

CHAPTER 287

AN ACT concerning the acquisition of development easements on privately-owned woodlands, supplementing Title 4 of the Revised Statutes, and amending P.L.1999, c.152.

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

C.4:1C-37a Definitions; establishment of program restricting development of privately owned woodland.

1. a. As used in this section:

"Local government unit" means the same as that term is defined in section 3 of P.L.1999, c.152 (C.13:8C-3).

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

"Woodland" means a defined and continuous area of land that lies wholly within a property and has at least 10 percent canopy cover.

b. The State Agriculture Development Committee shall establish a program for the acquisition, by the State, a local government unit, or a qualifying tax-exempt nonprofit organization, of a development easement restricting, in perpetuity, the development of a privately owned woodland. The purpose of the program shall be to promote the preservation and stewardship of lands for agricultural, silvicultural, and horticultural use and production, and to protect the State's forested lands.

c. To be eligible for the acquisition of development rights under the program, a woodland shall:

(1) be at least 20 acres in size;

(2) be devoted, in whole or in part, to either agricultural production or the production for sale of tree or forest products; and

(3) for those areas not in agricultural production, be managed by the landowner in accordance with a forest stewardship plan approved pursuant to section 3 of P.L.2009, c.256 (C.13:1L-31), a woodland management plan approved pursuant to section 3 of the "Farmland Assessment Act of 1964," P.L.1964, c.48 (C.54:4-23.3), or a plan approved pursuant to the federal Forest Stewardship Program administered by the United States Forest Service.

d. The appraisal process for development easements under the program shall be the same as that for farmland under the provisions of subsection e. of section 8 of P.L.2016, c.12 (C.13:8C-50).

e. The State Agriculture Development Committee may use constitutionally dedicated corporation business tax revenues in the "Preserve New Jersey Farmland Preservation Fund" established by section 8 of P.L.2016, c.12 (C.13:8C-50) in order to fund the acquisition of development easements under the program, or any other funds appropriated to the committee for farmland preservation purposes, provided that the use of the funds is consistent with the provisions of the "Preserve New Jersey Act," P.L.2016, c.12 (C.13:8C-43 et seq.) and the State Constitution.

f. The State Agriculture Development Committee shall coordinate with the United States Forest Service and any other applicable State or federal agency in order to pursue any federal, State, local, and private funding, which may be available to fund the program established pursuant to this section, including funding made available through the federal "Forest Legacy Program," administered by the United States Forest Service, and through the federal "Health Forests Reserve Program," administered by the United States Natural Resources Conservation Service.

g. No later than one year after the effective date of this section, the State Agriculture Development Committee shall adopt rules and regulations, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), for the establishment and

implementation of the program, including, but not limited to, application procedures and criteria and policies for the evaluation and priority ranking of projects.

h. Any development easement permanently restricting, in perpetuity, development on privately owned woodlands acquired pursuant to this section shall be filed with the municipal tax assessor and recorded with the county clerk in the same manner as a deed.

2. Section 3 of P.L.1999, c.152 (C.13:8C-3) is amended to read as follows:

C.13:8C-3 Definitions relative to open space, farmland, and historical preservation.

3. As used in sections 1 through 42 of P.L.1999, c.152 (C.13:8C-1 to C.13:8C-42):

"Acquisition" or "acquire" means the obtaining of a fee simple or lesser interest in land, including, but not limited to, a development easement, a conservation restriction or easement, or any other restriction or easement permanently restricting development, by purchase, installment purchase agreement, gift, donation, eminent domain by the State or a local government unit, or devise; except that any acquisition of lands by the State for recreation and conservation purposes by eminent domain shall be only as authorized pursuant to section 28 of P.L.1999, c.152 (C.13:8C-28);

"Bonds" means bonds issued by the trust pursuant to P.L.1999, c.152 (C.13:8C-1 et seq.);

"Commissioner" means the Commissioner of Environmental Protection;

"Committee" means the State Agriculture Development Committee established pursuant to section 4 of P.L.1983, c.31 (C.4:1C-4);

