

## CHAPTER 405

AN ACT concerning the preservation of historic buildings and structures on preserved farmland, amending P.L.1983, c.32, P.L.1988, c.4, and amending and supplementing P.L.1999, c.152.

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

C.13:8C-40.1 Property acquired for farmland preservation of historic buildings, structures; terms defined.

1. a. Notwithstanding any law, rule, or regulation to the contrary, whenever the State, a local government unit, or a qualifying tax exempt nonprofit organization acquires, for farmland preservation purposes using constitutionally dedicated moneys in whole or in part, the fee simple title to farmland which is to be offered for resale or lease with agricultural deed restrictions as determined by the committee, and there is an historic building or structure located on the farmland, the State, local government unit, or qualifying tax exempt nonprofit organization may, with the approval of the committee:

(1) place a historic preservation restriction on any historic building or structure on the farmland as a condition of the resale or lease of the farmland; or

(2) subdivide the historic building or structure, together with at least enough associated acreage to meet local zoning requirements, from the remaining portion of the farmland, and, after placing a historic preservation restriction upon the historic building or structure, offer the historic building or structure for resale or lease separately from the remaining portion of the farmland.

b. A historic preservation restriction may be placed on any historic building or structure on farmland as provided pursuant to subsection a. of this section even if the proceeds received from the resale or lease of the farmland or the historic building or structure would be less than otherwise would have been realized for use for farmland preservation purposes without the historic preservation restriction in place or the subdivision having been made.

c. For the purposes of this section:

"Historic building or structure" means a building or structure that:

(1) is included, meets the criteria for inclusion, or has been determined to be potentially eligible for inclusion in the New Jersey Register of Historic Places pursuant to P.L.1970, c.268 (C.13:1B-15.128 et seq.) or any rules or regulations adopted pursuant thereto;

(2) has been recognized by a county or municipality as a place of historic interest in a county or municipal master plan;

(3) is located in a historic district on a municipal zoning map; or

(4) meets any other criteria which may be adopted by the committee, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), for recognizing the historical value or significance of a building or structure on farmland; and

"Historic preservation restriction" means the same as that term is defined pursuant to section 2 of P.L.1979, c.378 (C.13:8B-2).

C.13:8C-40.2 Demolishing of historic building, structure prohibited, terms defined.

2. a. No historic building or structure located on farmland for which a development easement has been acquired by the State, a local government unit, or a qualifying tax exempt nonprofit organization after one year from the date of enactment of this act for farmland preservation purposes using constitutionally dedicated moneys in whole or in part may be demolished by the landowner or any other person without the prior approval of the committee.

b. (1) The committee may institute a civil action in a court of competent jurisdiction to prohibit or prevent a violation of this section, and the court may proceed in the action in a summary manner. The committee may also seek damages and other appropriate relief for a violation of this section.

(2) The committee may, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), adopt rules and regulations providing for liquidated damages to be paid by the violator to the committee in the event of a violation of this section.

c. For the purposes of this section:

"Historic building or structure" means a building or structure that:

(1) is included in the New Jersey Register of Historic Places established pursuant to P.L.1970, c.268 (C.13:1B-15.128 et seq.); or

(2) meets any other criteria which may be adopted by the committee, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), for recognizing the historical value or significance of a building or structure on farmland, and which criteria may include but need not be limited to (a) the building or structure having met the criteria for inclusion, or having been determined to be potentially eligible for inclusion, in the New Jersey Register of Historic Places pursuant to P.L.1970, c.268 (C.13:1B-15.128 et seq.) or any rules or regulations adopted pursuant thereto; (b) recognition by a county or municipality of the building or structure as a place of historic interest in a county or municipal master plan; or (c) location of the building or structure in a historic district on a municipal zoning map; and

"Historic preservation restriction" means the same as that term is defined pursuant to section 2 of P.L.1979, c.378 (C.13:8B-2).

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

C.4:1C-31 Development easement purchases.

24. a. Any landowner applying to the board to sell a development easement pursuant to section 17 of P.L.1983, c.32 (C.4:1C-24) shall offer to sell the development easement at a price which, in the opinion of the landowner, represents a fair value of the development potential of the land for nonagricultural purposes, as determined in accordance with the provisions of this act.

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

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

$$\frac{\text{nonagricultural developmental value} - \text{agricultural value}}{\text{landowner's asking price}}$$

$$\frac{\text{nonagricultural development value} - \text{agricultural value}}$$

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

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

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

c. Two independent appraisals paid for by the board shall be conducted for each parcel of land so offered and deemed suitable. The appraisals shall be conducted by independent, professional appraisers selected by the board and the committee from among members of recognized organizations of real estate appraisers. The appraisals shall determine the current overall value of the parcel for nonagricultural purposes, as well as the current market value of the parcel for agricultural purposes. The difference between the two values shall represent an appraisal of the value of the development easement. If Burlington County or a municipality therein has established a development transfer bank pursuant to the provisions of P.L.1989, c.86 (C.40:55D-113 et seq.), the municipal average of the value of the development potential of property in a sending zone established by the bank may be the value used by the board in determining the value of the development easement. If a development easement is purchased using moneys appropriated from the fund, the State shall provide no more than 80%, except 100% under emergency conditions specified by the committee pursuant to rules or regulations, of the cost of the appraisals conducted pursuant to this section.

d. Upon receiving the results of the appraisals, or in Burlington county or a municipality therein where a municipal average has been established under P.L.1989, c.86 (C.40:55D-113 et seq.), upon receiving an application from the landowners, the board and the committee shall compare the appraised value, or the municipal average, as the case may be, and the landowner's offer and, pursuant to the suitability criteria established in subsection b. of this section:

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

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

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

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

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

h. No development easement shall be purchased at a price greater than the appraised value determined pursuant to subsection c. of this section or the municipal average, as the case may be.

