

CHAPTER 245

AN ACT concerning the appraisal of farmland for farmland preservation purposes and amending P.L.1999, c.152 and P.L.2016, c.12.

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

1. Section 38 of P.L.1999, c.152 (C.13:8C-38) is amended to read as follows:

C.13:8C-38 Acquisitions, grants with respect to farmland preservation.

38. a. All acquisitions or grants made pursuant to section 37 of P.L.1999, c.152 (C.13:8C-37) shall be made with respect to farmland devoted to farmland preservation under programs established by law.

b. The expenditure and allocation of constitutionally dedicated moneys for farmland preservation purposes shall reflect the geographic diversity of the State to the maximum extent practicable and feasible.

c. The committee shall implement the provisions of section 37 of P.L.1999, c.152 (C.13:8C-37) in accordance with the procedures and criteria established pursuant to the "Agriculture Retention and Development Act," P.L.1983, c.32 (C.4:1C-11 et seq.) except as provided otherwise by P.L.1999, c.152 (C.13:8C-1 et seq.).

d. The committee shall adopt the same or a substantially similar method for determining, for the purposes of P.L.1999, c.152 (C.13:8C-1 et seq.), the committee's share of the cost of a development easement on farmland to be acquired by a local government as that which is being used by the committee on the date of enactment of P.L.1999, c.152 (C.13:8C-1 et seq.) for prior farmland preservation funding programs.

e. Notwithstanding the provisions of section 24 of P.L.1983, c.32 (C.4:1C-31) or P.L.1999, c.152 (C.13:8C-1 et seq.), or any rule or regulation adopted pursuant thereto to the contrary, whenever the value of a development easement on farmland to be acquired using constitutionally dedicated moneys in whole or in part is determined based upon the value of any pinelands development credits allocated to the parcel pursuant to P.L.1979, c.111 (C.13:18A-1 et seq.) and the pinelands comprehensive management plan adopted pursuant thereto, the committee shall determine the value of the development easement by:

(1) conducting a sufficient number of fair market value appraisals as it deems appropriate to determine the value for farmland preservation purposes of the pinelands development credits;

(2) considering development easement values in counties, municipalities, and other areas (a) reasonably contiguous to, but outside of, the pinelands area, which in the sole opinion of the committee constitute reasonable development easement values in the pinelands area for the purposes of this subsection, and (b) in the pinelands area where pinelands development credits are or may be utilized, which in the sole opinion of the committee constitute reasonable development easement values in the pinelands area for the purposes of this subsection;

(3) considering land values in the pinelands regional growth areas;

(4) considering the importance of preserving agricultural lands in the pinelands area; and

(5) considering such other relevant factors, including the rate of inflation, as may be necessary to increase participation in the farmland preservation program by owners of agricultural lands located in the pinelands area.

f. No pinelands development credit that is acquired or obtained in connection with the acquisition of a development easement on farmland or fee simple title to farmland by the State, a local government unit, or a qualifying tax exempt nonprofit organization using constitutionally dedicated moneys in whole or in part may be conveyed in any manner. All such pinelands development credits shall be retired permanently.

g. (Deleted by amendment, P.L.2010, c.70)

h. Any farmland for which a development easement or fee simple title has been acquired pursuant to section 37 of P.L.1999, c.152 (C.13:8C-37) shall be entitled to the benefits conferred by the "Right to Farm Act," P.L.1983, c.31 (C.4:1C-1 et al.) and the "Agriculture Retention and Development Act," P.L.1983, c.32 (C.4:1C-11 et al.).

