

ASSEMBLY, No. 4502

STATE OF NEW JERSEY

221st LEGISLATURE

INTRODUCED JUNE 6, 2024

Sponsored by:

Assemblyman ALEX SAUICKIE

District 12 (Burlington, Middlesex, Monmouth and Ocean)

SYNOPSIS

Authorizes State, local, and nonprofit acquisition of fee simple titles to, and development easements on, farmland, in certain cases, for negotiated purchase prices exceeding appraised value thereof.

CURRENT VERSION OF TEXT

As introduced.



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1 AN ACT concerning the acquisition and pricing of fee simple titles
2 to, and development easements on, farmland, supplementing
3 Title 13 of the Revised Statutes, and amending various sections
4 of the statutory law.

5

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

8

9 1. (New section) a. As used in this section:

10 “Appraised value” means the highest dollar amount, determined
11 pursuant to, and using the various valuation methods set forth in,
12 subsection e. of section 8 of P.L.2016, c.12 (C.13:8C-50), which
13 represents the monetary value of a farmland development easement
14 that is proposed to be acquired under the State’s farmland
15 preservation laws, and which amount is to be used as the starting
16 point and basis for further pricing negotiations, between the
17 proposed purchaser and the landowner, regarding the final purchase
18 price to be paid for acquisition of the development easement.

19 “Committee” means the State Agriculture Development
20 Committee established pursuant to section 4 of the “Right to Farm
21 Act,” P.L.1983, c.31 (C.4:1C-4).

22 “Constitutionally dedicated moneys” means any constitutionally
23 dedicated moneys, as defined in section 3 of P.L.1999, c.152
24 (C.13:8C-3), and any constitutionally dedicated CBT moneys, as
25 defined in section 3 of P.L.2016, c.12 (C.13:8C-45).

26 “County agriculture development board” means a county
27 agriculture development board established pursuant to section 7 of
28 P.L.1983, c.32 (C.4:1C-14).

29 “Designated preservation area” means an area of land that is
30 located within the designated boundaries of: the Highlands
31 preservation area, as delineated pursuant to subsection b. of section
32 7 of P.L.2004, c.120 (C.13:20-7); the pinelands preservation area,
33 as delineated pursuant to subsection b. of section 10 of P.L.1979,
34 c.111 (C.13:18A-11); or a municipally approved farmland
35 preservation program area, as delineated pursuant to section 14 of
36 P.L.1983, c.32 (C.4:1C-21).

37 “Farmland preservation laws” means and includes the
38 “Agricultural Retention and Development Act,” P.L.1983, c.32
39 (C.4:1C-11 et al.), the “Garden State Preservation Trust Act,”
40 P.L.1999, c.152 (C.13:8C-1 et seq.), the “Preserve New Jersey
41 Act,” P.L.2016, c.12 (C.13:8C-43 et seq.), any Green Acres bond
42 act, as defined by section 3 of P.L.2016, c.12 (C.13:8C-45), any
43 rules or regulations adopted pursuant thereto, and any other law,
44 rule, or regulation that governs or provides funding for the

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 acquisition, stewardship, maintenance, or transfer of farmland for
2 preservation purposes.

3 “Final, negotiated purchase price” or “negotiated purchase price”
4 means the fixed dollar amount identified in the written terms of a
5 proposed agreement of sale, as negotiated and agreed-to by the
6 parties pursuant to subsection e. of section 8 of P.L.2016, c.12
7 (C.13:8C-50), which dollar amount represents the final, negotiated,
8 and agreed-upon purchase price to be paid, by the purchaser to the
9 landowner, for the acquisition of fee simple title to, or a
10 development easement on, farmland owned thereby.

11 “Hearing board” means the county agriculture development
12 board or subregional agricultural retention board which oversees a
13 hearing conducted pursuant to subsection d. of this section.

14 “Local government unit” means a county, municipality, or other
15 political subdivision of the State, or any agency, authority, or other
16 entity thereof, including, but not limited to, a county agriculture
17 development board or subregional agriculture retention board,
18 which is authorized to acquire fee simple title to, or a development
19 easement on, farmland pursuant to the State’s farmland preservation
20 laws.

21 “Proposed State or nonprofit purchaser” means the committee or
22 a qualifying tax exempt nonprofit organization, which is proposing
23 to acquire fee simple title to, or a development easement on,
24 farmland pursuant to the State’s farmland preservation laws.

25 “Qualifying tax exempt nonprofit organization” means the same
26 as that term is defined in section 3 of P.L.1999, c.152 (C.13:8C-3).

27 “Subregional agricultural retention board” means a subregional
28 agricultural retention board established pursuant to section 10 of
29 P.L.1983, c.32 (C.4:1C-17).

30 b. Except as otherwise provided by this section, whenever the
31 committee, a local government unit, or a qualifying tax exempt
32 nonprofit organization offers to purchase fee simple title to, or a
33 development easement on, farmland pursuant to the State’s
34 farmland preservation laws, the final, negotiated purchase price to
35 be paid for the acquisition of such fee simple title or development
36 easement shall be equal to or less than the appraised value thereof.