"Constitutionally dedicated moneys" means any moneys made available pursuant to Article VIII, Section II, paragraph 7 of the State Constitution or through the issuance of bonds, notes, or other obligations by the trust, as prescribed by Article VIII, Section II, paragraph 7 of the State Constitution and P.L.1999, c.152 (C.13:8C-1 et seq.), or any moneys from other sources deposited in the trust funds established pursuant to sections 19, 20, and 21 of P.L.1999, c.152 (C.13:8C-19, C.13:8C-20, and C.13:8C-21), and appropriated by law, for any of the purposes set forth in Article VIII, Section II, paragraph 7 of the State Constitution or P.L.1999, c.152 (C.13:8C-1 et seq.);

"Convey" or "conveyance" means to sell, donate, exchange, transfer, or lease for a term of 25 years or more;

"Cost" means the expenses incurred in connection with: all things deemed necessary or useful and convenient for the acquisition or development of lands for recreation and conservation purposes, the acquisition of development easements or fee simple titles to farmland, or the preservation of historic properties, as the case may be; the execution of any agreements or franchises deemed by the Department of Environmental Protection, State Agriculture Development Committee, or New Jersey Historic Trust, as the case may be, to be necessary or useful and convenient in connection with any project funded in whole or in part using constitutionally dedicated moneys; the procurement or provision of appraisal, archaeological, architectural, conservation, design, engineering, financial, geological, historic research, hydrological, inspection, legal, planning, relocation, surveying, or other professional advice, estimates, reports, services, or studies; the purchase of title insurance; the undertaking of feasibility studies; the establishment of a reserve fund or funds for working capital, operating, maintenance, or replacement expenses and for the payment or security of principal or interest on bonds, as the Director of the Office of Management and Budget in the Department of the Treasury may determine; and reimbursement to any fund of the State of moneys that may have been transferred or advanced therefrom to any fund established by

P.L.1999, c.152 (C.13:8C-1 et seq.), or any moneys that may have been expended therefrom for, or in connection with, P.L.1999, c.152 (C.13:8C-1 et seq.);

"Department" means the Department of Environmental Protection;

"Development" or "develop" means, except as used in the definitions of "acquisition" and "development easement" in this section, any improvement made to a land or water area designed to expand and enhance its utilization for recreation and conservation purposes, and shall include the construction, renovation, or repair of any such improvement, but shall not mean shore protection or beach nourishment or replenishment activities;

"Development easement" means an interest in land, less than fee simple title thereto, which interest represents the right to develop that land for all nonagricultural purposes and which interest may be transferred under laws authorizing the transfer of development potential;

"Farmland" means land identified as having prime or unique soils as classified by the Natural Resources Conservation Service in the United States Department of Agriculture, having soils of Statewide importance according to criteria adopted by the State Soil Conservation Committee, established pursuant to R.S.4:24-3, or having soils of local importance as identified by local soil conservation districts, and which land qualifies for differential property taxation pursuant to the "Farmland Assessment Act of 1964," P.L.1964, c.48 (C.54:4-23.1 et seq.), and any other land on the farm that is necessary to accommodate farm practices as determined by the State Agriculture Development Committee;

"Farmland preservation," "farmland preservation purposes," or "preservation of farmland" means the permanent preservation of farmland to support agricultural or horticultural production as the first priority use of that land;

"Garden State Farmland Preservation Trust Fund" means the Garden State Farmland Preservation Trust Fund established pursuant to section 20 of P.L.1999, c.152 (C.13:8C-20);

"Garden State Green Acres Preservation Trust Fund" means the Garden State Green Acres Preservation Trust Fund established pursuant to section 19 of P.L.1999, c.152 (C.13:8C-19);

"Garden State Historic Preservation Trust Fund" means the Garden State Historic Preservation Trust Fund established pursuant to section 21 of P.L.1999, c.152 (C.13:8C-21);

"Green Acres bond act" means: P.L.1961, c.46; P.L.1971, c.165; P.L.1974, c.102; P.L.1978, c.118; P.L.1983, c.354; P.L.1987, c.265; P.L.1989, c.183; P.L.1992, c.88; P.L.1995, c.204; and any State general obligation bond act that may be approved after the date of enactment of P.L.1999, c.152 (C.13:8C-1 et seq.) for the purpose of providing funding for the acquisition or development of lands for recreation and conservation purposes or for farmland preservation purposes;

"Historic preservation," "historic preservation purposes," or "preservation of historic properties" means any work relating to the conservation, improvement, interpretation, preservation, protection, rehabilitation, renovation, repair, restoration, or stabilization of any historic property, and shall include any work related to providing access thereto for persons with disabilities;