i. (Deleted by amendment, P.L.2010, c.70)

j. (1) Commencing on the date of enactment of P.L.2004, c.120 (C.13:20-1 et al.) and through June 30, 2024 for lands located in the Highlands Region as defined pursuant to section 3 of P.L.2004, c.120 (C.13:20-3), when the committee, a local government unit, or a qualifying tax exempt nonprofit organization seeks to acquire a development easement on farmland or the fee simple title to farmland for farmland preservation purposes using constitutionally dedicated moneys in whole or in part, Green Acres bond act moneys in whole or in part, or constitutionally dedicated CBT moneys pursuant to P.L.2016, c.12 (C.13:8C-43 et seq.) in whole or in part, it shall conduct or cause to be conducted an appraisal or appraisals of the value of the lands that shall be made using (a) the land use zoning of the lands, and any State environmental laws or Department of Environmental Protection rules and regulations that may affect the value of the lands, subject to the appraisal and in effect at the time of proposed acquisition, and (b) the land use zoning of the lands, and any State environmental laws or Department of Environmental Protection rules and regulations that may affect the value of the lands, subject to the appraisal and in effect on January 1, 2004. The higher of those two values shall be utilized by the committee, a local government unit, or a qualifying tax exempt nonprofit organization as the basis for negotiation with the landowner with respect to the acquisition price for the lands. The landowner shall be provided with both values determined pursuant to this paragraph.

A landowner may waive any of the requirements of this paragraph and may agree to sell the lands for less than the values determined pursuant to this paragraph.

The provisions of this paragraph shall be applicable only to lands the owner of which at the time of proposed acquisition is the same person who owned the lands on the date of enactment of P.L.2004, c.120 (C.13:20-1 et al.) and who has owned the lands continuously since that enactment date, or is an immediate family member of that person.

(2) (Deleted by amendment, P.L.2010, c.70)

(3) The requirements of this subsection shall be in addition to any other requirements of law, rule, or regulation not inconsistent therewith.

(4) This subsection shall not:

(a) apply in the case of lands to be acquired with federal moneys in whole or in part;

(b) (Deleted by amendment, P.L.2010, c.70); or

(c) alter any requirements to disclose information to a landowner pursuant to the "Eminent Domain Act of 1971," P.L.1971, c.361 (C.20:3-1 et seq.).

(5) For the purposes of this subsection, "immediate family member" means a spouse, child, parent, sibling, aunt, uncle, niece, nephew, first cousin, grandparent, grandchild, father-in-law, mother-in-law, son-in-law, daughter-in-law, stepparent, stepchild, stepbrother, stepsister, half-brother, or half-sister, whether the individual is related by blood, marriage, or adoption.

k. The committee and the Department of Environmental Protection, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), shall jointly adopt rules and regulations that establish standards and requirements regulating any improvement on lands acquired by the State for farmland preservation purposes using constitutionally dedicated moneys to assure that any improvement does not diminish the protection of surface water or groundwater resources.

Any rules and regulations adopted pursuant to this subsection shall not apply to improvements on lands acquired prior to the adoption of the rules and regulations.

1. (1) The committee, within three months after the date of the first meeting of the Highlands Water Protection and Planning Council established pursuant to section 4 of P.L.2004, c.120 (C.13:20-4), shall consult with and solicit recommendations from the council concerning farmland preservation strategies and acquisition plans in the Highlands Region as defined in section 3 of P.L.2004, c.120 (C.13:20-3).

The council's recommendations shall also address strategies and plans concerning establishment by the committee of a methodology for prioritizing the acquisition of development easements and fee simple titles to farmland in the Highlands preservation area, as defined in section 3 of P.L.2004, c.120 (C.13:20-3), for farmland preservation purposes using moneys from the Garden State Farmland Preservation Trust Fund, especially with respect to farmland that has declined substantially in value due to the implementation of the "Highlands Water Protection and Planning Act," P.L.2004, c.120 (C.13:20-1 et al.). The recommendations may also include a listing of specific parcels in the Highlands preservation area that the council is aware of that have experienced a substantial decline in value and for that reason should be considered by the committee as a priority for acquisition, but any such list shall remain confidential notwithstanding any provision of P.L.1963, c.73 (C.47:1A-1 et seq.) or any other law to the contrary.