37 c. (1) Notwithstanding the provisions of subsection b. of this
38 section or any other law, rule, or regulation to the contrary,
39 whenever a local government unit offers to purchase fee simple title
40 to, or a development easement on, farmland using constitutionally
41 dedicated moneys in whole or in part, the final, negotiated purchase
42 price to be paid thereby, for the acquisition of the fee simple title or
43 development easement, may exceed the appraised value thereof,
44 provided that the governing body of the county in which the
45 relevant farmland is situated has first adopted an ordinance, in
46 compliance with all public hearing and comment requirements
47 applicable thereto, and in conformance with the requirements of
48 paragraph (3) of this subsection, approving of the proposed

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1 acquisition, at such negotiated purchase price, based on the unique
2 characteristics, qualities, or location of the land on which the fee
3 simple title or development easement is to be acquired.

4 (2) Whenever a local government unit offers to purchase fee
5 simple title to, or a development easement on, farmland at a final,
6 negotiated purchase price that exceeds the appraised value thereof,
7 the local government unit, prior to finalizing and executing the
8 negotiated agreement of sale, shall provide a copy of such proposed
9 and negotiated sales agreement to the governing body of the county
10 in which the farmland is situated.

11 (3) Within 30 days after receipt, pursuant to paragraph (2) of
12 this subsection, of a proposed and negotiated agreement of sale
13 relating to the State or local acquisition of fee simple title to, or a
14 development easement on, farmland, the governing body of the
15 county shall review the proposed agreement of sale and adopt an
16 ordinance approving or disapproving of the execution thereof and
17 the acquisition of the fee simple title or development easement at
18 the negotiated purchase price set forth therein. Any such ordinance
19 shall, at a minimum, include the following findings of fact:

20 (a) the location of the land on which the fee simple title or
21 development easement is to be acquired, the local government unit
22 proposing to engage in such acquisition, the reasons why such land
23 is deemed to be suitable for agricultural and horticultural use and
24 purposes, and the location and size of the fee simple title or
25 development easement to be acquired thereon;

26 (b) the appraised value of the fee simple title or development
27 easement to be acquired;

28 (c) the final, negotiated purchase price proposed to be paid for
29 the acquisition of the fee simple title or development easement;

30 (d) the total dollar amount and percentage by which the final,
31 negotiated purchase price of the title or easement, as identified
32 under subparagraph (c) of this paragraph, exceeds the appraised
33 value thereof, as identified under subparagraph (b) of this
34 paragraph; and

35 (e) the unique characteristics, qualities, or location of the land
36 on which the fee simple title or development easement is proposed
37 to be acquired, including, but not limited to, its location within a
38 designated preservation area, which the governing body of the
39 county deems sufficient to justify and warrant the local government
40 unit's acquisition of the fee simple title or development easement,
41 pursuant to the purchase and pricing exception established in
42 paragraph (1) of this subsection, at a final, negotiated purchase
43 price exceeding the appraised value thereof.

44 d. (1) Notwithstanding the provisions of subsection b. of this
45 section or any other law, rule, or regulation to the contrary,
46 whenever the committee or a qualified tax exempt nonprofit
47 organization offers to purchase fee simple title to, or a development
48 easement on, farmland using constitutionally dedicated moneys in

1 whole or in part, the final, negotiated purchase price to be paid for
2 the acquisition of such fee simple title or development easement
3 may exceed the appraised value thereof, provided that the county
4 agriculture development board or subregional agricultural retention
5 board having jurisdiction over the relevant farmland, as appropriate,
6 first holds a hearing on the matter, in compliance with all public
7 hearing and comment requirements applicable thereto.

8 (2) Within 30 days after the conclusion of a hearing conducted
9 pursuant to paragraph (1) of this subsection, the hearing board shall
10 issue a hearing report containing the following information:

11 (a) the location of the land on which the fee simple title or
12 development easement is to be acquired, the name of the proposed
13 State or nonprofit purchaser, the basis upon which such land is
14 deemed to be suitable for agricultural and horticultural use and
15 purposes, and the location and size of the fee simple title or
16 development easement to be acquired thereon;

17 (b) the appraised value of the fee simple title or development
18 easement to be acquired;

19 (c) the final, negotiated purchase price proposed to be paid for
20 the acquisition of the fee simple title or development easement;

21 (d) the total dollar amount and percentage by which the final,
22 negotiated purchase price of the title or easement, as identified
23 under subparagraph (c) of this paragraph, exceeds the appraised
24 value thereof, as identified under subparagraph (b) of this
25 paragraph; and

26 (e) the unique characteristics, qualities, or location of the land,
27 including, but not limited to, its location within a designated
28 preservation area, which have been cited by the proposed State or
29 nonprofit purchaser, and by other members of the public, as
30 sufficient basis upon which to justify and warrant the committee's
31 or nonprofit's acquisition of the fee simple title or development
32 easement, pursuant to the purchase and pricing exception
33 established in paragraph (1) of this subsection, at a final, negotiated
34 purchase price exceeding the appraised value thereof.

