

ASSEMBLY, No. 5200

STATE OF NEW JERSEY

221st LEGISLATURE

INTRODUCED JANUARY 16, 2025

Sponsored by:

Assemblyman ALEX SAUICKIE

District 12 (Burlington, Middlesex, Monmouth and Ocean)

SYNOPSIS

Authorizes construction, installation, and operation of solar energy generating facilities, structures, and equipment on preserved farmland, in certain cases, pursuant to lease agreement executed between landowner and solar developer.

CURRENT VERSION OF TEXT

As introduced.



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1 AN ACT concerning the construction, installation, and operation of
2 solar energy generating facilities, structures, and equipment on
3 preserved farms, and amending P.L.2009, c.213.

4

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

7

8 1. Section 1 of P.L.2009, c.213 (C.4:1C-32.4) is amended to
9 read as follows:

10 1. a. Notwithstanding any law, rule, or regulation to the
11 contrary, a person who owns preserved farmland may construct,
12 install, and operate biomass, solar, or wind energy generation
13 facilities, structures, and equipment on the farm, whether on the
14 preserved portion of the farm or on any portion excluded from
15 preservation, for the purpose of generating power or heat, and may
16 make improvements to any agricultural, horticultural, residential, or
17 other building or structure on the land for that purpose, provided
18 that the biomass, solar, or wind energy generation facilities,
19 structures, and equipment:

20 (1) do not interfere significantly with the use of the land for
21 agricultural or horticultural production, as determined by the
22 committee;

23 (2) (a) are owned by the landowner~~], or]~~; (b) will be owned by
24 the landowner upon the conclusion of the term of an agreement with
25 the installer of the biomass, solar, or wind energy generation
26 facilities, structures, or equipment by which the landowner uses the
27 income or credits realized from the biomass, solar, or wind energy
28 generation to purchase the facilities, structures, or equipment; or (c)
29 in the case of solar energy generation facilities, structures, or
30 equipment, are owned by, and will remain subject to the ownership
31 of, the solar energy developer who installs or constructs the
32 facilities, structures, or equipment on the land, in accordance with
33 the terms of a valid lease agreement executed between the
34 landowner and solar developer, which agreement includes
35 provisions clearly identifying the boundaries and size of the land
36 being leased for solar energy generation purposes, the duration of
37 the lease and the options for renewal and termination thereof, the
38 amount of rent to be paid under the lease, as well as the rent
39 payment schedule and any adjustments required to account for
40 inflation, the responsibilities of each party with respect to the
41 ongoing maintenance of the solar energy generating facilities,
42 structures, or equipment constructed or installed pursuant to the
43 lease, the consequences of default on the lease, and the means and
44 methods that are required to be employed, and the performance and
45 land quality standards that are required to be satisfied, by each

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.

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1 party, to ensure the proper and full restoration of the land, and the
2 return of the land to its original state, following the termination of,
3 or default on, the lease;

4 (3) are used to provide power or heat to the farm, either directly
5 or indirectly, or to reduce, through net metering or similar programs
6 and systems, energy costs on the farm; and

7 (4) are limited (a) in annual energy generation capacity to the
8 previous calendar year's energy demand plus 10 percent, in addition
9 to what is allowed under subsection b. of this section, or
10 alternatively at the option of the landowner (b) to occupying no
11 more than one percent of the area of the entire farm including both
12 the preserved portion and any portion excluded from preservation.

13 The person who owns the farm and the energy generation
14 facilities, structures, and equipment may only sell energy through
15 net metering or as otherwise permitted under an agreement allowed
16 pursuant to paragraph (2) of this subsection.

17 b. The limit on the annual energy generation capacity
18 established pursuant to subparagraph (a) of paragraph (4) of
19 subsection a. of this section shall not include energy generated from
20 facilities, structures, or equipment existing on the roofs of buildings
21 or other structures on the farm as of the date of enactment of
22 P.L.2009, c.213 (C.4:1C-32.4 et al.).

23 c. A landowner shall seek and obtain the approval of the
24 committee before constructing, installing, and operating biomass,
25 solar, or wind energy generation facilities, structures, and
26 equipment on the farm as allowed pursuant to subsection a. of this
27 section. The committee shall provide the holder of any
28 development easement on the farm with a copy of the application
29 submitted for the purposes of subsection a. of this section, and the
30 holder of the development easement shall have 30 days within
31 which to provide comments to the committee on the application.
32 The committee shall, within 90 days of receipt, approve,
33 disapprove, or approve with conditions an application submitted for
34 the purposes of subsection a. of this section. The decision of the
35 committee on the application shall be based solely upon the criteria
36 listed in subsection a. of this section and comments received from
37 the holder of the development easement.

38 d. No fee shall be charged of the landowner for review of an
39 application submitted to, or issuance of a decision by, the
40 committee pursuant to this section.

