

40A:12-15

LEGISLATIVE HISTORY CHECKLIST

Compiled by the NJ State Law Library

LAWS OF: 2011 **CHAPTER:** 35

NJSA: 40A:12-15 (Authorizes sale and lease of unneeded public property to certain non-profits for gardening and urban farming and exempts such urban farms from property taxation)

BILL NO: A2859 (Substituted for S1964)

SPONSOR(S) Quijano and others

DATE INTRODUCED: June 10, 2010

COMMITTEE: **ASSEMBLY:** Budget

SENATE: ---

AMENDED DURING PASSAGE: Yes

DATE OF PASSAGE: **ASSEMBLY:** January 10, 2011

SENATE: January 10, 2011

DATE OF APPROVAL: March 1, 2011

FOLLOWING ARE ATTACHED IF AVAILABLE:

FINAL TEXT OF BILL (Second reprint enacted)

A2859

SPONSOR'S STATEMENT: (Begins on page 9 of original bill) Yes

COMMITTEE STATEMENT: **ASSEMBLY:** Yes

SENATE: No

(Audio archived recordings of the committee meetings, corresponding to the date of the committee statement, *may possibly* be found at www.njleg.state.nj.us)

FLOOR AMENDMENT STATEMENT: Yes

LEGISLATIVE FISCAL ESTIMATE: No

S1964

SPONSOR'S STATEMENT (Begins on page 9 of original bill) Yes

COMMITTEE STATEMENT: **ASSEMBLY:** No

SENATE: Yes

FLOOR AMENDMENT STATEMENT: Yes

LEGISLATIVE FISCAL ESTIMATE: No

(continued)

VETO MESSAGE: No

GOVERNOR'S PRESS RELEASE ON SIGNING: No

FOLLOWING WERE PRINTED:

To check for circulating copies, contact New Jersey State Government Publications at the State Library (609) 278-2640 ext.103 or <mailto:refdesk@njstatelib.org>

REPORTS: No

HEARINGS: No

NEWSPAPER ARTICLES: No

LAW/KR

P.L.2011, CHAPTER 35, *approved March 1, 2011*
Assembly, No. 2859 (*Second Reprint*)

1 **AN ACT** concerning the lease and sale of certain property not
2 needed for public purposes to certain nonprofits to encourage
3 and facilitate urban farming and gardening, and providing a
4 property tax exemption for land leased or sold for urban farms,
5 amending and supplementing P.L.1971, c.199 and amending
6 R.S.54:4-3.6.

7
8 **BE IT ENACTED** by the Senate and General Assembly of the State
9 of New Jersey:

10
11 1. (New section) The Legislature finds and declares:

12 a. There exists in certain older, urban municipalities an excess
13 of vacant property that is not needed for public use; and

14 b. Vacant properties present numerous problems for these
15 municipalities such as: presenting the opportunity for criminal
16 activity, deterring neighboring property owners from improving
17 their properties and prospective purchasers and renters from
18 locating into these areas, and serving as a location to dispose of
19 unwanted items; and

20 c. These municipalities are often centers of high and increasing
21 populations and population densities comprised, in part, of lower
22 income families; and

23 d. Due, in part, to increasing population densities, the
24 deterioration of infrastructure such as parks, and fiscal constraints,
25 these municipalities have been challenged to offer residents
26 opportunities to enhance the quality of their lives; and

27 e. Due to the scarcity of full service supermarkets and farmer's
28 markets within these municipalities, municipal residents often
29 suffer from a shortage of fresh fruits and vegetables; and

30 f. The shortages of recreational opportunities and sources of
31 fresh fruits and vegetables have contributed to alarming increases in
32 childhood obesity and other adverse health consequences for
33 municipal residents; and

34 g. While provisions of statutory law authorize local units to
35 lease or sell property that is not needed for public use in order to
36 further various public purposes, these statutory provisions limit
37 municipalities from enlisting the assistance of nonprofit entities to
38 develop these properties for a range of public purposes that could

EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹Assembly ABU committee amendments adopted December 9, 2010.

²Assembly floor amendments adopted January 6, 2011.

1 enhance the recreational, educational, and nutritional needs of local
2 residents; and

3 h. Authorization for local units to lease and sell vacant land to
4 nonprofit entities to cultivate these lands can provide both
5 recreational opportunities and a source of fresh, locally grown fruits
6 and vegetables for local residents; and

7 i. The nonprofit cultivation of previously vacant land by
8 nonprofit entities is a public purpose for which the long term lease
9 and sale of these properties, and exemption from property taxation
10 therefore, is warranted, even in those instances when produce is
11 sold to further the mission of these nonprofit entities.

12

13 ¹[2. Section 15 of P.L.1971, c.199 (C.40A:12-15) is amended to
14 read as follows:

15 15. Purposes for which leases for a public purpose may be made.

16 A leasehold for a term not in excess of 50 years may be made
17 pursuant to this act and extended for an additional 25 years by
18 ordinance or resolution thereafter for any county or municipal
19 public purpose, including, but not limited to:

20 (a) The provision of fire protection, first aid, rescue and
21 emergency services by an association duly incorporated for such
22 purposes.

23 (b) The provision of health care or services by a nonprofit clinic,
24 hospital, residential home, outpatient center or other similar
25 corporation or association.

26 (c) The housing, recreation, education or health care of veterans
27 of any war of the United States by any nonprofit corporation or
28 association.