"Historic property" means any area, building, facility, object, property, site, or structure approved for inclusion, or which meets the criteria for inclusion, in the New Jersey Register of Historic Places pursuant to P.L.1970, c.268 (C.13:1B-15.128 et seq.);

"Indoor recreation" means active recreation that otherwise is or may be pursued outdoors but, for reasons of extending the season or avoiding inclement weather, is or may be pursued indoors within a fully or partially enclosed building or other structure, and includes basketball, ice skating, racquet sports, roller skating, swimming, and similar recreational activities and sports as determined by the Department of Environmental Protection;

"Land" or "lands" means real property, including improvements thereof or thereon, rights-of-way, water, lakes, riparian and other rights, easements, privileges, and all other rights or interests of any kind or description in, relating to, or connected with real property;

"Local government unit" means a county, municipality, or other political subdivision of the State, or any agency, authority, or other entity thereof; except, with respect to the acquisition and development of lands for recreation and conservation purposes, "local government unit" means a county, municipality, or other political subdivision of the State, or any agency, authority, or other entity thereof the primary purpose of which is to administer, protect, acquire, develop, or maintain lands for recreation and conservation purposes;

"New Jersey Historic Trust" means the entity established pursuant to section 4 of P.L.1967, c.124 (C.13:1B-15.111);

"Notes" means the notes issued by the trust pursuant to P.L.1999, c.152 (C.13:8C-1 et seq.);

"Permitted investments" means any of the following securities:

(1) Bonds, debentures, notes, or other evidences of indebtedness issued by any agency or instrumentality of the United States to the extent such obligations are guaranteed by the United States or by another such agency the obligations (including guarantees) of which are guaranteed by the United States;

(2) Bonds, debentures, notes, or other evidences of indebtedness issued by any corporation chartered by the United States, including, but not limited to, Governmental National Mortgage Association, Federal Land Banks, Federal Home Loan Mortgage Corporation, Federal National Mortgage Association, Federal Home Loan Banks, Federal Intermediate Credit Banks, Banks for Cooperatives, Tennessee Valley Authority, United States Postal Service, Farmers Home Administration, Resolution Funding Corporation, Export-Import Bank, Federal Financing Bank, and Student Loan Marketing Association;

(3) Bonds, debentures, notes, or commercial paper rated in the highest two rating categories without regard to rating subcategories (derogation) by all nationally recognized investment rating agencies or by a nationally recognized investment rating agency if rated by only one nationally recognized investment rating agency;

(4) Repurchase agreements or investment agreements issued by (i) a commercial bank or trust company or a national banking association, each having a capital stock and surplus of more than \$100,000,000, or (ii) an insurance company with the highest rating provided by a nationally recognized insurance company rating agency, or (iii) a broker-dealer, or (iv) a corporation; provided that the credit of such commercial bank or trust company or national banking association or insurance company or broker-dealer or corporation, as the case may be, is rated (or, in the case of a broker-dealer or corporation, whose obligations thereunder are guaranteed by a commercial bank or trust company or a national banking association or insurance company with the highest rating provided by a nationally recognized insurance company rating agency or corporation whose credit is rated) not lower than the "AA" category without regard to rating subcategories (derogation) of any two nationally recognized investment rating agencies then rating the State; and provided that any such agreement shall provide for the investment of funds and shall be collateralized by obligations described in paragraph 1 or paragraph 2 or paragraph 3 above at a level of at least one hundred and two (102) percent in principal amount of those obligations;

"Pinelands area" means the pinelands area as defined pursuant to section 3 of P.L.1979, c.111 (C.13:18A-3);

"Pinelands regional growth area" means a regional growth area established pursuant to the pinelands comprehensive management plan adopted pursuant to P.L.1979, c.111 (C.13:18A-1 et seq.);

"Project" means all things deemed necessary or useful and convenient in connection with the acquisition or development of lands for recreation and conservation purposes, the acquisition of development easements or fee simple titles to farmland, or the preservation of historic properties, as the case may be;

"Qualifying open space referendum county" means any county that has: (1) approved and implemented, and is collecting and expending the revenue from, an annual levy authorized pursuant to P.L.1997, c.24 (C.40:12-15.1 et seq.) for an amount or at a rate equivalent to at least one half of one cent per \$100 of assessed value of real property, or for an amount or at a rate established by the county and in effect as of April 1, 1999, whichever is greater; or (2) adopted an alternative means of funding for the same or similar purposes as an annual levy, which the Department of Environmental Protection, in consultation with the committee and the New Jersey Historic Trust, approves to be stable and reasonably equivalent in effect to an annual levy;

