

CHAPTER 126

AN ACT concerning the issuance of bonds and annual appropriations pursuant to the Garden State Preservation Trust, and amending and supplementing P.L.1999, c.152.

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

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

C.13:8C-7 Powers of trust to issue bonds, notes, other obligations.

7. a. The trust shall have the power and is hereby authorized to issue its bonds, notes or other obligations in principal amounts as determined by the trust to be necessary to provide for any of its corporate purposes, including the payment, funding or refunding of the principal of, or interest on, or redemption premiums, if any, on bonds, notes or other obligations issued by it, whether the bonds, notes, obligations or interest to be funded or refunded have or have not become due; and to provide for the security thereof and for the establishment or increase of reserves to secure or to pay the bonds, notes or other obligations or interest thereon and all other reserves and all costs or expenses of the trust incident to and necessary or convenient to carry out its corporate purposes and powers; and in addition to its bonds, notes and other obligations, the trust shall have the power to issue subordinated indebtedness, which shall be subordinate in lien to the lien of any or all of its bonds, notes or other obligations as the trust may determine. No resolution or other action of the trust providing for the issuance of bonds, refunding bonds, notes or other obligations shall be adopted or otherwise made effective by the trust without the prior approval in writing of the Governor and the State Treasurer.

b. Except as may be otherwise expressly provided in P.L.1999, c.152 (C.13:8C-1 et seq.) or by the trust, every issue of bonds, notes or other obligations shall be general obligations payable out of any revenues or funds of the trust, subject only to any agreements with the holders of particular bonds, notes or other obligations pledging any particular revenues or funds. The trust may provide the security and payment provisions for its bonds, notes or other obligations as it may determine, including, without limiting the generality of the foregoing, bonds, notes or other obligations as to which the principal and interest are payable from and secured by all or any portion of the revenues of and payments to the trust, and other moneys or funds as the trust shall determine. The trust may also enter into bank loan agreements, lines of credit and other security agreements as authorized pursuant to subsection g. of section 6 of P.L.1999, c.152 (C.13:8C-6) and obtain for or on its behalf letters of credit in each case for the purpose of securing its bonds, notes or other obligations or to provide direct payment of any costs which the trust is authorized to pay by P.L.1999, c.152 and to secure repayment of any borrowings under the loan agreement, line of credit, letter of credit or other security agreement by its bonds, notes or other obligations or the proceeds thereof or by any or all of the revenues of and payments to the trust or by any appropriation, grant or reimbursement to be received by the trust and other moneys or funds as the trust shall determine.

c. Whether or not the bonds and notes are of the form and character as to be negotiable instruments under the terms of Title 12A, Commercial Transactions, of the New Jersey Statutes, the bonds and notes are hereby made negotiable instruments within the meaning of and for all the purposes of Title 12A.

d. Bonds or notes of the trust shall be authorized by a resolution or resolutions of the trust and may be issued in one or more series and shall bear the date, or dates, mature at the time or times, bear interest at the rate or rates of interest per annum, be in the denomination or denominations, be in the form, carry the conversion or registration privileges, have the rank or priority, be executed in the manner, be payable from the sources, in the medium of payment, at the place or places within or outside of the State, and be subject to the terms of redemption, with or without premium, as the resolution or resolutions may provide. Bonds or notes may be further secured by a trust indenture between the trust and a corporate trustee within or outside of the State. All other obligations of the trust shall be authorized by resolution containing terms and conditions as the trust shall determine.

e. Bonds, notes or other obligations of the trust may be sold at public or private sale at a price or prices and in a manner as the trust shall determine, either on a negotiated or on a competitive basis.

