

CHAPTER 281

AN ACT concerning the investment of monies in the Garden State Green Acres Preservation Trust Fund, the Garden State Historic Preservation Trust Fund and the Garden State Farmland Preservation Trust Fund, and amending P.L.1999, c.152.

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

1. 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 historic preservation.

3. As used in sections 1 through 42 of this act:

"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 this act;

"Bonds" means bonds issued by the trust pursuant to this act;

"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 this act, or any moneys from other sources deposited in the trust funds established pursuant to sections 19, 20, and 21 of this act, and appropriated by law, for any of the purposes set forth in Article VIII, Section II, paragraph 7 of the State Constitution or this act;

"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 Division of Budget and Accounting 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 this act, or any moneys that may have been expended therefrom for, or in connection with, this act;

"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 this act;

"Garden State Green Acres Preservation Trust Fund" means the Garden State Green Acres Preservation Trust Fund established pursuant to section 19 of this act;

"Garden State Historic Preservation Trust Fund" means the Garden State Historic Preservation Trust Fund established pursuant to section 21 of this act;

"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 this act for the purpose of providing funding for the acquisition or development of lands for recreation and conservation 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 disabled or handicapped persons;

"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 this act;

"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; 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 this act;

"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 this act.

2. Section 19 of P.L.1999, c.152 (C.13:8C-19) is amended to read as follows:

C.13:8C-19 "Garden State Green Acres Preservation Trust Fund."

19. The State Treasurer shall establish a fund to be known as the "Garden State Green Acres Preservation Trust Fund." The State Treasurer shall deposit into the fund all moneys transferred from the trust to the State Treasurer for deposit into the fund pursuant to paragraph (1) of subsection a. of section 18 of this act and any other moneys appropriated by law for deposit into the fund. Moneys in the fund shall be invested in permitted investments or shall be held in interest-bearing accounts in those depositories as the State Treasurer may select, and may be invested and reinvested in permitted investments or as other trust funds in the custody of the State Treasurer in the manner provided by law. All interest or other income or earnings derived from the investment or reinvestment of moneys in the fund shall be credited to the fund. Moneys derived from the payment of principal and interest on the loans to local government units authorized in subsection b. of section 27 of this act shall also be held in the fund. Such 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 the purposes of section 26 of this act shall also be held in the fund, but shall be expended in accordance with any purposes for which the moneys were designated and in compliance with any conditions or requirements attached thereto. The moneys in the fund are specifically dedicated and shall be applied to the cost of the purposes set forth in section 26 of this act. Moneys derived from the payment of principal and interest on the loans to local government units authorized in subsection b. of section 27 of this act are specifically dedicated for the issuance of additional loans in accordance with subsection b. of section 27 of this act. Moneys in the fund shall not be expended except in accordance with appropriations from the fund made by law. Unexpended moneys due to project withdrawals, cancellations, or cost savings shall be returned to the fund, except as otherwise provided pursuant to paragraph (3) of subsection a. of section 23 of this act, to be used for the purposes of the fund.

3. Section 20 of P.L.1999, c.152 (C.13:8C-20) is amended to read as follows:

C.13:8C-20 "Garden State Farmland Preservation Trust Fund."

20. The State Treasurer shall establish a fund to be known as the "Garden State Farmland Preservation Trust Fund." The State Treasurer shall deposit into the fund all moneys transferred from the trust to the State Treasurer for deposit into the fund pursuant to paragraph (2) of subsection a. of section 18 of this act and any other moneys appropriated by law for deposit into the fund. Moneys in the fund shall be invested in permitted investments or shall be held in interest-bearing accounts in those depositories as the State Treasurer may select, and may be invested and reinvested in permitted investments or as other trust funds in the custody of the State Treasurer in the manner provided by law. All interest or other income or earnings derived from the investment or reinvestment of moneys in the fund shall be credited to the fund. Such grants, contributions, donations, and reimbursements from federal aid programs and from other public or private sources as may be used lawfully for the purposes of section 37 of this act shall also be held in the fund, but shall be expended in accordance with any purposes for which the moneys were designated and in compliance with any conditions or requirements attached thereto. The moneys in the fund are specifically dedicated and shall be applied to the cost of the purposes set forth in section 37 of this act. Moneys in the fund shall not be expended except in accordance with appropriations from the fund made by law. Unexpended moneys due to project withdrawals, cancellations, or cost savings shall be returned to the fund, except as otherwise provided pursuant to paragraph (3) of subsection b. of section 23 of this act, to be used for the purposes of the fund.

4. Section 21 of P.L.1999, c.152 (C.13:8C-21) is amended to read as follows:

C.13:8C-21 "Garden State Historic Preservation Trust Fund."

21. The State Treasurer shall establish a fund to be known as the "Garden State Historic Preservation Trust Fund." The State Treasurer shall deposit into the fund all moneys transferred from the Garden State Preservation Trust to the State Treasurer for deposit into the fund pursuant to paragraph (3) of subsection a. of section 18 of this act and any other moneys appropriated by law for deposit into the fund. Moneys in the fund shall be invested in permitted investments or shall be held in interest-bearing accounts in those depositories as the State Treasurer may select, and may be invested and reinvested in permitted investments or as other trust funds in the custody of the State Treasurer in the manner provided by law. All interest or other income or earnings derived from the investment or reinvestment of moneys in the fund shall be credited to the fund. Such grants, contributions, donations, and reimbursements from federal aid programs and from other public or private sources as may be used lawfully for the purposes of section 41 of this act shall also be held in the fund, but shall be expended in accordance with any purposes for which the moneys were designated and in compliance with any conditions or requirements attached thereto. The moneys in the fund are specifically dedicated and shall be applied to the cost of the purposes set forth in section 41 of this act. Moneys in the fund shall not be expended except in accordance with appropriations from the fund made by law. Unexpended moneys due to project withdrawals, cancellations, or cost savings shall be returned to the fund, except as otherwise provided pursuant to paragraph (3) of subsection c. of section 23 of this act, to be used for the purposes of the fund.

5. This act shall take effect immediately.

Approved January 6, 2006.