35 (3) At the conclusion of the requisite hearing, conducted
36 pursuant to paragraph (1) of this subsection, the proposed State or
37 nonprofit purchaser shall be immediately and statutorily authorized,
38 pursuant to the purchase and pricing exception established in
39 paragraph (1) of this subsection, to execute a finalized agreement of
40 sale effectuating the acquisition, thereby, of such title or easement
41 at a purchase price exceeding the appraised value thereof. The
42 authorization provided by this paragraph shall be applicable,
43 regardless of whether the hearing board has issued its findings of
44 facts on the matter, as required by paragraph (2) of this subsection.

45 (4) Within 30 days after the execution of a final, negotiated
46 sales agreement pursuant to paragraph (3) of this subsection, the
47 State or nonprofit purchaser shall provide a copy of the signed

1 agreement of sale to the governing body of the county in which the
2 farmland is situated.

3 (5) Nothing in this section shall be deemed to require a
4 proposed State or nonprofit purchaser to obtain the approval of a
5 hearing board, or the approval of the governing body of the county,
6 in order to finalize and execute an agreement of sale as authorized
7 pursuant to paragraph (3) of this subsection.

8
9 2. Section 24 of P.L.1983, c.32 (C.4:1C-31) is amended to read
10 as follows:

11 24. a. Any landowner applying to the board to sell a
12 development easement pursuant to section 17 of P.L.1983, c.32
13 (C.4:1C-24) shall offer to sell the development easement at a price
14 which, in the opinion of the landowner, represents a fair value of
15 the development potential of the land for nonagricultural purposes,
16 as determined in accordance with the provisions of the "Right to
17 Farm Act," P.L.1983, c.32 (C.4:1C-1 et seq.).

18 b. Any offer shall be reviewed and evaluated by the board and
19 the committee in order to determine the suitability of the land for
20 development easement purchase. Decisions regarding suitability
21 shall be based on the following criteria:

22 (1) Priority consideration shall be given, in any one county, to
23 offers with higher numerical values obtained by applying the
24 following formula:

$$\begin{array}{r}
25 \quad \text{nonagricultural} - \text{agricultural} - \text{landowner's} \\
26 \quad \text{developmental value} \quad \text{value} \quad \text{asking price} \\
27 \quad \text{-----} \\
28 \quad \quad \text{nonagricultural} - \text{agricultural} \\
29 \quad \quad \text{development value} \quad \text{value}
\end{array}$$

30 (2) The degree to which the purchase would encourage the
31 survivability of the municipally approved program in productive
32 agriculture; and

33 (3) The degree of imminence of change of the land from
34 productive agriculture to nonagricultural use.

35 The board and the committee shall reject any offer for the sale of
36 development easements which is unsuitable according to the above
37 criteria and which has not been approved by the board and the
38 municipality.

39 c. (1) Two independent appraisals paid for by the board shall
40 be conducted for each parcel of land so offered and deemed
41 suitable. The appraisals shall be conducted by independent,
42 professional appraisers selected by the board and the committee
43 from among members of recognized organizations of real estate
44 appraisers. The appraisals shall determine the current overall value
45 of the parcel for nonagricultural purposes, as well as the current
46 market value of the parcel for agricultural purposes. The difference
47 between the two values shall represent an appraisal of the value of
48 the development easement.

1 (2) If Burlington County or a municipality therein has
2 established a development transfer bank pursuant to the provisions
3 of P.L.1989, c.86 (C.40:55D-113 et seq.) or if any county or any
4 municipality in any county has established a development transfer
5 bank pursuant to section 22 of P.L.2004, c.2 (C.40:55D-158) or the
6 Highlands Water Protection and Planning Council has established a
7 development transfer bank pursuant to section 13 of P.L.2004,
8 c.120 (C.13:20-13), the municipal average of the value of the
9 development potential of property in a sending zone established by
10 the bank may be the value used by the board in determining the
11 value of the development easement.

12 (3) If a development easement is purchased using moneys
13 appropriated from the fund, the State shall provide no more than
14 80[%] percent, except 100[%] percent may be provided under
15 emergency conditions specified by the committee pursuant to rules
16 or regulations, of the cost of the appraisals conducted pursuant to
17 this section. The funding limits established pursuant to this
18 subsection shall be applicable, regardless of whether the governing
19 body of the county adopts an ordinance, pursuant to subsection c. of
20 section 1 of P.L. , c. (C.) (pending before the Legislature
21 as this bill), authorizing the acquisition of the development
22 easement at a final, negotiated purchase price that exceeds the
23 appraised value thereof.

24 d. Upon receiving the results of the appraisals, or in Burlington
25 county or a municipality therein or elsewhere where a municipal
26 average has been established under subsection c. of this section,
27 upon receiving an application from the landowners, the board and
28 the committee shall compare the appraised value, or the municipal
29 average, as the case may be, and the landowner's offer and, pursuant
30 to the suitability criteria established in subsection b. of this section:

31 (1) Approve the application to sell the development easement
32 and rank the application in accordance with the criteria established
33 in subsection b. of this section; or

34 (2) Disapprove the application, stating the reasons therefor.