29 (d) Mental health or psychiatric services or education for the
30 mentally ill, mentally retarded, or mentally defective by any
31 nonprofit corporation or association.

32 (e) Any shelter care or services for persons aged 62 or over
33 receiving Social Security payments, pensions, or disability benefits
34 which constitute a substantial portion of the gross income by any
35 nonprofit corporation or association.

36 (f) Services or care for the education or treatment of cerebral
37 palsy patients by any nonprofit corporation or association.

38 (g) Any civic or historic programs or activities by duly
39 incorporated historical societies.

40 (h) Services, education, training, care or treatment of poor or
41 indigent persons or families by any nonprofit corporation or
42 association.

43 (i) Any activity for the promotion of the health, safety, morals
44 and general welfare of the community of any nonprofit corporation
45 or association.

46 (j) The cultivation or use of vacant lots for gardening or
47 recreational purposes.

1 (k) The provision of electrical transmission service across the
2 lines of a public utility for a county or municipality pursuant to
3 R.S.40:62-12 through R.S.40:62-25.

4 (l) In any city of the first or second class, the lease of a tract of
5 land of less than five acres to a nonprofit corporation or association
6 to cultivate and sell fresh fruits and vegetables.

7 Except as otherwise provided in subsection (k) of this section, in
8 no event shall any lease under this section be entered into for, with,
9 or on behalf of any commercial, business, trade, manufacturing,
10 wholesaling, retailing, or other profit-making enterprise, nor shall
11 any lease pursuant to this section be entered into with any political,
12 partisan, sectarian, denominational or religious corporation or
13 association, or for any political, partisan, sectarian, denominational
14 or religious purpose, except that a county or municipality may enter
15 into a lease for the use permitted under subsection (j) with a
16 sectarian, denominational or religious corporation; provided the
17 property is not used for a sectarian, denominational or religious
18 purpose. In the case of a municipality the governing body may
19 designate the municipal manager, business administrator or any
20 other municipal official for the purpose of entering into a lease for
21 the use permitted under subsection (j). Any lease entered into
22 pursuant to subsection (l) with a non-profit corporation or
23 association may permit the non-profit corporation or association to
24 sell fresh fruits and vegetables on the leased land, off the leased
25 land, or both, provided, that the sales are related and incidental to
26 the non-profit purposes of the corporation or association and the net
27 proceeds received by the non-profit corporation or association are
28 used to further the non-profit purposes of the corporation or
29 association. Property leased pursuant to subsection (l) of this
30 section shall be exempt from property taxation.

31 (cf: P.L.1991, c.143, s.6)]¹

32
33 ¹2. Section 15 of P.L.1971, c.199 (C.40A:12-15) is amended to
34 read as follows:

35 15. Purposes for which leases for a public purpose may be made.

36 A leasehold for a term not in excess of 50 years may be made
37 pursuant to this act and extended for an additional 25 years by
38 ordinance or resolution thereafter for any county or municipal
39 public purpose, including, but not limited to:

40 (a) The provision of fire protection, first aid, rescue and
41 emergency services by an association duly incorporated for such
42 purposes.

43 (b) The provision of health care or services by a nonprofit
44 clinic, hospital, residential home, outpatient center or other similar
45 corporation or association.

46 (c) The housing, recreation, education or health care of veterans
47 of any war of the United States by any nonprofit corporation or
48 association.

1 (d) Mental health or psychiatric services or education for
2 persons with mental illness, persons with a mental deficiency, or
3 persons with intellectual disabilities by any nonprofit corporation or
4 association.

5 (e) Any shelter care or services for persons aged 62 or over
6 receiving Social Security payments, pensions, or disability benefits
7 which constitute a substantial portion of the gross income by any
8 nonprofit corporation or association.

9 (f) Services or care for the education or treatment of cerebral
10 palsy patients by any nonprofit corporation or association.

11 (g) Any civic or historic programs or activities by duly
12 incorporated historical societies.

13 (h) Services, education, training, care or treatment of poor or
14 indigent persons or families by any nonprofit corporation or
15 association.

16 (i) Any activity for the promotion of the health, safety, morals
17 and general welfare of the community of any nonprofit corporation
18 or association.

19 (j) The cultivation or use of vacant lots for gardening or
20 recreational purposes.

21 (k) The provision of electrical transmission service across the
22 lines of a public utility for a county or municipality pursuant to
23 R.S.40:62-12 through R.S.40:62-25.

24 (l) In any city of the first, second, third or fourth class, the lease
25 of a tract of land of less than five acres to a nonprofit corporation or
26 association to cultivate and sell fresh fruits and vegetables.

27 Except as otherwise provided in subsection (k) of this section, in
28 no event shall any lease under this section be entered into for, with,
29 or on behalf of any commercial, business, trade, manufacturing,
30 wholesaling, retailing, or other profit-making enterprise, nor shall
31 any lease pursuant to this section be entered into with any political,
32 partisan, sectarian, denominational or religious corporation or
33 association, or for any political, partisan, sectarian, denominational
34 or religious purpose, except that a county or municipality may enter
35 into a lease for the use permitted under subsection (j) with a
36 sectarian, denominational or religious corporation; provided the
37 property is not used for a sectarian, denominational or religious
38 purpose. In the case of a municipality the governing body may
39 designate the municipal manager, business administrator or any
40 other municipal official for the purpose of entering into a lease for
41 the use permitted under subsection (j). Any lease entered into
42 pursuant to subsection (l) with a non-profit corporation or
43 association may permit the non-profit corporation or association to
44 sell fresh fruits and vegetables on the leased land, off the leased
45 land, or both, provided, that the sales are related and incidental to
46 the non-profit purposes of the corporation or association and the net
47 proceeds received by the non-profit corporation or association are
48 used to further the non-profit purposes of the corporation or