- f. Bonds or notes may be issued and other obligations incurred under the provisions of

P.L.1999, c.152 (C.13:8C-1 et seq.) without obtaining the consent of any department, division, commission, board, bureau or agency of the State, other than the approval as required by subsection a. of this section, and without any other proceedings or the happening of any other conditions or other things than those proceedings, conditions or things which are specifically required by P.L.1999, c.152.

g. Bonds, notes and other obligations of the trust issued or incurred under the provisions of P.L.1999, c.152 (C.13:8C-1 et seq.) shall not be in any way a debt or liability of the State or of any political subdivision thereof other than the trust and shall not create or constitute any indebtedness, liability or obligation of the State or of any political subdivision or be or constitute a pledge of the faith and credit of the State or of any political subdivision but all bonds, notes and obligations, unless funded or refunded by bonds, notes or other obligations of the trust, shall be payable solely from revenues or funds pledged or available for their payment as authorized in P.L.1999, c.152. Each bond, note or other obligation shall contain on its face a statement to the effect that the trust is obligated to pay the principal thereof, redemption premium, if any, or the interest thereon only from revenues or funds of the trust and that neither the State nor any political subdivision thereof is obligated to pay the principal thereof, redemption premium, if any, or interest thereon and that neither the faith and credit nor the taxing power of the State or any political subdivision thereof is pledged to the payment of the principal of, redemption premium, if any, or the interest on the bonds, notes or other obligations. For the purposes of this subsection, political subdivision does not include the trust.

h. All expenses incurred in carrying out the provisions of P.L.1999, c.152 (C.13:8C-1 et seq.) shall be payable solely from the revenues or funds provided or to be provided under or pursuant to the provisions of P.L.1999, c.152 and nothing in P.L.1999, c.152 shall be construed to authorize the trust to incur any indebtedness or liability on behalf of or payable by the State or any political subdivision thereof.

I. Prior to July 1, 2009, the aggregate principal amount of bonds, notes or other obligations, including subordinated indebtedness, of the trust shall not exceed \$1,150,000,000; except that this limitation shall not include any bonds, notes or other obligations, including subordinated indebtedness, of the trust issued for refunding purposes in accordance with the provisions of this section, and any bonds, notes or other obligations of the trust issued to fund the costs of issuance of its bonds, notes or other obligations. After June 30, 2009, the trust may issue only refunding bonds in any amount subject to subsections j. through n. of this section.

The trust shall not issue bonds, notes or other obligations in any State fiscal year in excess of \$350,000,000, except that if that permitted amount of bonds, notes or other obligations, or any portion thereof, is not issued in a State fiscal year it may be issued in a subsequent State fiscal year. Any increase in this limitation shall only occur if so provided for by law.

The limitations specified in this subsection shall apply only to bonds, notes or other obligations of the trust that are payable from, or secured by, amounts on deposit in the Garden State Preservation Trust Fund Account established pursuant to section 17 of P.L.1999, c.152 (C.13:8C-17).

j. Upon the decision by the trust to issue refunding bonds pursuant to this section, and prior to the sale of those bonds, the trust shall transmit to the Joint Budget Oversight Committee, or its successor, a report that a decision has been made, reciting the basis on which the decision was made, including an estimate of the debt service savings to be achieved and the calculations upon which the trust relied when making the decision to issue refunding bonds. The report shall also disclose the intent of the trust to issue and sell the refunding bonds at public or private sale and the reasons therefor.

k. The Joint Budget Oversight Committee, or its successor, shall have authority to approve or disapprove the sale of refunding bonds as included in each report submitted in accordance with subsection j. of this section. The Joint Budget Oversight Committee, or its successor, shall approve or disapprove the sale of refunding bonds within 10 business days after physical receipt of the report. The Joint Budget Oversight Committee, or its successor, shall notify the trust in writing of the approval or disapproval as expeditiously as possible.

l. No refunding bonds shall be issued unless the report has been submitted to and approved by the Joint Budget Oversight Committee, or its successor, as set forth in subsection k. of this

section.

m. Within 30 days after the sale of the refunding bonds, the trust shall notify the Joint Budget Oversight Committee, or its successor, of the result of that sale, including the prices and terms, conditions and regulations concerning the refunding bonds, and the actual amount of debt service savings to be realized as a result of the sale of refunding bonds.

n. The Joint Budget Oversight Committee, or its successor, shall, however, review all information and reports submitted in accordance with this section and may, on its own initiative, make observations and recommendations to the trust or to the Legislature, or both, as it deems appropriate.