(2) In prioritizing applications for funding submitted by local government units in the Highlands planning area, as defined in section 3 of P.L.2004, c.120 (C.13:20-3), to acquire development easements on farmland in the Highlands planning area using moneys from the Garden State Farmland Preservation Trust Fund, the committee shall accord a higher weight to any application submitted by a local government unit to preserve farmland in a municipality in the Highlands planning area that has amended its development regulations in accordance with section 13 of P.L.2004, c.120 (C.13:20-13) to establish one or more receiving zones for the transfer of development potential from the Highlands preservation area, as defined in section 3 of P.L.2004, c.120 (C.13:20-3), than that which is accorded to comparable applications submitted by other local government units to preserve farmland in municipalities in the Highlands planning area that have not made such amendments to their development regulations.

m. Notwithstanding any provision of P.L.1999, c.152 (C.13:8C-1 et seq.) to the contrary, for State fiscal years 2005 through 2009, the sum spent by the committee in each of those fiscal years for the acquisition by the committee of development easements and fee simple titles to farmland for farmland preservation purposes using moneys from the Garden State Farmland Preservation Trust Fund in each county of the State shall be not less, and may be greater if additional sums become available, than the average annual sum spent by the department therefor in each such county, respectively, for State fiscal years 2002 through 2004, provided there is sufficient and appropriate farmland within the county to be so acquired by the committee for such purposes.

2. Section 8 of P.L.2016, c.12 (C.13:8C-50) is amended to read as follows:

C.13:8C-50 "Preserve New Jersey Farmland Preservation Fund," rules, regulations.

8. a. The State Treasurer shall establish a fund to be known as the "Preserve New Jersey Farmland Preservation Fund" and shall deposit all moneys received pursuant to paragraph (3) of subsection a. of section 5 of P.L.2016, c.12 (C.13:8C-47), paragraph (2) of subsection a. of section 1 of P.L.2019, c.136 (C.13:8C-47.1), 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.

b. (1) The moneys in the fund are specifically dedicated and shall be used for the same purposes as those set forth in section 37 of P.L.1999, c.152 (C.13:8C-37) and as provided in paragraph (2) of this subsection.

(2) Of the moneys deposited into the Preserve New Jersey Farmland Preservation Fund: (a) in State fiscal year 2017 through and including State fiscal year 2019, up to three percent shall be allocated by the committee on an annual basis for stewardship activities; and (b) commencing in State fiscal year 2020 and annually thereafter, up to four percent shall be allocated by the committee on an annual basis for stewardship activities.

(3) Notwithstanding any provision of P.L.2016, c.12 (C.13:8C-43 et seq.) to the contrary, stewardship activities undertaken on farmland on which (a) the pinelands development credits have been acquired pursuant to P.L.1979, c.111 (C.13:18A-1 et seq.), and the pinelands comprehensive management plan adopted pursuant thereto, or the development rights have been acquired pursuant to a transfer of development rights program for the Highlands Region established pursuant to section 13 of P.L.2004, c.120 (C.13:20-13), and (b) there is deed restriction approved by the committee, shall be eligible for funding pursuant to paragraph (2) of this subsection.

c. Moneys in the fund shall not be expended except in accordance with appropriations from the fund made by law. Any act appropriating moneys from the Preserve New Jersey Farmland Preservation Fund shall identify any particular project or projects to be funded by the moneys, and any expenditure for a project for which the location is not identified by municipality and county in the appropriation shall require the approval of the Joint Budget Oversight Committee, or its successor, except as permitted otherwise in accordance with the same exceptions as those specified in paragraph (2) of subsection b. of section 23 of P.L.1999, c.152 (C.13:8C-23).

d. Unexpended moneys due to project withdrawals, cancellations, or cost savings shall be returned to the fund.