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

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

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

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

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

4. Section 5 of P.L.1988, c.4 (C.4:1C-31.1) is amended to read as follows:

C.4:1C-31.1 Fee simple absolute purchases.

5. a. Any landowner of farmland within an agricultural development area certified by the committee may apply to the committee to sell the fee simple absolute title at a price which, in the opinion of the landowner, represents a fair market value of the property.

b. The committee shall evaluate the offer to determine the suitability of the land for purchase. Decisions regarding suitability shall be based on the eligibility criteria for the purchase of development easements listed in section 24 of P.L.1983, c.32 (C.4:1C-31) and the criteria adopted by the committee and the board of that county. The committee shall also evaluate the

offer taking into account the amount of the asking price, the asking price relative to other offers, the location of the parcel relative to areas targeted within the county by the board and among the counties, and any other criteria as the committee has adopted pursuant to rule or regulation. The committee may negotiate reimbursement with the county and include the anticipated reimbursement as part of the evaluation of an offer.

c. The committee shall rank the offers according to the criteria to determine which, if any, should be appraised. The committee shall reject any offer for the purchase of fee simple absolute title determined unsuitable according to any criterion in this subsection or adopted pursuant to this subsection, or may defer decisions on offers with a low ranking. The committee shall state, in writing, its reasons for rejecting an offer.

d. Appraisals of the parcel shall be conducted to determine the fair market value according to procedures adopted by regulation by the committee.

e. The committee shall notify the landowner of the fair market value and negotiate for the purchase of the title in fee simple absolute.

f. Any land acquired by the committee pursuant to the provisions of this amendatory and supplementary act shall be held of record in the name of the State and shall be offered for resale by the State, notwithstanding any other law, rule or regulation to the contrary, within a reasonable time of its acquisition with agricultural deed restrictions for farmland preservation purposes as determined by the committee pursuant to the provisions of this act.

g. The committee shall be responsible for the operation and maintenance of lands acquired and shall take all reasonable steps to maintain the value of the land and its improvements.

h. To the end that municipalities may not suffer loss of taxes by reason of acquisition and ownership by the State of New Jersey of property under the provisions of this act, the State shall pay annually on October 1 to each municipality in which property is so acquired and has not been resold a sum of money equal to the tax last assessed and last paid by the taxpayer upon this land and the improvement thereon for the taxable year immediately prior to the time of its acquisition. In the event that land acquired by the State pursuant to this act had been assessed at an agricultural and horticultural use valuation in accordance with provisions of the "Farmland Assessment Act of 1964," P.L.1964, c.48 (C.54:4-23.1 et seq.), at the time of its acquisition by the State, no rollback tax pursuant to section 8 of P.L.1964, c.48 (C.54:4-23.8) shall be imposed as to this land nor shall this rollback tax be applicable in determining the annual payments to be made by the State to the municipality in which this land is located.

All sums of money received by the respective municipalities as compensation for loss of tax revenue pursuant to this section shall be applied to the same purposes as is the tax revenue from the assessment and collection of taxes on real property of these municipalities, and to accomplish this end the sums shall be apportioned in the same manner as the general tax rate of the municipality for the tax year preceding the year of receipt.

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

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

39. a. The committee may provide a grant to a qualifying tax exempt nonprofit organization for up to 50% of the cost of acquisition of (1) a development easement on farmland, provided that the terms of any such development easement shall be approved by the committee, or (2) fee simple title to farmland, which shall be offered for resale or lease with an agricultural deed restriction, 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.

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

c. The appraisals shall determine the fair market value of the fee simple title to the parcel,

as well as the fair market value of the parcel for agricultural purposes. The difference between the two values shall represent an appraisal of the value of the parcel for nonagricultural purposes, which shall be the value of the development easement.

d. Any grant provided to a qualifying tax exempt nonprofit organization pursuant to this section shall not exceed 50% of the appraised value of the development easement, or of the fee simple title in the case of fee simple acquisitions, plus up to 50% of any costs incurred including but not limited to the costs of surveys, appraisals, and title insurance.

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

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

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

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

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

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

6. Section 40 of P.L.1999, c.152 (C.13:8C-40) is amended to read as follows:

C.13:8C-40 Acquisition, permanent retirement of development easements on farmland.

40. a. The committee may acquire and permanently retire development easements on farmland.

b. The committee shall evaluate the suitability of the acquisition of a development easement based upon the eligibility criteria listed in section 24 of P.L.1983, c.32 (C.4:1C-31) and any other criteria that may be adopted by the committee.

c. Appraisals to determine the fair market value of a development easement to be acquired by the committee shall be conducted by appraisers approved by the committee and in a manner consistent with the process set forth in subsection c. of section 24 of P.L.1983, c.32 (C.4:1C-31).

d. Any development easement acquired by the committee shall be held of record in the name of the committee.

7. This act shall take effect on the 180th day after the date of enactment, but the State Agriculture Development Committee may take such anticipatory administrative action in advance thereof as may be necessary for the implementation of this act.

Approved January 8, 2002.