, which  
4 includes farmland, as well as open space. Open space cannot contain  
5 over 2% of impervious ground cover. Donations will be made  
6 pursuant to existing State law. The bill does not require the State to  
7 accept any donation of real property.

8 The bill also provides that if the value of the real property would  
9 reduce the taxable income below zero, the excess deduction may be  
10 carried over into future tax years until expended. The Division of  
11 Taxation is given the responsibility to adopt regulations to implement  
12 the tax deduction provisions. This bill would be retroactive to  
13 January 1, 1989.

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18 Provides a gross income tax deduction from the State gross income  
19 tax for donations of certain environmentally sensitive or undeveloped  
20 lands, or an interest therein, to the State of New Jersey.