41 e. The committee may suspend or revoke an approval issued
42 pursuant to this section for a violation of any term or condition of
43 the approval or any provision of this section.

44 f. The committee, in consultation with the Department of
45 Environmental Protection and the Department of Agriculture, shall
46 adopt, pursuant to the "Administrative Procedure Act," P.L.1968,
47 c.410 (C.52:14B-1 et seq.), rules and regulations necessary for the
48 implementation of this section, including provisions prescribing

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1 standards concerning impervious cover which may be permitted in
2 connection with biomass, solar, or wind energy generation
3 facilities, structures, and equipment authorized to be constructed,
4 installed, and operated on lands pursuant to this section.

5 g. In the case of biomass energy generation facilities,
6 structures, or equipment, the landowner shall also seek and obtain
7 the approval of the Department of Agriculture as required pursuant
8 to section 5 of P.L.2009, c.213 (C.4:1C-32.5) if the land is valued,
9 assessed and taxed pursuant to the "Farmland Assessment Act of
10 1964," P.L.1964, c.48 (C.54:4-23.1 et seq.).

11 h. Notwithstanding any provision of this section to the
12 contrary, the construction, installation, or operation of any biomass,
13 solar, or wind energy generation facility, structure, or equipment in
14 the pinelands area, as defined and regulated by the "Pinelands
15 Protection Act," P.L.1979, c.111 (C.13:18A-1 et seq.), shall comply
16 with the standards of P.L.1979, c.111 and the comprehensive
17 management plan for the pinelands area adopted pursuant to
18 P.L.1979, c.111.

19 i. For the purposes of this section:

20 "Biomass" means an agricultural crop, crop residue, or
21 agricultural byproduct that is cultivated, harvested, or produced on
22 the farm and which can be used to generate energy in a sustainable
23 manner.

24 "Net metering" means the same as that term is used for purposes
25 of subsection e. of section 38 of P.L.1999, c.23 (C.48:3-87).

26 "Preserved farmland" means land on which a development
27 easement was conveyed to, or retained by, the committee, a board,
28 or a qualifying tax exempt nonprofit organization pursuant to the
29 provisions of section 24 of P.L.1983, c.32 (C.4:1C-31), section 5 of
30 P.L.1988, c.4 (C.4:1C-31.1), section 1 of P.L.1989, c.28 (C.4:1C-
31 38), section 1 of P.L.1999, c.180 (C.4:1C-43.1), sections 37 through
32 40 of P.L.1999, c.152 (C.13:8C-37 through C.13:8C-40), or any
33 other State law enacted for farmland preservation purposes.
34 (cf: P.L.2009, c.213, s.1)

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36 2. This act shall take effect immediately.

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STATEMENT

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41 This bill would amend the law that authorizes the construction,
42 installation, and operation of solar, biomass, and wind energy
43 generating facilities, structures, and equipment on preserved
44 farmland in certain cases, in order to specify that solar energy
45 generating facilities, structures, and equipment may be installed or
46 constructed, and used for solar energy generating purposes, on
47 preserved farmland, even if the solar energy generating facilities,
48 structures, or equipment are not owned by the landowner. When

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1 this law was first adopted, in 2009, the leasing of solar panels was
2 not a popular solution to facilitate the provision of solar power.
3 However, as the solar industry has matured over the years, leasing
4 has become a viable option for landowners. This bill would update
5 the law to reflect, and to ensure consistency with, current practices
6 in this area.

7 Under the bill's provisions, the owner of a preserved farm would
8 be authorized to construct, install, and operate solar energy
9 generating facilities, structures, or equipment on the preserved
10 farm, so long as those facilities, structures, and equipment: 1) are
11 owned by the landowner; 2) will be owned by the landowner upon
12 the conclusion of the term of an agreement with the installer of the
13 biomass, solar, or wind energy generation facilities, structures, or
14 equipment by which the landowner uses the income or credits
15 realized from the biomass, solar, or wind energy generation to
16 purchase the facilities, structures, or equipment; or 3) are owned by,
17 and will remain subject to the ownership of, the solar energy
18 developer who installs or constructs the facilities, structures, or
19 equipment on the land, in accordance with the terms of a valid lease
20 agreement executed between the landowner and solar developer,
21 which agreement includes provisions clearly identifying the
22 boundaries and size of the land being leased for solar energy
23 generation purposes, the duration of the lease and the options for
24 renewal and termination thereof, the amount of rent to be paid
25 under the lease, as well as the rent payment schedule and any
26 adjustments required to account for inflation, the responsibilities of
27 each party with respect to the ongoing maintenance of the solar
28 energy generating facilities, structures, or equipment constructed or
29 installed pursuant to the lease, the consequences of default on the
30 lease, and the means and methods that are required to be employed,
31 and the performance and land quality standards that are required to
32 be satisfied, by each party, to ensure the proper and full restoration
33 of the land, and the return of the land to its original state, following
34 the termination of, or default on, the lease.