

[First Reprint]

**ASSEMBLY, No. 4729**

**STATE OF NEW JERSEY**  
**220th LEGISLATURE**

INTRODUCED OCTOBER 11, 2022

**Sponsored by:**

**Assemblyman ALEX SAUICKIE**

**District 12 (Burlington, Middlesex, Monmouth and Ocean)**

**Assemblyman ROY FREIMAN**

**District 16 (Hunterdon, Mercer, Middlesex and Somerset)**

**Assemblyman ROBERT D. CLIFTON**

**District 12 (Burlington, Middlesex, Monmouth and Ocean)**

**Co-Sponsored by:**

**Assemblywomen Dunn, Murphy, McCarthy Patrick, Eulner, Piperno,**

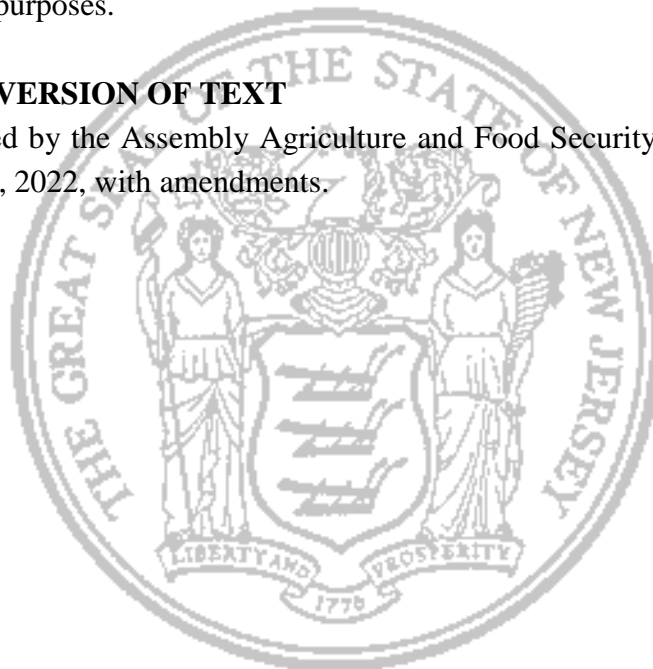
**Assemblymen Space, Wirths and Rooney**

**SYNOPSIS**

Revises method for appraisals of farmland to be acquired for farmland preservation purposes.

**CURRENT VERSION OF TEXT**

As reported by the Assembly Agriculture and Food Security Committee on December 12, 2022, with amendments.



**(Sponsorship Updated As Of: 1/26/2023)**

1 AN ACT concerning the appraisal of farmland for farmland  
2 preservation purposes and amending P.L.1999, c.152 and  
3 P.L.2016, c.12.

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

7  
8 1. Section 38 of P.L.1999, c.152 (C.13:8C-38) is amended to  
9 read as follows:

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

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

18 c. The committee shall implement the provisions of section 37  
19 of P.L.1999, c.152 (C.13:8C-37) in accordance with the procedures  
20 and criteria established pursuant to the "Agriculture Retention and  
21 Development Act," P.L.1983, c.32 (C.4:1C-11 et seq.) except as  
22 provided otherwise by **[this act]** P.L.1999, c.152 (C.13:8C-1 et  
23 seq.).

24 d. The committee shall adopt the same or a substantially  
25 similar method for determining, for the purposes of **[this act]**  
26 P.L.1999, c.152 (C.13:8C-1 et seq.), the committee's share of the  
27 cost of a development easement on farmland to be acquired by a  
28 local government as that which is being used by the committee on  
29 the date of enactment of **[this act]** P.L.1999, c.152 (C.13:8C-1 et  
30 seq.) for prior farmland preservation funding programs.