1 association. Property leased pursuant to subsection (l) of this
2 section shall be exempt from property taxation.¹

3 (cf: P.L.2010, c.50, s.68)

4

5 3. Section 21 of P.L.1971, c.199 (C.40A:12-21) is amended to
6 read as follows:

7 21. Private sales to certain organizations upon nominal
8 consideration. When the governing body of any county or
9 municipality shall determine that all or any part of a tract of land,
10 with or without improvements, owned by the county or
11 municipality, is not then needed for county or municipal purposes,
12 as the case may be, said governing body, by resolution or
13 ordinance, may authorize a private sale and conveyance of the
14 same, or any part thereof without compliance with any other law
15 governing disposal of lands by counties and municipalities, for a
16 consideration, which may be nominal, and containing a limitation
17 that such lands or buildings shall be used only for the purposes of
18 such organization or association, and to render such services or to
19 provide such facilities as may be agreed upon, and except as
20 provided in subsection (n) of this section not for commercial
21 business, trade or manufacture, and that, unless waived, released,
22 modified, or subordinated pursuant to P.L.1943, c.33 (C.40:60-
23 51.2), if said lands or buildings are not used in accordance with said
24 limitation, title thereto shall revert to the county or municipality
25 without any entry or reentry made thereon on behalf of such county
26 or municipality, to

27 (a) A duly incorporated volunteer fire company or board of fire
28 commissioners or first aid and emergency or volunteer ambulance
29 or rescue squad association of a municipality within the county, in
30 the case of a county, or of the municipality, in the case of a
31 municipality, for the construction thereon of a firehouse or fire
32 school or a first aid and emergency or volunteer ambulance or
33 rescue squad building or for the use of any existing building for any
34 or all of said purposes and any such land or building sold to any
35 duly incorporated volunteer fire company may be leased by such
36 fire company to any volunteer firemen's association for the use
37 thereof for fire school purposes for the benefit of the members of
38 such association, or

39 (b) Any nationally chartered organization or association of
40 veterans of any war, in which the United States has or shall have
41 been engaged, by a conveyance for consideration, a part of which
42 may be an agreement by the organization or association to render
43 service or to provide facilities for the general public of the county
44 or municipality, of a kind which the county or municipality may
45 furnish to its citizens and to the general public, or

46 (c) A duly incorporated nonprofit hospital association for the
47 construction or maintenance thereon of a general hospital, or

1 (d) Any paraplegic veteran, that is to say, any officer, soldier,
2 sailor, marine, nurse or other person, regularly enlisted or inducted,
3 who was or shall have been in the active military or naval forces of
4 the United States in any war in which the United States was
5 engaged, including any member of the American Merchant Marine
6 during World War II who is declared by the United States
7 Department of Defense to be eligible for federal veterans' benefits,
8 and who, at the time he was commissioned, enlisted, inducted,
9 appointed or mustered into such military or naval service, was a
10 resident of and who continues to reside in this State, who is
11 suffering from paraplegia and has permanent paralysis of both legs
12 or the lower parts of the body resulting from injuries sustained
13 through enemy action or accident while in such active military or
14 naval service, for the construction of a home to domicile him, or to
15 any organization or association of veterans, for the construction of a
16 home or homes to domicile paraplegic veterans, with powers to
17 convey said lands and premises to the paraplegic veteran or
18 veterans on whose behalf said organization or association shall
19 acquire title to said land, or

20 (e) Any duly incorporated nonprofit association or any regional
21 commission or authority composed of one or more municipalities or
22 one or more counties for the construction or maintenance thereon of
23 an animal shelter, or

24 (f) Any duly incorporated nonprofit historical society for the
25 acquisition of publicly owned historic sites for their restoration,
26 preservation, improvement and utilization for the benefit of the
27 general public, or

28 (g) Any duly incorporated nonprofit cemetery organization or
29 association serving the residents of the municipality or county, or

30 (h) Any duly incorporated nonprofit organization for the
31 principal purpose of the education or treatment of persons afflicted
32 with developmental disabilities including cerebral palsy, or

33 (i) Any county or municipal sewerage authority serving the
34 residents of the county or municipality, for the use thereof for
35 sewerage authority purposes, or

36 (j) Any duly incorporated nonprofit organization for the purpose
37 of building or rehabilitating residential property for resale. Any
38 profits from the resale of the property shall be applied by the
39 nonprofit organization to the costs of acquiring and rehabilitating
40 other residential property in need of rehabilitation owned by the
41 county or municipality, or

42 (k) Any duly incorporated nonprofit organization or association,
43 other than a political, partisan, sectarian, denominational or
44 religious organization or association, which includes among its
45 principal purposes the provision of educational, gardening,
46 recreational, medical or social services to the general public,
47 including residents of the county or municipality, or

1 (l) Any duly incorporated nonprofit housing corporation or any
2 limited-dividend housing corporation or housing association
3 organized pursuant to P.L.1949, c.184 (C.55:16-1 et seq.) for the
4 purpose of constructing housing for low or moderate income
5 persons or families or handicapped persons, or