35 e. Upon approval by the committee and the board, the secretary
36 is authorized to provide the board, within the limits of funds
37 appropriated therefor, an amount equal to no more than 80[%]
38 percent, except 100[%] percent may be provided under emergency
39 conditions specified by the committee pursuant to rules or
40 regulations, of the purchase price of the development easement, as
41 determined pursuant to the provisions of this section. The board
42 shall provide its required share and accept the landowner's offer to
43 sell the development easement. The acceptance shall cite the
44 specific terms, contingencies and conditions of the purchase.

45 f. The landowner shall accept or reject the offer within 30 days
46 of receipt thereof. Any offer not accepted within that time shall be
47 deemed rejected.

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1 g. Any landowner whose application to sell a development
2 easement has been rejected for any reason other than insufficient
3 funds may not reapply to sell a development easement on the same
4 land within two years of the original application.

5 h. **[No development easement shall be purchased at a price**
6 **greater than the appraised value determined pursuant to subsection**
7 **c. of this section or the municipal average, as the case may be.]**
8 (Deleted by amendment, P.L. _____, c. _____ (pending before the
9 Legislature as this bill)

10 i. The appraisals conducted pursuant to this section **[or], and**
11 the fair market value of land restricted to agricultural use, as
12 determined pursuant to this section, shall not be used to increase the
13 assessment and taxation of agricultural land pursuant to the
14 "Farmland Assessment Act of 1964," P.L.1964, c.48 (C.54:4-23.1 et
15 seq.).

16 j. (1) In determining the suitability of land for development
17 easement purchase, the board and the committee may also include
18 as additional factors for consideration the presence of a historic
19 building or structure on the land and the willingness of the
20 landowner to preserve that building or structure, but only if the
21 committee first adopts, pursuant to the "Administrative Procedure
22 Act," P.L.1968, c.410 (C.52:14B-1 et seq.), rules and regulations
23 implementing this subsection. The committee may, by rule or
24 regulation adopted pursuant to the "Administrative Procedure Act,"
25 assign any such weight it deems appropriate to be given to these
26 factors.

27 (2) The provisions of paragraph (1) of this subsection may also
28 be applied in determining the suitability of land for fee simple
29 purchase for farmland preservation purposes as authorized by
30 P.L.1983, c.31 (C.4:1C-1 et seq.), P.L.1983, c.32 (C.4:1C-11 et
31 seq.), and P.L.1999, c.152 (C.13:8C-1 et seq.).

32 (3) (a) For the purposes of paragraph (1) of this subsection:
33 "historic building or structure" means the same as that term is
34 defined pursuant to subsection c. of section 2 of P.L.2001, c.405
35 (C.13:8C-40.2).

36 (b) For the purposes of paragraph (2) of this subsection,
37 "historic building or structure" means the same as that term is
38 defined pursuant to subsection c. of section 1 of P.L.2001, c.405
39 (C.13:8C-40.1).

40 (cf: P.L.2004, c.120, s.44)

41

42 3. Section 1 of P.L.1999, c.180 (C.4:1C-43.1) is amended to
43 read as follows:

44 1. a. There is established in the State Agriculture Development
45 Committee a farmland preservation planning incentive grant
46 program, the purpose of which shall be to provide grants to eligible
47 counties and municipalities for farmland preservation purposes as
48 authorized pursuant to this **[act] section.**

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1 b. To be eligible to apply for a grant, a county or municipality
2 shall:

3 (1) Identify project areas of multiple farms that are reasonably
4 contiguous and located in an agriculture development area
5 authorized pursuant to the "Agriculture Retention and Development
6 Act," P.L.1983, c.32 (C.4:1C-11 et seq.);

7 (2) Establish an agricultural advisory committee. In the case of
8 a county, the county agriculture development board shall serve this
9 function. In the case of a municipality, members of a municipal
10 agricultural advisory committee shall be appointed by the mayor
11 with the consent of the municipal governing body, and the
12 committee shall report to the municipal planning board. A
13 municipal agricultural advisory committee shall be composed of at
14 least three, but not more than five, members who shall be residents
15 of the municipality, with a majority of the members actively
16 engaged in farming and owning a portion of the land they farm. For
17 the purposes of this paragraph, "mayor" shall mean the same as that
18 term is defined pursuant to section 3.2 of P.L.1975, c.291
19 (C.40:55D-5);

20 (3) Establish and maintain a dedicated source of funding for
21 farmland preservation pursuant to P.L.1997, c.24 (C.40:12-15.1 et
22 seq.), or an alternative means of funding for farmland preservation,
23 such as, but not limited to, repeated annual appropriations or
24 repeated issuance of bonded indebtedness, which the State
25 Agriculture Development Committee deems to be, in effect, a
26 dedicated source of funding because of a demonstrated commitment
27 on the part of the county or municipality; and

28 (4) In the case of a municipality, prepare a farmland
29 preservation plan element pursuant to paragraph (13) of section 19
30 of P.L.1975, c.291 (C.40:55D-28) in consultation with the
31 agriculture advisory committee established pursuant to paragraph
32 (2) of this subsection.

33 c. In the event a municipality is seeking funding from the
34 county toward the purchase of development easements, the
35 municipality shall submit an application to the county agriculture
36 development board. In all other cases, a municipality shall submit
37 its application directly to the State Agriculture Development
38 Committee.