"Qualifying open space referendum municipality" means any municipality that has: (1) approved and implemented, and is collecting and expending the revenue from, an annual levy authorized pursuant to P.L.1997, c.24 (C.40:12-15.1 et seq.) for an amount or at a rate equivalent to at least one half of one cent per \$100 of assessed value of real property, or for an amount or at a rate established by the municipality and in effect as of April 1, 1999, whichever is greater; or (2) adopted an alternative means of funding for the same or similar purposes as an annual levy, which the Department of Environmental Protection, in consultation with the committee and the New Jersey Historic Trust, approves to be stable and reasonably equivalent in effect to an annual levy;

"Qualifying tax exempt nonprofit organization" means a nonprofit organization that is exempt from federal taxation pursuant to section 501 (c)(3) of the federal Internal Revenue Code, 26 U.S.C. s.501 (c)(3), and which qualifies for a grant pursuant to section 27, 39, or 41 of P.L.1999, c.152 (C.13:8C-27, 13:8C-39, or 13:8C-41), or section 1 of P.L.2025, c.287 (C.4:1C-37a);

"Recreation and conservation purposes" means the use of lands for beaches, biological or ecological study, boating, camping, fishing, forests, greenways, hunting, natural areas, parks, playgrounds, protecting historic properties, water reserves, watershed protection, wildlife preserves, active sports, or a similar use for either public outdoor recreation or conservation of natural resources, or both; and

"Trust" means the Garden State Preservation Trust established pursuant to section 4 of P.L.1999, c.152 (C.13:8C-4).

3. Section 37 of P.L.1999, c.152 (C.13:8C-37) is amended to read as follows:

C.13:8C-37 Use of funds appropriated for farmland preservation.

37. a. Moneys appropriated from the Garden State Farmland Preservation Trust Fund to the State Agriculture Development Committee for farmland preservation purposes shall be used by the committee to:

(1) Provide grants to local government units to pay up to 80 percent of the cost of acquisition of development easements on farmland, and to qualifying tax exempt nonprofit organizations to pay up to 50 percent of the cost of acquisition of development easements on farmland as provided in section 39 of P.L.1999, c.152 (C.13:8C-39), or to provide grants to local government units or qualifying tax exempt nonprofit organizations to pay up to 80 percent of the cost of acquisition of development easements on woodlands, as provided in section 1 of P.L.2025, c.287 (C.4:1C-37a), provided that any funds received for the transfer of a development easement shall be dedicated to the future purchase of development easements on

farmland and the State's pro rata share of any such funds shall be deposited in the Garden State Farmland Preservation Trust Fund to be used for the purposes of that fund, and provided that the terms of any such development easement to be acquired by a qualifying tax exempt nonprofit organization shall be approved by the committee;

(2) Provide grants to local government units to pay up to 80 percent of the cost of acquisition of fee simple titles to farmland from willing sellers only, and to qualifying tax exempt nonprofit organizations to pay up to 50 percent of the cost of acquisition of fee simple titles to farmland from willing sellers only as provided in section 39 of P.L.1999, c.152 (C.13:8C-39), which shall be offered for resale or lease with agricultural deed restrictions, as determined by the committee, and any proceeds received from a resale shall be dedicated for farmland preservation purposes and the State's pro rata share of any such proceeds shall be deposited in the Garden State Farmland Preservation Trust Fund to be used for the purposes of that fund;

(3) Pay the cost of acquisition by the State of development easements on farmland, or on woodlands, as provided in section 1 of P.L.2025, c.287 (C.4:1C-37a), provided that any funds received for the transfer of a development easement shall be deposited in the Garden State Farmland Preservation Trust Fund to be used for the purposes of that fund; and

(4) Pay the cost of acquisition by the State of fee simple titles to farmland from willing sellers only, which shall be offered for resale or lease with agricultural deed restrictions, as determined by the committee, and any proceeds received from a resale or lease shall be deposited in the Garden State Farmland Preservation Trust Fund to be used for the purposes of that fund.

b. Moneys appropriated from the fund may be used to match grants, contributions, donations, or reimbursements from federal aid programs or from other public or private sources established for the same or similar purposes as the fund.

4. This act shall take effect immediately.

Approved January 20, 2026.