6 (m) Any duly incorporated nonprofit hospice organization whose
7 principal purpose is to provide hospice services to the terminally ill,
8 or

9 (n) Any duly incorporated nonprofit organization or association
10 for the cultivation and sale of fresh fruits and vegetables on a tract
11 of land of less than five acres within a city of the first ¹ [or] ¹
12 second ¹, third or fourth¹ class, provided that the nonprofit
13 organization or association is not controlled, directly or indirectly,
14 by any agricultural, commercial, or other business. The nonprofit
15 organization or association shall be authorized to sell fresh fruits
16 and vegetables either on the land that was conveyed, off that land,
17 or both, provided, that the sales are related and incidental to the
18 non-profit purposes of the organization or association and the net
19 proceeds received by the nonprofit organization or association are
20 used to further the non-profit purposes of the organization or
21 association.

22 ²Whenever a sale of property is proposed pursuant to subsection
23 (k), for gardening, or subsection (n) of this section, the county or
24 municipality shall comply with all notice requirements for an
25 application for development under section 7.1 of P.L.1975, c.291
26 (C.40:55D-12).²

27 (cf: P.L.2005, c.52, s.2)

28
29 ¹[4.R.S.54:4-3.6 is amended to read as follows:

30 54:4-3.6. The following property shall be exempt from taxation
31 under this chapter: all buildings actually used for colleges, schools,
32 academies or seminaries, provided that if any portion of such
33 buildings are leased to profit-making organizations or otherwise
34 used for purposes which are not themselves exempt from taxation,
35 said portion shall be subject to taxation and the remaining portion
36 only shall be exempt; all buildings actually used for historical
37 societies, associations or exhibitions, when owned by the State,
38 county or any political subdivision thereof or when located on land
39 owned by an educational institution which derives its primary
40 support from State revenue; all buildings actually and exclusively
41 used for public libraries, asylum or schools for feebleminded or
42 idiotic persons and children; all buildings used exclusively by any
43 association or corporation formed for the purpose and actually
44 engaged in the work of preventing cruelty to animals; all buildings
45 actually and exclusively used and owned by volunteer first-aid
46 squads, which squads are or shall be incorporated as associations
47 not for pecuniary profit; all buildings actually used in the work of

1 associations and corporations organized exclusively for the moral
2 and mental improvement of men, women and children, provided
3 that if any portion of a building used for that purpose is leased to
4 profit-making organizations or is otherwise used for purposes which
5 are not themselves exempt from taxation, that portion shall be
6 subject to taxation and the remaining portion only shall be exempt;
7 all buildings actually used in the work of associations and
8 corporations organized exclusively for religious purposes, including
9 religious worship, or charitable purposes, provided that if any
10 portion of a building used for that purpose is leased to a profit-
11 making organization or is otherwise used for purposes which are not
12 themselves exempt from taxation, that portion shall be subject to
13 taxation and the remaining portion shall be exempt from taxation,
14 and provided further that if any portion of a building is used for a
15 different exempt use by an exempt entity, that portion shall also be
16 exempt from taxation; all buildings actually used in the work of
17 associations and corporations organized exclusively for hospital
18 purposes, provided that if any portion of a building used for hospital
19 purposes is leased to profit-making organizations or otherwise used
20 for purposes which are not themselves exempt from taxation, that
21 portion shall be subject to taxation and the remaining portion only
22 shall be exempt; all buildings owned or held by an association or
23 corporation created for the purpose of holding the title to such
24 buildings as are actually and exclusively used in the work of two or
25 more associations or corporations organized exclusively for the
26 moral and mental improvement of men, women and children; all
27 buildings owned by a corporation created under or otherwise
28 subject to the provisions of Title 15 of the Revised Statutes or Title
29 15A of the New Jersey Statutes and actually and exclusively used in
30 the work of one or more associations or corporations organized
31 exclusively for charitable or religious purposes, which associations
32 or corporations may or may not pay rent for the use of the premises
33 or the portions of the premises used by them; the buildings, not
34 exceeding two, actually occupied as a parsonage by the officiating
35 clergymen of any religious corporation of this State, together with
36 the accessory buildings located on the same premises; the land
37 whereon any of the buildings hereinbefore mentioned are erected,
38 and which may be necessary for the fair enjoyment thereof, and
39 which is devoted to the purposes above mentioned and to no other
40 purpose and does not exceed five acres in extent; the furniture and
41 personal property in said buildings if used in and devoted to the
42 purposes above mentioned; all property owned and used by any
43 nonprofit corporation in connection with its curriculum, work, care,
44 treatment and study of feeble-minded, mentally retarded, or idiotic
45 men, women, or children shall also be exempt from taxation,
46 provided that such corporation conducts and maintains research or
47 professional training facilities for the care and training of
48 feeble-minded, mentally retarded, or idiotic men, women, or