2. Section 23 of P.L.1999, c.152 (C.13:8C-23) is amended to read as follows:

C.13:8C-23 Submission of lists of projects.

23. a. (1) At least twice each State fiscal year, the Department of Environmental Protection shall submit to the trust a list of projects that the department recommends to receive funding from: the Garden State Green Acres Preservation Trust Fund, based upon a priority system, ranking criteria, and funding policies established by the department pursuant to P.L.1999, c.152 (C.13:8C-1 et seq.); or any Green Acres bond act with respect to moneys allocated therein for appropriation for the purpose of acquiring or developing lands for recreation and conservation purposes, based upon a priority system, ranking criteria, and funding policies established by the department pursuant to law and any rules or regulations adopted pursuant thereto.

To the extent the department receives a sufficient number of applications from local government units for the funding of projects to acquire or develop, for recreation and conservation purposes, lands located in municipalities eligible to receive State aid pursuant to P.L.1978, c.14 (C.52:27D-178 et seq.), and those projects qualify for funding based upon the priority system, ranking criteria, and funding policies established by the department, in any State fiscal year the percentage of funding from the Garden State Green Acres Preservation Trust Fund for such projects recommended by the department shall be substantially equivalent to or greater than the percentage derived by dividing the total amount allocated pursuant to P.L.1983, c.354, P.L.1987, c.265, P.L.1989, c.183, P.L.1992, c.88, and P.L.1995, c.204, for local government unit projects for recreation and conservation purposes in municipalities eligible to receive State aid pursuant to P.L.1978, c.14 (C.52:27D-178 et seq.) by the total amount allocated pursuant to P.L.1983, c.354, P.L.1987, c.265, P.L.1989, c.183, P.L.1992, c.88, and P.L.1995, c.204, for all local government unit projects for recreation and conservation purposes. In any State fiscal year, not less than 20% of the total amount of funding from the Garden State Green Acres Preservation Trust Fund for all State projects to acquire and develop lands for recreation and conservation purposes throughout the State recommended by the department shall be for State projects located in highly populated counties of the State with population densities of at least 1,000 persons per square mile according to the latest federal decennial census.

The trust shall review the list and may make such deletions, but not additions, of projects therefrom as it deems appropriate and in accordance with the procedures established for such deletions pursuant to subsection d. of this section, whereupon the trust shall approve the list. At least twice each State fiscal year: (a) the trust shall prepare, and submit to the Governor and to the President of the Senate and the Speaker of the General Assembly for introduction in the Legislature, proposed legislation appropriating moneys from the Garden State Green Acres Preservation Trust Fund, or from any Green Acres bond act with respect to moneys allocated therein for appropriation for the purpose of acquiring or developing lands for recreation and conservation purposes, to fund projects on any such list; and (b) the Legislature may approve one or more appropriation bills containing a project list or lists submitted by the trust pursuant to this paragraph.

(2) Any act appropriating moneys from the Garden State Green Acres Preservation Trust Fund, or from any Green Acres bond act with respect to moneys allocated therein for appropriation for the purpose of acquiring or developing lands for recreation and conservation purposes, shall identify the particular project or projects to be funded by those moneys, and any expenditure for a project for which the location is not identified by county and municipality in

the appropriation shall require the approval of the Joint Budget Oversight Committee or its successor.

Moneys may be appropriated to a local government unit that has prepared and adopted an open space acquisition and development plan approved by the department, or to a qualifying tax exempt nonprofit organization that in cooperation and with the approval of a local government unit is implementing or assisting in the implementation of an open space acquisition and development plan adopted by the local government unit and approved by the department, without identifying in the act the particular project or projects to be funded, provided that the appropriation will be expended in accordance with that approved plan and, with respect to Green Acres bond act moneys, the appropriation in that form is not inconsistent with the Green Acres bond act.