39 d. A municipality, in submitting an application to the county
40 agriculture development board or the State Agriculture
41 Development Committee as appropriate, or a county, in submitting
42 an application to the State Agriculture Development Committee,
43 shall outline a multi-year plan for the purchase of multiple farms in
44 a project area and indicate its annual share of the estimated
45 purchase price. The municipality, in order to enhance its
46 application, may submit its proposal jointly with one or more
47 contiguous municipalities if the submission would result in the
48 preservation of a significant area of reasonably contiguous

1 farmland. The application shall include, in the case of a
2 municipality, a copy of the farmland preservation plan element
3 prepared pursuant to paragraph (13) of section 19 of P.L.1975,
4 c.291 (C.40:55D-28); an estimate of the cost of purchasing
5 development easements on all of the farms in a designated project
6 area, to be determined in consultation with the county agriculture
7 development board or through an appraisal for the entire project
8 area; and an inventory showing the characteristics of each farm in
9 the project area which may include, but need not be limited to, size,
10 soils and agricultural use.

11 e. The State Agriculture Development Committee shall make
12 decisions regarding suitability for funding of development easement
13 purchases for planning incentive grants based on whether the
14 project area provides an opportunity to preserve a significant area of
15 reasonably contiguous farmland that will promote the long term
16 viability of agriculture as an industry in the municipality or county.
17 After the State Agriculture Development Committee has given
18 approval to an application, the municipality or county shall submit
19 two appraisals for each parcel for which funding is requested. The
20 appraisals shall be conducted pursuant to the provisions of section
21 24 of P.L.1983, c.32 (C.4:1C-31). Approved funding shall be
22 allocated by the municipality, the county and the State to each
23 parcel in the project area under an agreement that commits each
24 level of government to a specific payment in each of the years
25 included in the plan for purchase. Nothing in this **act** section
26 shall be construed to require that any parcel in a project area receive
27 a price per acre that is the same as any other parcel in that project
28 area or that any parcel must be purchased with installment payments
29 because other parcels in the project area are so purchased.

30 f. **Purchases** (1) The county or municipal acquisition of a
31 development easement on farmland, as authorized
32 pursuant to this act section, shall be made with effectuated
33 only upon the approval of both the State Agriculture Development
34 Committee and the municipality, and, in the event that county
35 funds are provided used for such purposes, with upon the
36 approval of the county agriculture development board.

37 (2) In addition to the ordinary approvals required pursuant to
38 paragraph (1) of this subsection, the county or municipal acquisition
39 of a development easement, in any case where the negotiated
40 purchase price exceeds the appraised value thereof, shall be
41 effectuated only upon the county governing body's adoption of an
42 ordinance, pursuant to section 1 of P.L. , c. (C.) (pending
43 before the Legislature as this bill), approving of such acquisition.

44 g. If a county does not provide funding toward the purchase of
45 the development easement, the State Agriculture Development
46 Committee shall hold title to the development easement.

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1 h. The State Agriculture Development Committee shall adopt,
2 pursuant to the "Administrative Procedure Act," P.L.1968, c.410
3 (C.52:14B-1 et seq.), such rules and regulations as may be
4 necessary to implement this **act** section, and shall establish
5 ranking and funding criteria separately from, but similar to, those
6 used in the program established pursuant to P.L.1983, c.32 (C.4:1C-
7 11 et seq.), except that ranking and funding criteria shall be applied
8 to the project area as a whole and not to individual parcels, and
9 priority shall be given to those applications that utilize option
10 agreements, installment purchases, donations, and other methods for
11 the purpose of leveraging monies made available by P.L.1999,
12 c.152 (C.13:8C-1 et al.).
13 (cf: P.L.1999, c.180, s.1)

14
15 4. Section 39 of P.L.1999, c.152 (C.13:8C-39) is amended to
16 read as follows:

17 13:8C-39 Grant to qualifying tax exempt nonprofit organization for
18 farmland.

19 39. a. The committee may provide a grant to a qualifying tax
20 exempt nonprofit organization for up to 50**[%]** percent of the cost
21 of acquisition of (1) a development easement on farmland, provided
22 that the terms of any such development easement shall be approved
23 by the committee, or (2) fee simple title to farmland, which shall be
24 offered for resale or lease with an agricultural deed restriction, as
25 determined by the committee, and any proceeds received from a
26 resale shall be dedicated for farmland preservation purposes and the
27 State's pro rata share of any such proceeds shall be deposited in the
28 Garden State Farmland Preservation Trust Fund to be used for the
29 purposes of that fund.

30 b. The value of a development easement or fee simple title
31 shall be established by two appraisals conducted on each parcel and
32 certified by the committee. The appraisals shall be conducted by
33 independent professional appraisers selected by the qualifying tax
34 exempt nonprofit organization and approved by the committee from
35 among members of recognized organizations of real estate
36 appraisers.

37 c. The appraisals shall determine the fair market value of the
38 fee simple title to the parcel, as well as the fair market value of the
39 parcel for agricultural purposes. The difference between the two
40 values shall represent an appraisal of the value of the parcel for
41 nonagricultural purposes, which shall be the value of the
42 development easement.