1 children; provided, in case of all the foregoing, the buildings, or the
2 lands on which they stand, or the associations, corporations or
3 institutions using and occupying them as aforesaid, are not
4 conducted for profit, except that the exemption of the buildings and
5 lands used for charitable, benevolent or religious purposes shall
6 extend to cases where the charitable, benevolent or religious work
7 therein carried on is supported partly by fees and charges received
8 from or on behalf of beneficiaries using or occupying the buildings;
9 provided the building is wholly controlled by and the entire income
10 therefrom is used for said charitable, benevolent or religious
11 purposes; and any tract of land purchased pursuant to subsection (n)
12 of section 21 of P.L.1971, c.199 (C.40A:12-21), and located within
13 a city of the first or second class, actually used for the cultivation
14 and sale of fresh fruits and vegetables and owned by a duly
15 incorporated nonprofit organization or association which includes
16 among its principal purposes the cultivation and sale of fresh fruits
17 and vegetables, other than a political, partisan, sectarian,
18 denominational or religious organization or association. The
19 foregoing exemption shall apply only where the association,
20 corporation or institution claiming the exemption owns the property
21 in question and is incorporated or organized under the laws of this
22 State and authorized to carry out the purposes on account of which
23 the exemption is claimed or where an educational institution, as
24 provided herein, has leased said property to a historical society or
25 association or to a corporation organized for such purposes and
26 created under or otherwise subject to the provisions of Title 15 of
27 the Revised Statutes or Title 15A of the New Jersey Statutes.

28 As used in this section "hospital purposes" includes health care
29 facilities for the elderly, such as nursing homes; residential health
30 care facilities; assisted living residences; facilities with a Class C
31 license pursuant to P.L.1979, c.496 (C.55:13B-1 et al.), the
32 "Rooming and Boarding House Act of 1979"; similar facilities that
33 provide medical, nursing or personal care services to their residents;
34 and that portion of the central administrative or service facility of a
35 continuing care retirement community that is reasonably allocable
36 as a health care facility for the elderly.
37 (cf: P.L.2001, c.18, s.1)]¹

38

39 ¹4. R.S.54:4-3.6 is amended to read as follows:

40 54:4-3.6. The following property shall be exempt from taxation
41 under this chapter: all buildings actually used for colleges, schools,
42 academies or seminaries, provided that if any portion of such
43 buildings are leased to profit-making organizations or otherwise
44 used for purposes which are not themselves exempt from taxation,
45 said portion shall be subject to taxation and the remaining portion
46 only shall be exempt; all buildings actually used for historical
47 societies, associations or exhibitions, when owned by the State,
48 county or any political subdivision thereof or when located on land

1 owned by an educational institution which derives its primary
2 support from State revenue; all buildings actually and exclusively
3 used for public libraries, asylum or schools for adults and children
4 with intellectual disabilities; all buildings used exclusively by any
5 association or corporation formed for the purpose and actually
6 engaged in the work of preventing cruelty to animals; all buildings
7 actually and exclusively used and owned by volunteer first-aid
8 squads, which squads are or shall be incorporated as associations
9 not for pecuniary profit; all buildings actually used in the work of
10 associations and corporations organized exclusively for the moral
11 and mental improvement of men, women and children, provided
12 that if any portion of a building used for that purpose is leased to
13 profit-making organizations or is otherwise used for purposes which
14 are not themselves exempt from taxation, that portion shall be
15 subject to taxation and the remaining portion only shall be exempt;
16 all buildings actually used in the work of associations and
17 corporations organized exclusively for religious purposes, including
18 religious worship, or charitable purposes, provided that if any
19 portion of a building used for that purpose is leased to a profit-
20 making organization or is otherwise used for purposes which are not
21 themselves exempt from taxation, that portion shall be subject to
22 taxation and the remaining portion shall be exempt from taxation,
23 and provided further that if any portion of a building is used for a
24 different exempt use by an exempt entity, that portion shall also be
25 exempt from taxation; all buildings actually used in the work of
26 associations and corporations organized exclusively for hospital
27 purposes, provided that if any portion of a building used for hospital
28 purposes is leased to profit-making organizations or otherwise used
29 for purposes which are not themselves exempt from taxation, that
30 portion shall be subject to taxation and the remaining portion only
31 shall be exempt; all buildings owned or held by an association or
32 corporation created for the purpose of holding the title to such
33 buildings as are actually and exclusively used in the work of two or
34 more associations or corporations organized exclusively for the
35 moral and mental improvement of men, women and children; all
36 buildings owned by a corporation created under or otherwise
37 subject to the provisions of Title 15 of the Revised Statutes or Title
38 15A of the New Jersey Statutes and actually and exclusively used in
39 the work of one or more associations or corporations organized
40 exclusively for charitable or religious purposes, which associations
41 or corporations may or may not pay rent for the use of the premises
42 or the portions of the premises used by them; the buildings, not
43 exceeding two, actually occupied as a parsonage by the officiating
44 clergymen of any religious corporation of this State, together with
45 the accessory buildings located on the same premises; the land
46 whereon any of the buildings hereinbefore mentioned are erected,
47 and which may be necessary for the fair enjoyment thereof, and
48 which is devoted to the purposes above mentioned and to no other