(3) Any transfer of moneys appropriated from the Garden State Green Acres Preservation Trust Fund, or from any Green Acres bond act with respect to moneys allocated therein for appropriation for the purpose of acquiring or developing lands for recreation and conservation purposes, or any change in project sponsor, site, or type that has received an appropriation from the fund or from a Green Acres bond act, shall require the approval of the Joint Budget Oversight Committee or its successor but shall not require the approval of the Garden State Preservation Trust.

b. (1) At least twice each State fiscal year, the State Agriculture Development Committee shall submit to the trust a list of projects that the committee recommends to receive funding from the Garden State Farmland Preservation Trust Fund, based upon a priority system, ranking criteria, and funding policies established by the committee pursuant to P.L.1999, c.152 (C.13:8C-1 et seq.) and the "Agriculture Retention and Development Act," P.L.1983, c.32 (C.4:1C-11 et seq.), and any rules or regulations adopted pursuant thereto. The trust shall review the list and may make such deletions, but not additions, of projects therefrom as it deems appropriate and in accordance with the procedures established for such deletions pursuant to subsection d. of this section, whereupon the trust shall approve the list. At least twice each State fiscal year: (a) the trust shall prepare, and submit to the Governor and to the President of the Senate and the Speaker of the General Assembly for introduction in the Legislature, proposed legislation appropriating moneys from the Garden State Farmland Preservation Trust Fund to fund projects on any such list; and (b) the Legislature may approve one or more appropriation bills containing a project list or lists submitted by the trust pursuant to this paragraph.

(2) Any act appropriating moneys from the Garden State Farmland Preservation Trust Fund shall identify the particular project or projects to be funded with those moneys, and any expenditure for a project for which the location is not identified by county and municipality in the appropriation shall require the approval of the Joint Budget Oversight Committee or its successor.

Notwithstanding the provisions of this paragraph to the contrary, any appropriation of moneys from the fund to pay the cost of acquisition of a fee simple title to farmland shall not be required to identify the particular project or identify its location by county or municipality, and the expenditure of those moneys shall not require the approval of the Joint Budget Oversight Committee or its successor.

(3) Any transfer of moneys appropriated from the Garden State Farmland Preservation Trust Fund, or change in project sponsor, site, or type that has received an appropriation from the fund, shall require the approval of the Joint Budget Oversight Committee or its successor but shall not require the approval of the Garden State Preservation Trust.

c. (1) At least once each State fiscal year, or at such other interval as the New Jersey Historic Trust in consultation with the Garden State Preservation Trust deems appropriate, the New Jersey Historic Trust shall submit to the Garden State Preservation Trust a list of projects that the New Jersey Historic Trust recommends to receive funding from the Garden State Historic Preservation Trust Fund, based upon a priority system, ranking criteria, and funding policies established by the New Jersey Historic Trust pursuant to P.L.1999, c.152 (C.13:8C-1 et seq.) and P.L.1967, c.124 (C.13:1B-15.111 et al.), and any rules or regulations adopted pursuant thereto. The Garden State Preservation Trust shall review the list and may make such deletions, but not additions, of projects therefrom as it deems appropriate and in accordance with

the procedures established for such deletions pursuant to subsection d. of this section, whereupon the Garden State Preservation Trust shall approve the list. At least once each State fiscal year, or at such other interval as the Garden State Preservation Trust in consultation with the New Jersey Historic Trust deems appropriate: (a) the Garden State Preservation Trust shall prepare, and submit to the Governor and to the President of the Senate and the Speaker of the General Assembly for introduction in the Legislature, proposed legislation appropriating moneys from the Garden State Historic Preservation Trust Fund to fund projects on any such list; and (b) the Legislature may approve one or more appropriation bills containing a project list or lists submitted by the Garden State Preservation Trust pursuant to this paragraph.

(2) Any act appropriating moneys from the Garden State Historic Preservation Trust Fund shall identify the particular project or projects to be funded by those moneys, and any expenditure for a project for which the location is not identified by county and municipality in the appropriation shall require the approval of the Joint Budget Oversight Committee or its successor.