e. Notwithstanding the provisions of section 24 of P.L.1983, c.32 (C.4:1C-31) or section 38 of P.L.1999, c.152 (C.13:8C-38), or any rule or regulation adopted pursuant thereto, to the contrary, when the committee, a local government unit, or a qualifying tax exempt nonprofit organization seeks to acquire a development easement on, or fee simple title to, farmland using, in whole or in part, monies deposited into the Preserve New Jersey Farmland Preservation Fund, the Garden State Farmland Preservation Trust Fund established pursuant to section 20 of P.L.1999, c.152 (C.13:8C-20), or any other State monies provided for farmland preservation purposes, the value of the development easement, or fee simple title, as applicable, shall be determined by the following:

(1) the procedure set forth in section 24 of P.L.1983, c.32 (C.4:1C-31);

(2) a value determined in accordance with a formula, to be known as the "Statewide Farmland Preservation Formula," which formula is established by rule or regulation adopted by the committee, pursuant to subsection f. of this section, and includes:

(a) conducting or analyzing a sufficient number of fair market value appraisals of agricultural lands within the municipality in which the land is located, or the surrounding market area, or both, as the committee deems appropriate to determine the value of the land for farmland preservation;

(b) considering farmland and development easement values in counties and municipalities reasonably contiguous to, but outside of, the municipality in which the land to be acquired is located, which in the sole opinion of the committee constitute reasonable farmland and development easement values for the purposes of this subsection;

(c) considering the importance of preserving agricultural lands in the municipality and county in which the land is located;

(d) considering the status and value of natural resources in the municipality and county in which the land is located, and in counties and municipalities that are reasonably contiguous to, but outside of, the municipality and county in which the land is located;

(e) considering such other relevant factors as may be necessary to increase participation in the farmland preservation program by owners of agricultural lands located in the municipality and county in which the land is located, including, but not limited to, the rate of inflation, the quality of the agricultural soils, the size of the agricultural lands to be acquired, and the risk of conversion of the land from productive agriculture to nonagricultural use; and

(f) providing additional value for the proximity of agricultural lands located adjacent to preserved agricultural lands, lands preserved for recreation and conservation purposes, aquifer recharge areas, lands subject to development or conservation easements, and lands whose conversion to nonagricultural use would lead to conflicting land uses, including, but not limited to, utility and roadway rights-of-way, military bases, and airports and associated airspace; and, if applicable,

(3) (a) in the case of property located in the pinelands area, whenever the value of a development easement on farmland to be acquired is determined based upon the value of any pinelands development credits allocated to the parcel pursuant to P.L.1979, c.111 (C.13:18A-1 et seq.) and the pinelands comprehensive management plan adopted pursuant thereto, the value determined by the committee pursuant to subsection e. of section 38 of P.L.1999, c.152 (C.13:8C-38); or

(b) in the case of property located in the Highlands Region, the value determined pursuant to subsection j. of section 38 of P.L.1999, c.152 (C.13:8C-38).

The landowner shall be provided with the values determined pursuant to paragraphs (1) and (2) of this subsection, and if applicable, the value determined pursuant to paragraph (3) of this subsection. The higher of the values shall be utilized by the committee, a local government unit, or a qualifying tax exempt nonprofit organization as the basis for negotiation with the landowner with respect to the acquisition price. A landowner may waive any of the requirements of this subsection and may agree to sell the lands for less than the values determined pursuant to this subsection.

f. Notwithstanding the provisions of the “Administrative Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et seq.) to the contrary, the committee shall, immediately upon filing proper notice with the Office of Administrative Law, adopt rules and regulations to establish the “Statewide Farmland Preservation Formula” required pursuant to paragraph (2) of subsection e. of this section. The rules and regulations adopted pursuant to this subsection shall be in effect for a period not to exceed three years after the date of the filing. These rules and regulations shall thereafter be adopted, amended, or readopted by the committee in accordance with the requirements of the “Administrative Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et seq.).

3. This act shall take effect immediately.

Approved January 8, 2024.