1 purpose and does not exceed five acres in extent; the furniture and
2 personal property in said buildings if used in and devoted to the
3 purposes above mentioned; all property owned and used by any
4 nonprofit corporation in connection with its curriculum, work, care,
5 treatment and study of men, women, or children with intellectual
6 disabilities shall also be exempt from taxation, provided that such
7 corporation conducts and maintains research or professional
8 training facilities for the care and training of men, women, or
9 children with intellectual disabilities; provided, in case of all the
10 foregoing, the buildings, or the lands on which they stand, or the
11 associations, corporations or institutions using and occupying them
12 as aforesaid, are not conducted for profit, except that the exemption
13 of the buildings and lands used for charitable, benevolent or
14 religious purposes shall extend to cases where the charitable,
15 benevolent or religious work therein carried on is supported partly
16 by fees and charges received from or on behalf of beneficiaries
17 using or occupying the buildings; provided the building is wholly
18 controlled by and the entire income therefrom is used for said
19 charitable, benevolent or religious purposes; and any tract of land
20 purchased pursuant to subsection (n) of section 21 of P.L.1971,
21 c.199 (C.40A:12-21), and located within a city of the first, second,
22 third or fourth class, actually used for the cultivation and sale of
23 fresh fruits and vegetables and owned by a duly incorporated
24 nonprofit organization or association which includes among its
25 principal purposes the cultivation and sale of fresh fruits and
26 vegetables, other than a political, partisan, sectarian,
27 denominational or religious organization or association. The
28 foregoing exemption shall apply only where the association,
29 corporation or institution claiming the exemption owns the property
30 in question and is incorporated or organized under the laws of this
31 State and authorized to carry out the purposes on account of which
32 the exemption is claimed or where an educational institution, as
33 provided herein, has leased said property to a historical society or
34 association or to a corporation organized for such purposes and
35 created under or otherwise subject to the provisions of Title 15 of
36 the Revised Statutes or Title 15A of the New Jersey Statutes.

37 As used in this section "hospital purposes" includes health care
38 facilities for the elderly, such as nursing homes; residential health
39 care facilities; assisted living residences; facilities with a Class C
40 license pursuant to P.L.1979, c.496 (C.55:13B-1 et al.), the
41 "Rooming and Boarding House Act of 1979"; similar facilities that
42 provide medical, nursing or personal care services to their residents;
43 and that portion of the central administrative or service facility of a
44 continuing care retirement community that is reasonably allocable
45 as a health care facility for the elderly.¹
46 (cf: P.L.2010, c.50, s.81)

47

48 5. This act shall take effect immediately.

1

2

3

4

5

Authorizes sale and lease of unneeded public property to certain nonprofits for gardening and urban farming and exempts such urban farms from property taxation.

ASSEMBLY, No. 2859

STATE OF NEW JERSEY 214th LEGISLATURE

INTRODUCED JUNE 10, 2010

Sponsored by:

Assemblywoman ANNETTE QUIJANO

District 20 (Union)

Assemblyman JOHN J. BURZICHELLI

District 3 (Salem, Cumberland and Gloucester)

Assemblywoman CELESTE M. RILEY

District 3 (Salem, Cumberland and Gloucester)

Assemblywoman ELEASE EVANS

District 35 (Bergen and Passaic)

SYNOPSIS

Authorizes sale and lease of unneeded public property to certain nonprofits for gardening and urban farming and exempts such urban farms from property taxation.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 10/8/2010)

1 AN ACT concerning the lease and sale of certain property not
2 needed for public purposes to certain nonprofits to encourage
3 and facilitate urban farming and gardening, and providing a
4 property tax exemption for land leased or sold for urban farms,
5 amending and supplementing P.L.1971, c.199 and amending
6 R.S.54:4-3.6.

7

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

10

11 1. (New section) The Legislature finds and declares:

12 a. There exists in certain older, urban municipalities an excess
13 of vacant property that is not needed for public use; and

14 b. Vacant properties present numerous problems for these
15 municipalities such as: presenting the opportunity for criminal
16 activity, deterring neighboring property owners from improving
17 their properties and prospective purchasers and renters from
18 locating into these areas, and serving as a location to dispose of
19 unwanted items; and

20 c. These municipalities are often centers of high and increasing
21 populations and population densities comprised, in part, of lower
22 income families; and

23 d. Due, in part, to increasing population densities, the
24 deterioration of infrastructure such as parks, and fiscal constraints,
25 these municipalities have been challenged to offer residents
26 opportunities to enhance the quality of their lives; and

27 e. Due to the scarcity of full service supermarkets and farmer's
28 markets within these municipalities, municipal residents often
29 suffer from a shortage of fresh fruits and vegetables; and

30 f. The shortages of recreational opportunities and sources of
31 fresh fruits and vegetables have contributed to alarming increases in
32 childhood obesity and other adverse health consequences for
33 municipal residents; and

34 g. While provisions of statutory law authorize local units to
35 lease or sell property that is not needed for public use in order to
36 further various public purposes, these statutory provisions limit
37 municipalities from enlisting the assistance of nonprofit entities to
38 develop these properties for a range of public purposes that could
39 enhance the recreational, educational, and nutritional needs of local
40 residents; and

41 h. Authorization for local units to lease and sell vacant land to
42 nonprofit entities to cultivate these lands can provide both
43 recreational opportunities and a source of fresh, locally grown fruits
44 and vegetables for local residents; and

EXPLANATION – Matter enclosed in bold-faced brackets **[thus]** in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 i. The nonprofit cultivation of previously vacant land by
2 nonprofit entities is a public purpose for which the long term lease
3 and sale of these properties, and exemption from property taxation
4 therefore, is warranted, even in those instances when produce is
5 sold to further the mission of these nonprofit entities.

6
7 2. Section 15 of P.L.1971, c.199 (C.40A:12-15) is amended to
8 read as follows:

9 15. Purposes for which leases for a public purpose may be made.

10 A leasehold for a term not in excess of 50 years may be made
11 pursuant to this act and extended for an additional 25 years by
12 ordinance or resolution thereafter for any county or municipal
13 public purpose, including, but not limited to:

14 (a) The provision of fire protection, first aid, rescue and
15 emergency services by an association duly incorporated for such
16 purposes.