31 e. Notwithstanding the provisions of section 24 of P.L.1983,  
32 c.32 (C.4:1C-31) or **[this act]** P.L.1999, c.152 (C.13:8C-1 et seq.),  
33 or any rule or regulation adopted pursuant thereto, to the contrary,  
34 whenever the value of a development easement on farmland to be  
35 acquired using constitutionally dedicated moneys in whole or in  
36 part is determined based upon the value of any pinelands  
37 development credits allocated to the parcel pursuant to P.L.1979,  
38 c.111 (C.13:18A-1 et seq.) and the pinelands comprehensive  
39 management plan adopted pursuant thereto, the committee shall  
40 determine the value of the development easement by:

41 (1) conducting a sufficient number of fair market value  
42 appraisals as it deems appropriate to determine the value for  
43 farmland preservation purposes of the pinelands development  
44 credits;

**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:

<sup>1</sup>Assembly AAN committee amendments adopted December 12, 2022.

1 (2) considering development easement values in counties,  
2 municipalities, and other areas (a) reasonably contiguous to, but  
3 outside of, the pinelands area, which in the sole opinion of the  
4 committee constitute reasonable development easement values in  
5 the pinelands area for the purposes of this subsection, and (b) in the  
6 pinelands area where pinelands development credits are or may be  
7 utilized, which in the sole opinion of the committee constitute  
8 reasonable development easement values in the pinelands area for  
9 the purposes of this subsection;

10 (3) considering land values in the pinelands regional growth  
11 areas;

12 (4) considering the importance of preserving agricultural lands  
13 in the pinelands area; and

14 (5) considering such other relevant factors, including the rate of  
15 inflation, as may be necessary to increase participation in the  
16 farmland preservation program by owners of agricultural lands  
17 located in the pinelands area.

18 f. No pinelands development credit that is acquired or obtained  
19 in connection with the acquisition of a development easement on  
20 farmland or fee simple title to farmland by the State, a local  
21 government unit, or a qualifying tax exempt nonprofit organization  
22 using constitutionally dedicated moneys in whole or in part may be  
23 conveyed in any manner. All such pinelands development credits  
24 shall be retired permanently.

25 g. (Deleted by amendment, P.L.2010, c.70)

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

32 i. (Deleted by amendment, P.L.2010, c.70)

33 j. (1) Commencing on the date of enactment of P.L.2004, c.120  
34 (C.13:20-1 et al.) and through June 30, 2024 for lands located in the  
35 Highlands Region as defined pursuant to section 3 of P.L.2004,  
36 c.120 (C.13:20-3), when the committee, a local government unit, or  
37 a qualifying tax exempt nonprofit organization seeks to acquire a  
38 development easement on farmland or the fee simple title to  
39 farmland for farmland preservation purposes using constitutionally  
40 dedicated moneys in whole or in part, Green Acres bond act moneys  
41 in whole or in part, or constitutionally dedicated CBT moneys  
42 pursuant to P.L.2016, c.12 (C.13:8C-43 et seq.) in whole or in part,  
43 it shall conduct or cause to be conducted an appraisal or appraisals  
44 of the value of the lands that shall be made using (a) the land use  
45 zoning of the lands, and any State environmental laws or  
46 Department of Environmental Protection rules and regulations that  
47 may affect the value of the lands, subject to the appraisal and in  
48 effect at the time of proposed acquisition, and (b) the land use

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

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

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

19 (2) (Deleted by amendment, P.L.2010, c.70)

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

23 (4) This subsection shall not:

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

26 (b) (Deleted by amendment, P.L.2010, c.70); or

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

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

36 k. The committee and the Department of Environmental  
37 Protection, pursuant to the "Administrative Procedure Act,"  
38 P.L.1968, c.410 (C.52:14B-1 et seq.), shall jointly adopt rules and  
39 regulations that establish standards and requirements regulating any  
40 improvement on lands acquired by the State for farmland  
41 preservation purposes using constitutionally dedicated moneys to  
42 assure that any improvement does not diminish the protection of  
43 surface water or groundwater resources.

44 Any rules and regulations adopted pursuant to this subsection  
45 shall not apply to improvements on lands acquired prior to the  
46 adoption of the rules and regulations.

47 l. (1) The committee, within three months after the date of the  
48 first meeting of the Highlands Water Protection and Planning

1 Council established pursuant to section 4 of P.L.2004, c.120  
2 (C.13:20-4), shall consult with and solicit recommendations from  
3 the council concerning farmland preservation strategies and  
4 acquisition plans in the Highlands Region as defined in section 3 of  
5 P.L.2004, c.120 (C.13:20-3).