43 d. Any grant provided to a qualifying tax exempt nonprofit
44 organization pursuant to this section shall not exceed 50**[%]**
45 percent of the appraised value of the development easement, or of
46 the fee simple title in the case of fee simple acquisitions, as
47 determined pursuant to subsection e. of section 8 of P.L.2016, c.12
48 (C.13:8C-50), plus up to 50**[%]** percent of any costs incurred,

1 including, but not limited to, the costs of surveys, appraisals, and
2 title insurance. The funding limits established pursuant to this
3 subsection shall be applicable regardless of whether the qualifying
4 tax exempt nonprofit organization proposes and is authorized,
5 pursuant to the statutory qualification procedures set forth in
6 subsection d. of section 1 of P.L. , c. (C.) (pending before
7 the Legislature as this bill), to acquire the fee simple title or the
8 development easement, as the case may be, at a final, negotiated
9 purchase price that exceeds the appraised value thereof.

10 e. The appraisals conducted pursuant to this section **[or]**, and
11 the fair market value of land restricted to agricultural use, as
12 determined pursuant to this section, shall not be used to increase the
13 assessment and taxation of agricultural land pursuant to the
14 "Farmland Assessment Act of 1964," P.L.1964, c.48 (C.54:4-23.1 et
15 seq.).

16 f. To qualify to receive a grant pursuant to this section, the
17 applicant shall:

18 (1) demonstrate that it has the resources to match the grant
19 requested; and

20 (2) in the case of the acquisition of a development easement,
21 agree not to convey the development easement except to the federal
22 government, the State, a local government unit, or another
23 qualifying tax exempt nonprofit organization, for farmland
24 preservation purposes.

25 g. (1) In deciding whether to award a grant to a qualifying tax
26 exempt nonprofit organization pursuant to this section, the
27 committee may also include as additional factors for consideration
28 the presence of a historic building or structure on the land and the
29 willingness of the landowner to preserve that building or structure,
30 but only if the committee first adopts, pursuant to the
31 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
32 seq.), rules and regulations implementing this subsection. The
33 committee may, by rule or regulation adopted pursuant to the
34 "Administrative Procedure Act," assign any such weight it deems
35 appropriate to be given to these factors.

36 (2) For the purposes of this subsection: "historic building or
37 structure," in the context of the grant program for qualifying tax
38 exempt nonprofit organizations to acquire development easements
39 on farmland for farmland preservation purposes, means the same as
40 that term is defined pursuant to subsection c. of section 2 of
41 P.L.2001, c.405 (C.13:8C-40.2); and "historic building or
42 structure," in the context of the grant program for qualifying tax
43 exempt nonprofit organizations to acquire fee simple titles to
44 farmland for farmland preservation purposes, means the same as
45 that term is defined pursuant to subsection c. of section 1 of
46 P.L.2001, c.405 (C.13:8C-40.1).

47 (cf: P.L.2001, c.405, s.5)

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

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

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

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

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

27 (3) Notwithstanding any provision of P.L.2016, c.12 (C.13:8C-
28 43 et seq.) to the contrary, stewardship activities undertaken on
29 farmland on which (a) the pinelands development credits have been
30 acquired pursuant to P.L.1979, c.111 (C.13:18A-1 et seq.), and the
31 pinelands comprehensive management plan adopted pursuant
32 thereto, or the development rights have been acquired pursuant to a
33 transfer of development rights program for the Highlands Region
34 established pursuant to section 13 of P.L.2004, c.120 (C.13:20-13),
35 and (b) there is deed restriction approved by the committee, shall be
36 eligible for funding pursuant to paragraph (2) of this subsection.

37 c. Moneys in the fund shall not be expended except in
38 accordance with appropriations from the fund made by law. Any
39 act appropriating moneys from the Preserve New Jersey Farmland
40 Preservation Fund shall identify any particular project or projects to
41 be funded by the moneys, and any expenditure for a project for
42 which the location is not identified by municipality and county in
43 the appropriation shall require the approval of the Joint Budget
44 Oversight Committee, or its successor, except as permitted
45 otherwise in accordance with the same exceptions as those specified
46 in paragraph (2) of subsection b. of section 23 of P.L.1999, c.152
47 (C.13:8C-23).

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

3 e. **【Notwithstanding】** Except as otherwise provided by section
4 1 of P.L. , c. (C.) (pending before the Legislature as this
5 bill), and 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】** whenever the committee, a local government unit, or a
9 qualifying tax exempt nonprofit organization seeks to acquire a
10 development easement on, or fee simple title to, farmland using, in
11 whole or in part, monies deposited into the Preserve New Jersey
12 Farmland Preservation Fund, the Garden State Farmland
13 Preservation Trust Fund established pursuant to section 20 of
14 P.L.1999, c.152 (C.13:8C-20), or any other State monies provided
15 for farmland preservation purposes, the value of the development
16 easement, or fee simple title, as applicable, shall be **【determined by**
17 **the following】**:

18 (1) the value determined in accordance with the procedure set
19 forth in section 24 of P.L.1983, c.32 (C.4:1C-31) or in accordance
20 with the procedure set forth in section 39 of P.L.1999, c.152
21 (C.13:8C-39), as appropriate;