17 (b) The provision of health care or services by a nonprofit clinic,
18 hospital, residential home, outpatient center or other similar
19 corporation or association.

20 (c) The housing, recreation, education or health care of veterans
21 of any war of the United States by any nonprofit corporation or
22 association.

23 (d) Mental health or psychiatric services or education for the
24 mentally ill, mentally retarded, or mentally defective by any
25 nonprofit corporation or association.

26 (e) Any shelter care or services for persons aged 62 or over
27 receiving Social Security payments, pensions, or disability benefits
28 which constitute a substantial portion of the gross income by any
29 nonprofit corporation or association.

30 (f) Services or care for the education or treatment of cerebral
31 palsy patients by any nonprofit corporation or association.

32 (g) Any civic or historic programs or activities by duly
33 incorporated historical societies.

34 (h) Services, education, training, care or treatment of poor or
35 indigent persons or families by any nonprofit corporation or
36 association.

37 (i) Any activity for the promotion of the health, safety, morals
38 and general welfare of the community of any nonprofit corporation
39 or association.

40 (j) The cultivation or use of vacant lots for gardening or
41 recreational purposes.

42 (k) The provision of electrical transmission service across the
43 lines of a public utility for a county or municipality pursuant to
44 R.S.40:62-12 through R.S.40:62-25.

45 (l) In any city of the first or second class, the lease of a tract of
46 land of less than five acres to a nonprofit corporation or association
47 to cultivate and sell fresh fruits and vegetables.

1 Except as otherwise provided in subsection (k) of this section, in
2 no event shall any lease under this section be entered into for, with,
3 or on behalf of any commercial, business, trade, manufacturing,
4 wholesaling, retailing, or other profit-making enterprise, nor shall
5 any lease pursuant to this section be entered into with any political,
6 partisan, sectarian, denominational or religious corporation or
7 association, or for any political, partisan, sectarian, denominational
8 or religious purpose, except that a county or municipality may enter
9 into a lease for the use permitted under subsection (j) with a
10 sectarian, denominational or religious corporation; provided the
11 property is not used for a sectarian, denominational or religious
12 purpose. In the case of a municipality the governing body may
13 designate the municipal manager, business administrator or any
14 other municipal official for the purpose of entering into a lease for
15 the use permitted under subsection (j). Any lease entered into
16 pursuant to subsection (l) with a non-profit corporation or
17 association may permit the non-profit corporation or association to
18 sell fresh fruits and vegetables on the leased land, off the leased
19 land, or both, provided, that the sales are related and incidental to
20 the non-profit purposes of the corporation or association and the net
21 proceeds received by the non-profit corporation or association are
22 used to further the non-profit purposes of the corporation or
23 association. Property leased pursuant to subsection (l) of this
24 section shall be exempt from property taxation.

25 (cf: P.L.1991, c.143, s.6)

26

27 3. Section 21 of P.L.1971, c.199 (C.40A:12-21) is amended to
28 read as follows:

29 21. Private sales to certain organizations upon nominal
30 consideration. When the governing body of any county or
31 municipality shall determine that all or any part of a tract of land,
32 with or without improvements, owned by the county or
33 municipality, is not then needed for county or municipal purposes,
34 as the case may be, said governing body, by resolution or
35 ordinance, may authorize a private sale and conveyance of the
36 same, or any part thereof without compliance with any other law
37 governing disposal of lands by counties and municipalities, for a
38 consideration, which may be nominal, and containing a limitation
39 that such lands or buildings shall be used only for the purposes of
40 such organization or association, and to render such services or to
41 provide such facilities as may be agreed upon, and except as
42 provided in subsection (n) of this section not for commercial
43 business, trade or manufacture, and that, unless waived, released,
44 modified, or subordinated pursuant to P.L.1943, c.33 (C.40:60-
45 51.2), if said lands or buildings are not used in accordance with said
46 limitation, title thereto shall revert to the county or municipality
47 without any entry or reentry made thereon on behalf of such county
48 or municipality, to

1 (a) A duly incorporated volunteer fire company or board of fire
2 commissioners or first aid and emergency or volunteer ambulance
3 or rescue squad association of a municipality within the county, in
4 the case of a county, or of the municipality, in the case of a
5 municipality, for the construction thereon of a firehouse or fire
6 school or a first aid and emergency or volunteer ambulance or
7 rescue squad building or for the use of any existing building for any
8 or all of said purposes and any such land or building sold to any
9 duly incorporated volunteer fire company may be leased by such
10 fire company to any volunteer firemen's association for the use
11 thereof for fire school purposes for the benefit of the members of
12 such association, or

13 (b) Any nationally chartered organization or association of
14 veterans of any war, in which the United States has or shall have
15 been engaged, by a conveyance for consideration, a part of which
16 may be an agreement by the organization or association to render
17 service or to provide facilities for the general public of the county
18 or municipality, of a kind which the county or municipality may
19 furnish to its citizens and to the general public, or

20 (c) A duly incorporated nonprofit hospital association for the
21 construction or maintenance thereon of a general hospital, or