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

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

38 m. Notwithstanding any provision of P.L.1999, c.152 (C.13:8C-  
39 1 et seq.) to the contrary, for State fiscal years 2005 through 2009,  
40 the sum spent by the committee in each of those fiscal years for the  
41 acquisition by the committee of development easements and fee  
42 simple titles to farmland for farmland preservation purposes using  
43 moneys from the Garden State Farmland Preservation Trust Fund in  
44 each county of the State shall be not less, and may be greater if  
45 additional sums become available, than the average annual sum  
46 spent by the department therefor in each such county, respectively,  
47 for State fiscal years 2002 through 2004, provided there is sufficient  
48 and appropriate farmland within the county to be so acquired by the

1 committee for such purposes.  
2 (cf: P.L.2019, c.136, s.9)

3

4 2. Section 8 of P.L.2016, c.12 (C.13:8C-50) is amended to read  
5 as follows:

6 8. a. The State Treasurer shall establish a fund to be known as  
7 the "Preserve New Jersey Farmland Preservation Fund" and shall  
8 deposit all moneys received pursuant to paragraph (3) of subsection  
9 a. of section 5 of P.L.2016, c.12 (C.13:8C-47), paragraph (2) of  
10 subsection a. of section 1 of P.L.2019, c.136 (C.13:8C-47.1), and  
11 any other moneys appropriated by law for deposit into the fund.

12 Moneys in the fund shall be invested in permitted investments or  
13 shall be held in interest-bearing accounts in those depositories as  
14 the State Treasurer may select, and may be invested and reinvested  
15 in permitted investments or as other trust funds in the custody of the  
16 State Treasurer in the manner provided by law. All interest or other  
17 income or earnings derived from the investment or reinvestment of  
18 moneys in the fund shall be credited to the fund.

19 b. (1) The moneys in the fund are specifically dedicated and  
20 shall be used for the same purposes as those set forth in section 37  
21 of P.L.1999, c.152 (C.13:8C-37) and as provided in paragraph (2)  
22 of this subsection.

23 (2) Of the moneys deposited into the Preserve New Jersey  
24 Farmland Preservation Fund: (a) in State fiscal year 2017 through  
25 and including State fiscal year 2019, up to three percent shall be  
26 allocated by the committee on an annual basis for stewardship  
27 activities; and (b) commencing in State fiscal year 2020 and  
28 annually thereafter, up to four percent shall be allocated by the  
29 committee on an annual basis for stewardship activities.

30 (3) Notwithstanding any provision of P.L.2016, c.12 (C.13:8C-  
31 43 et seq.) to the contrary, stewardship activities undertaken on  
32 farmland on which (a) the pinelands development credits have been  
33 acquired pursuant to P.L.1979, c.111 (C.13:18A-1 et seq.), and the  
34 pinelands comprehensive management plan adopted pursuant  
35 thereto, or the development rights have been acquired pursuant to a  
36 transfer of development rights program for the Highlands Region  
37 established pursuant to section 13 of P.L.2004, c.120 (C.13:20-13),  
38 and (b) there is deed restriction approved by the committee, shall be  
39 eligible for funding pursuant to paragraph (2) of this subsection.

40 c. Moneys in the fund shall not be expended except in  
41 accordance with appropriations from the fund made by law. Any  
42 act appropriating moneys from the Preserve New Jersey Farmland  
43 Preservation Fund shall identify any particular project or projects to  
44 be funded by the moneys, and any expenditure for a project for  
45 which the location is not identified by municipality and county in  
46 the appropriation shall require the approval of the Joint Budget  
47 Oversight Committee, or its successor, except as permitted  
48 otherwise in accordance with the same exceptions as those specified

1 in paragraph (2) of subsection b. of section 23 of P.L.1999, c.152  
2 (C.13:8C-23).

3 d. Unexpended moneys due to project withdrawals,  
4 cancellations, or cost savings shall be returned to the fund.