22 (2) **【a】** the value determined in accordance with a formula, to be
23 known as the "Statewide Farmland Preservation Formula," which
24 formula is established by rule or regulation adopted by the
25 committee, pursuant to subsection f. of this section, and includes:

26 (a) conducting or analyzing a sufficient number of fair market
27 value appraisals of agricultural lands within the municipality in
28 which the land is located, or the surrounding market area, or both,
29 as the committee deems appropriate to determine the value of the
30 land for farmland preservation;

31 (b) considering farmland and development easement values in
32 counties and municipalities reasonably contiguous to, but outside
33 of, the municipality in which the land to be acquired is located,
34 which in the sole opinion of the committee constitute reasonable
35 farmland and development easement values for the purposes of this
36 subsection;

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

39 (d) considering the status and value of natural resources in the
40 municipality and county in which the land is located, and in
41 counties and municipalities that are reasonably contiguous to, but
42 outside of, the municipality and county in which the land is located;

43 (e) considering such other relevant factors as may be necessary
44 to increase participation in the farmland preservation program by
45 owners of agricultural lands located in the municipality and county
46 in which the land is located, including, but not limited to, the rate of
47 inflation, the quality of the agricultural soils, the size of the

1 agricultural lands to be acquired, and the risk of conversion of the
2 land from productive agriculture to nonagricultural use; and

3 (f) providing additional value for the proximity of agricultural
4 lands located adjacent to preserved agricultural lands, lands
5 preserved for recreation and conservation purposes, aquifer
6 recharge areas, lands subject to development or conservation
7 easements, and lands whose conversion to nonagricultural use
8 would lead to conflicting land uses, including, but not limited to,
9 utility and roadway rights-of-way, military bases, and airports and
10 associated airspace; and, if applicable,

11 (3) (a) in the case of property located in the pinelands area, and
12 whenever the value of **【a】** the fee simple title or development
13 easement **【on farmland】** that is proposed to be acquired is
14 determined based upon the value of **【any】** pinelands development
15 credits that have been allocated to the parcel, pursuant to P.L.1979,
16 c.111 (C.13:18A-1 et seq.) and the pinelands comprehensive
17 management plan adopted pursuant thereto, the value determined by
18 the committee pursuant to subsection e. of section 38 of P.L.1999,
19 c.152 (C.13:8C-38); or

20 (b) in the case of property located in the Highlands Region, the
21 value determined pursuant to subsection j. of section 38 of
22 P.L.1999, c.152 (C.13:8C-38).

23 The landowner shall be provided with the values determined
24 pursuant to paragraphs (1) and (2) of this subsection, and if
25 applicable, the value determined pursuant to paragraph (3) of this
26 subsection. The higher of the values shall be utilized by the
27 committee, a local government unit, or a qualifying tax exempt
28 nonprofit organization as the basis for negotiation with the
29 landowner with respect to the acquisition price. A landowner may
30 waive any of the requirements of this subsection and may agree to
31 sell the lands for less than the values determined pursuant to this
32 subsection.

33 f. Notwithstanding the provisions of the "Administrative
34 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) to the
35 contrary, the committee shall, immediately upon filing proper
36 notice with the Office of Administrative Law, adopt rules and
37 regulations to establish the "Statewide Farmland Preservation
38 Formula" required pursuant to paragraph (2) of subsection e. of this
39 section. The rules and regulations adopted pursuant to this
40 subsection shall be in effect for a period not to exceed three years
41 after the date of the filing. These rules and regulations shall
42 thereafter be adopted, amended, or readopted by the committee in
43 accordance with the requirements of the "Administrative Procedure
44 Act," P.L.1968, c.410 (C.52:14B-1 et seq.).

45 (cf: P.L.2023, c.245, s.2)

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47 6. This act shall take effect immediately.

STATEMENT

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This bill would establish certain limited purchase and pricing exemptions within the context of the State’s existing farmland preservation laws.

As a general rule, and as clarified in the bill, any farmland development easement that is proposed to be acquired by the State Agriculture Development Committee (SADC), or by a local government unit or qualifying tax exempt nonprofit organization, for farmland preservation purposes, is to be purchased for a price that is equal to, or less than, the easement’s appraised value, as determined in accordance with the appraisal procedures set forth in existing law, at subsection c. of section 8 of the “Preserve New Jersey Act,” P.L.2016, c.12 (C.13:8C-50). The bill would establish certain exceptions to this general rule. Specifically, the bill would authorize State, local, or nonprofit purchasers of fee simple title to, or of a development easement on, farmland to pay a final, negotiated purchase price therefor which is in excess of the title or easement’s appraised value, based on a determination that the title or easement is located on lands that are uniquely situated or are otherwise unique in character or quality, including, but not limited to, lands situated within a designated preservation area of the Pinelands or Highlands Regions of the State.