(3) Any transfer of moneys appropriated from the Garden State Historic Preservation Trust Fund, or change in project sponsor, site, or type that has received an appropriation from the fund, shall require the approval of the Joint Budget Oversight Committee or its successor but shall not require the approval of the Garden State Preservation Trust.

d. Whenever the Garden State Preservation Trust deletes a project from a list of projects that has been submitted to the Garden State Preservation Trust pursuant to subsection a., b., or c. of this section, the Garden State Preservation Trust shall, in consultation with the applicant and the department, the committee, or the New Jersey Historic Trust, as the case may be, review and reevaluate the merits and validity of the project. After completion of this review and reevaluation, if the department, committee, or New Jersey Historic Trust, as the case may be, continues to recommend funding of the project, it shall transmit its reasons therefor in writing to the Garden State Preservation Trust and place the project on the next or a subsequent list of projects submitted to the Garden State Preservation Trust pursuant to subsection a., b., or c. of this section. The Garden State Preservation Trust shall include the project in the next proposed legislation appropriating moneys from the Garden State Green Acres Preservation Trust Fund, Green Acres bond act, Garden State Farmland Preservation Trust Fund, or Garden State Historic Preservation Trust Fund, as the case may be, that is submitted to the Governor, President of the Senate, and Speaker of the General Assembly pursuant to subsection a., b., or c. of this section, together with a written report setting forth the rationale of the Garden State Preservation Trust in recommending deletion of the project from the proposed legislation and the rationale of the department, committee, or New Jersey Historic Trust, as the case may be, in recommending retention of the project in the proposed legislation.

e. The Garden State Preservation Trust may at any time suggest projects to be considered or rejected for consideration by the department, the committee, or the New Jersey Historic Trust in the preparation of recommended project funding lists pursuant to this section.

f. Projects involving the joint effort of more than one level of government or qualifying tax exempt nonprofit organization, or the joint effort of the department, the committee, and the New Jersey Historic Trust, or any combination thereof, shall be encouraged.

g. For the purposes of efficiency and convenience, nothing in this section shall prohibit the Garden State Preservation Trust from combining the project lists, in whole or in part, of the department, committee, and New Jersey Historic Trust into one proposed appropriation bill or bills to be submitted to the Governor and Legislature for consideration and enactment into law as otherwise prescribed pursuant to this section.

h. The total amount appropriated in any State fiscal year from the Garden State Green Acres Preservation Trust Fund and the Garden State Farmland Preservation Trust Fund for proposed projects pursuant to subsections a. and b. of this section shall not exceed \$350,000,000, excluding grants, contributions, donations, and reimbursements from federal aid programs, including but not limited to funding received by the State from the federal Land and Water Conservation Fund, 16 U.S.C. s.4601-4 et al., and from other public or private sources as may be used lawfully for such projects.

C.13:8C-18.1 Allocation of amount exceeding \$1,000,000,000.

3. Of the total of up to \$1,150,000,000 in proceeds raised by the trust from the issuance of bonds, notes or other obligations, and transferred by the trust to the State Treasurer and deposited by the State Treasurer into the Garden State Green Acres Preservation Trust Fund established pursuant to section 19 of P.L.1999, c.152 (C.13:8C-19) and the Garden State Farmland Preservation Trust Fund established pursuant to section 20 of P.L.1999, c.152 (C.13:8C-20) as required pursuant to subsection a. of section 18 of P.L.1999, c.152 (C.13:8C-18), any amounts exceeding \$1,000,000,000 in such proceeds shall be allocated and deposited into those two trust funds as follows notwithstanding the provisions of subsection a. of section 18 of P.L.1999, c.152 (C.13:8C-18) to the contrary:

a. 80% thereof to the Garden State Green Acres Preservation Trust Fund to be used for the purposes of that trust fund; and

b. 20% thereof to the Garden State Farmland Preservation Trust Fund to be used for the purposes of that trust fund.

4. This act shall take effect immediately.

Approved August 20, 2004.