5 e. Notwithstanding the provisions of section 24 of P.L.1983,  
6 c.32 (C.4:1C-31) or section 38 of P.L.1999, c.152 (C.13:8C-38), or  
7 any rule or regulation adopted pursuant thereto, to the contrary,  
8 when the committee, a local government unit, or a qualifying tax  
9 exempt nonprofit organization seeks to acquire a development  
10 easement on farmland using, in whole or in part, monies deposited  
11 into the Preserve New Jersey Farmland Preservation Fund, the value  
12 of the development easement shall be determined by the following:

13 (1) the procedure set forth in section 24 of P.L.1983, c.32  
14 (C.4:1C-31);

15 (2) a value determined in accordance with a formula, to be  
16 known as the "Statewide Farmland Preservation Formula," <sup>1</sup>which  
17 formula is established<sup>1</sup> [adopted by the committee] by rule or  
18 regulation <sup>1</sup>adopted by the committee,<sup>1</sup> pursuant to the  
19 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et  
20 seq.), <sup>1</sup>[that] and<sup>1</sup> includes:

21 (a) conducting a sufficient number of fair market value  
22 appraisals of agricultural lands within the municipality in which the  
23 land is located as the committee deems appropriate to determine the  
24 value of the land for farmland preservation;

25 (b) considering development easement values in counties and  
26 municipalities reasonably contiguous to, but outside of, the  
27 municipality in which the land to be acquired is located, which in  
28 the sole opinion of the committee constitute reasonable  
29 development easement values for the purposes of this subsection;

30 (c) considering the importance of preserving agricultural lands in  
31 the municipality and county in which the land is located;

32 (d) <sup>1</sup>considering the status and value of natural resources in the  
33 municipality and county in which the land is located, and in  
34 counties and municipalities that are reasonably contiguous to, but  
35 outside of, the municipality and county in which the land is located;

36 (e)<sup>1</sup> considering such other relevant factors as may be necessary  
37 to increase participation in the farmland preservation program by  
38 owners of agricultural lands located in <sup>1</sup>the<sup>1</sup> municipality and  
39 county in which the land is located, including, but not limited to,  
40 the rate of inflation, the quality of the agricultural soils, the size of  
41 the agricultural lands to be acquired, and the risk of conversion of  
42 the land from productive agriculture to nonagricultural use; and

43 <sup>1</sup>[(e)] (f)<sup>1</sup> providing additional value for the proximity of  
44 agricultural lands located adjacent to preserved agricultural lands,  
45 lands preserved for recreation and conservation purposes, aquifer  
46 recharge areas, lands subject to development or conservation

1 easements, utility and roadway rights-of-way, military bases, and  
2 airports and associated airspace; and, if applicable,

3 (3) (a) in the case of property located in the pinelands area,  
4 whenever the value of a development easement on farmland to be  
5 acquired is determined based upon the value of any pinelands  
6 development credits allocated to the parcel pursuant to P.L.1979,  
7 c.111 (C.13:18A-1 et seq.) and the pinelands comprehensive  
8 management plan adopted pursuant thereto, the value determined by  
9 the committee pursuant to subsection e. of section 38 of P.L.1999,  
10 c.152 (C.13:8C-38); <sup>1</sup>or<sup>1</sup>

11 (b) in the case of property located in the Highlands Region, the  
12 value determined pursuant to subsection j. of section 38 of  
13 P.L.1999, c.152 (C.13:8C-38)<sup>1</sup> **], if applicable<sup>1</sup>.**

14 The landowner shall be provided with the values determined  
15 pursuant to paragraphs (1) and (2) of this subsection, and if  
16 applicable, the value determined pursuant to paragraph (3) of this  
17 subsection. The higher of the values shall be utilized by the  
18 committee, a local government unit, or a qualifying tax exempt  
19 nonprofit organization as the basis for negotiation with the  
20 landowner with respect to the acquisition price. A landowner may  
21 waive any of the requirements of this subsection and may agree to  
22 sell the lands for less than the values determined pursuant to this  
23 subsection.

24 This subsection shall not apply in the case of lands to be  
25 acquired with federal moneys in whole or in part.

26 (cf: P.L.2019, c.136, s.4)

27

28 3. This act shall take effect immediately.