

## CHAPTER 174

AN ACT concerning the acquisition of certain lands for recreation and conservation purposes and supplementing Title 13 of the Revised Statutes.

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

C.13:8C-58 Findings, declarations.

1. The Legislature finds and declares that:

a. Enhancing the quality of life of the citizens of New Jersey is a paramount policy of the State, and open space protects the natural beauty and resources of the State and provides its citizens and visitors to New Jersey with greater opportunities for recreation, relaxation, and education, all of which contribute greatly to the quality of life;

b. A broad diversity of animal and plant species is essential to sustaining both the environment and the economy of the Garden State, and the conservation of adequate habitat for those species, and especially for those that are endangered, threatened, or rare, is necessary to preserve this biodiversity;

c. Acquiring and preserving land for recreation and conservation purposes also helps protect water supply and quality, which is critical to the existence of all life;

d. Whenever land becomes available for acquisition by a governmental entity for potential preservation as open space, it is incumbent upon the governmental entity to make every possible effort to acquire that land, especially when the land is contiguous to other preserved land and the sale price is reasonable or even discounted;

e. Antiquated or unnecessary covenants of very little or no economic value persist in some deeds to properties located in unformed, dissolved, or discontinued common interest communities, encumbering the titles in such a way that prevents their conveyance to a governmental entity to be preserved as open space;

f. Examples of such covenants are those that authorize owners of contiguous or closely associated properties to form an association or other common interest community for the purpose of constructing and maintaining a private road to serve the property owners, or maintaining a private lake that the property owners all may access and enjoy; however, in many circumstances these property owners have never formed an association or other common interest community or, if one was formed, it has since been dissolved or discontinued;

g. Notwithstanding that such an association or other common interest community may never have been formed or, if formed, has since been dissolved or discontinued, a governmental entity may be reluctant to acquire and preserve a property subject to such a deed covenant because it does not wish to risk the possibility, remote as it may be, of eventually having to pay dues or other fees or comply with any other obligation as may be required by the covenant, or engage in potentially costly or lengthy litigation on the issue;

h. Such uncertainty makes it difficult for a governmental entity to know exactly what financial or other commitment it is making for the benefit of the public, and for that reason, may cause the governmental entity to decide, out of an abundance of appropriate caution in conserving its financial and other assets, to not acquire the property at issue;

i. Such a result is unacceptable for the public policy reasons cited above; and

j. Therefore, it is appropriate and necessary for the State to declare and provide by law that any such covenant is void in all respects and unenforceable with regard to land that is acquired by a governmental entity for preservation as open space for recreation and conservation purposes.

C.13:8C-59 Definitions relative to acquisition of land for recreation, conservation purposes.

2 As used in this act:

“Governmental entity” means the State or a county, municipality, or other political subdivision of the State, or any agency, authority, department, or other entity thereof.

“Recreation and conservation purposes” means the same as that term is defined in section 3 of P.L.1999, c.152 (C.13:8C-3).

C.13:8C-60 Certain covenants deemed void.

3. a. Whenever a governmental entity acquires land to be preserved for recreation and conservation purposes, and the deed for the land includes any covenant authorizing the owner of the land and other landowners whose deeds include the same covenant to form an association or other common interest community for a common purpose, which may or may not also authorize dues, fees, or other obligations to be charged or imposed in connection therewith, the covenant shall be void in all respects and unenforceable with regard to the land acquired by the governmental entity, provided that the governmental entity:

(1) acquires the land before any such association or other common interest community has been formed or after the dissolution or discontinuation of any previously existing association or other common interest community; and

(2) owns land preserved for recreation and conservation purposes that is contiguous to the land acquired, or the contiguous land is owned by another governmental entity for such purposes.

b. Nothing in subsection a. of this section shall be construed to prohibit an association or other common interest community in existence at the time of acquisition of land by a governmental entity that will preserve the land for recreation and conservation purposes, from voluntarily and permanently exempting the governmental entity, or otherwise releasing the land, from operation or enforcement of a covenant like that described in subsection a. of this section, including but not limited to, any requirement therein to pay dues or other fees or comply with any other obligation.

c. Whenever a governmental entity acquires land in the manner described in this act, the governmental entity shall not permit public access to, or use of, the subject of the covenant, such as, for example: (1) a private road that leads to or passes by the acquired land, or (2) a private lake.

4. This act shall take effect immediately.

Approved July 19, 2019.