Specifically, in any case where a local government unit is proposing to acquire fee simple title to, or a development easement on, farmland using constitutionally dedicated moneys in whole or in part, for a negotiated purchase price exceeding the appraised value thereof, the local government unit would be required, under the bill, to submit a copy of the proposed agreement of sale, to the governing body of the county in which the development easement is located, before the agreement is finalized and executed. The governing body would then be required, within 30 days after receipt of such proposed agreement, to adopt an ordinance approving or disapproving the execution thereof and the acquisition of the title or easement, pursuant thereto, at the enhanced and negotiated price set forth therein. Whenever the governing body of a county adopts an ordinance approving the execution of such agreement, the ordinance would be required to contain certain findings of fact, including, but not limited to, findings related to the location, size, and appraised value and proposed purchase price of the fee simple title or easement interests to be acquired, and findings identifying the unique characteristics, qualities, or location of the land on which the fee simple title or development easement is proposed to be acquired, including, but not limited to, its location within a designated preservation area, which the governing body of the county deems sufficient to justify and warrant the local government unit’s acquisition of the fee simple title or development easement, pursuant to the bill’s local purchase and pricing exception, at a

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1 final, negotiated purchase price exceeding the appraised value
2 thereof.

3 In any case where the State Agriculture Development Committee
4 (committee) or a qualified tax exempt nonprofit organization is
5 proposing to acquire fee simple title to, or a development easement
6 on, farmland using constitutionally dedicated moneys in whole or in
7 part, for a negotiated purchase price exceeding the appraised value
8 thereof, the committee or nonprofit would be authorized to proceed
9 with such transaction, provided that the county agriculture
10 development board or subregional agricultural retention board
11 having jurisdiction over the relevant farmland, as appropriate, has
12 first held a hearing on the matter, in compliance with all public
13 hearing and comment requirements applicable thereto. Within 30
14 days after the conclusion of any such hearing, the hearing board
15 would be required to issue a hearing report identifying certain
16 findings of fact, including, but not limited to, findings related to the
17 location, size, and appraised value and proposed purchase price of
18 the fee simple title or easement interests to be acquired, and
19 findings identifying the unique characteristics, qualities, or location
20 of such land, including, but not limited to, its location within a
21 designated preservation area, which have been cited by the
22 proposed State or nonprofit purchaser, and by other members of the
23 public, as sufficient basis upon which to justify and warrant the
24 committee's or nonprofit's acquisition of the fee simple title or
25 development easement at a final, negotiated purchase price
26 exceeding the appraised value thereof.

27 The bill would specify that, at the conclusion of each such
28 requisite hearing, the proposed State or nonprofit purchaser will be
29 immediately and statutorily authorized to execute a finalized
30 agreement of sale effectuating the acquisition, thereby, of such title
31 or easement at a purchase price exceeding the appraised value
32 thereof. The authorization provided by the bill, in this regard,
33 would be applicable regardless of whether the hearing board has
34 issued its findings of facts on the matter, as required by the bill's
35 provisions. Within 30 days after the execution of any such final,
36 negotiated sales agreement, the State or nonprofit purchaser would
37 be required to provide a copy of the signed agreement of sale to the
38 governing body of the county in which the farmland is situated.
39 However, nothing in the bill's provisions would be deemed to
40 require such State or nonprofit purchaser to obtain the approval of a
41 hearing board, or the approval of the governing body of the county,
42 in order to finalize and execute such an agreement of sale following
43 the conclusion of the hearing required by the bill.

44 In addition to the foregoing changes, the bill would also amend
45 section 8 of P.L.2016, c.12 (C.13:8C-50), which identifies the
46 various alternative appraisal and valuation methods that may be
47 used by State, local, and nonprofit purchasers to determine the fair
48 market value of fee simple title to, or a development easement on,

1 farmland that is proposed to be acquired thereby with farmland
2 preservation moneys, in order to clarify the first optional valuation
3 method that is authorized to be undertaken, for such purposes,
4 thereunder. This first valuation method currently includes the
5 authorized use, for such purposes, of the valuation process,
6 established at section 24 of P.L.1983, c.32 (C.4:1C-31), which is
7 applicable in cases where farmland development easements are
8 proposed to be acquired by county agriculture development boards.
9 The provisions of section 8 of P.L.2016, c.12 (C.13:8C-50),
10 however, do not similarly authorize, or in any other way reference,
11 the appraisal process previously established at section 39 of
12 P.L.1999, c.152 (C.13:8C-39), which is applicable to the
13 acquisition, by qualifying tax exempt nonprofit organizations, of fee
14 simple titles to, or development easements on, farmland.
15 Accordingly, the bill would amend the law to clarify that either
16 such pre-existing valuation method, respectively codified at C.4:1C-
17 31 or at C.13:8C-39, as appropriate, may be used as the first
18 alternative means of land valuation for the purposes of the multi-
19 pronged appraisal process that is required to be undertaken,
20 pursuant to section 8 of P.L.2016, c.12 (C.13:8C-50), to determine
21 the fair market value of fee simple and lesser interests in farmland
22 proposed to be acquired, in whole or in part, with funds dedicated
23 for farmland preservation purposes.

24 It is the sponsor's intent to allow the State, local governments,
25 and nonprofit organizations to negotiate a purchase price above the
26 appraisal for the purchase of a development easement or fee simple
27 title for farmland preservation purposes. In many areas of the State,
28 due to low appraisals, the loss of farmland to development has
29 occurred because government entities cannot compete with offers
30 by developers. This bill will level the playing field for certain
31 farmland preservation purchases while providing the public a
32 transparent process.