22 (d) Any paraplegic veteran, that is to say, any officer, soldier,
23 sailor, marine, nurse or other person, regularly enlisted or inducted,
24 who was or shall have been in the active military or naval forces of
25 the United States in any war in which the United States was
26 engaged, including any member of the American Merchant Marine
27 during World War II who is declared by the United States
28 Department of Defense to be eligible for federal veterans' benefits,
29 and who, at the time he was commissioned, enlisted, inducted,
30 appointed or mustered into such military or naval service, was a
31 resident of and who continues to reside in this State, who is
32 suffering from paraplegia and has permanent paralysis of both legs
33 or the lower parts of the body resulting from injuries sustained
34 through enemy action or accident while in such active military or
35 naval service, for the construction of a home to domicile him, or to
36 any organization or association of veterans, for the construction of a
37 home or homes to domicile paraplegic veterans, with powers to
38 convey said lands and premises to the paraplegic veteran or
39 veterans on whose behalf said organization or association shall
40 acquire title to said land, or

41 (e) Any duly incorporated nonprofit association or any regional
42 commission or authority composed of one or more municipalities or
43 one or more counties for the construction or maintenance thereon of
44 an animal shelter, or

45 (f) Any duly incorporated nonprofit historical society for the
46 acquisition of publicly owned historic sites for their restoration,
47 preservation, improvement and utilization for the benefit of the
48 general public, or

- 1 (g) Any duly incorporated nonprofit cemetery organization or
2 association serving the residents of the municipality or county, or
- 3 (h) Any duly incorporated nonprofit organization for the
4 principal purpose of the education or treatment of persons afflicted
5 with developmental disabilities including cerebral palsy, or
- 6 (i) Any county or municipal sewerage authority serving the
7 residents of the county or municipality, for the use thereof for
8 sewerage authority purposes, or
- 9 (j) Any duly incorporated nonprofit organization for the purpose
10 of building or rehabilitating residential property for resale. Any
11 profits from the resale of the property shall be applied by the
12 nonprofit organization to the costs of acquiring and rehabilitating
13 other residential property in need of rehabilitation owned by the
14 county or municipality, or
- 15 (k) Any duly incorporated nonprofit organization or association,
16 other than a political, partisan, sectarian, denominational or
17 religious organization or association, which includes among its
18 principal purposes the provision of educational, gardening,
19 recreational, medical or social services to the general public,
20 including residents of the county or municipality, or
- 21 (l) Any duly incorporated nonprofit housing corporation or any
22 limited-dividend housing corporation or housing association
23 organized pursuant to P.L.1949, c.184 (C.55:16-1 et seq.) for the
24 purpose of constructing housing for low or moderate income
25 persons or families or handicapped persons, or
- 26 (m) Any duly incorporated nonprofit hospice organization whose
27 principal purpose is to provide hospice services to the terminally ill,
28 or
- 29 (n) Any duly incorporated nonprofit organization or association
30 for the cultivation and sale of fresh fruits and vegetables on a tract
31 of land of less than five acres within a city of the first or second
32 class, provided that the nonprofit organization or association is not
33 controlled, directly or indirectly, by any agricultural, commercial,
34 or other business. The nonprofit organization or association shall
35 be authorized to sell fresh fruits and vegetables either on the land
36 that was conveyed, off that land, or both, provided, that the sales
37 are related and incidental to the non-profit purposes of the
38 organization or association and the net proceeds received by the
39 nonprofit organization or association are used to further the non-
40 profit purposes of the organization or association.
41 (cf: P.L.2005, c.52, s.2)

42
43 4. R.S.54:4-3.6 is amended to read as follows:

44 54:4-3.6. The following property shall be exempt from taxation
45 under this chapter: all buildings actually used for colleges, schools,
46 academies or seminaries, provided that if any portion of such
47 buildings are leased to profit-making organizations or otherwise
48 used for purposes which are not themselves exempt from taxation,

1 said portion shall be subject to taxation and the remaining portion
2 only shall be exempt; all buildings actually used for historical
3 societies, associations or exhibitions, when owned by the State,
4 county or any political subdivision thereof or when located on land
5 owned by an educational institution which derives its primary
6 support from State revenue; all buildings actually and exclusively
7 used for public libraries, asylum or schools for feebleminded or
8 idiotic persons and children; all buildings used exclusively by any
9 association or corporation formed for the purpose and actually
10 engaged in the work of preventing cruelty to animals; all buildings
11 actually and exclusively used and owned by volunteer first-aid
12 squads, which squads are or shall be incorporated as associations
13 not for pecuniary profit; all buildings actually used in the work of
14 associations and corporations organized exclusively for the moral
15 and mental improvement of men, women and children, provided
16 that if any portion of a building used for that purpose is leased to
17 profit-making organizations or is otherwise used for purposes which
18 are not themselves exempt from taxation, that portion shall be
19 subject to taxation and the remaining portion only shall be exempt;
20 all buildings actually used in the work of associations and
21 corporations organized exclusively for religious purposes, including
22 religious worship, or charitable purposes, provided that if any
23 portion of a building used for that purpose is leased to a profit-
24 making organization or is otherwise used for purposes which are not
25 themselves exempt from taxation, that portion shall be subject to
26 taxation and the remaining portion shall be exempt from taxation,
27 and provided further that if any portion of a building is used for a
28 different exempt use by an exempt entity, that portion shall also be
29 exempt from taxation; all buildings actually used in the work of
30 associations and corporations organized exclusively for hospital
31 purposes, provided that if any portion of a building used for hospital
32 purposes is leased to profit-making organizations or otherwise used
33 for purposes which are not themselves exempt from taxation, that
34 portion shall be subject to taxation and the remaining portion only
35 shall be exempt; all buildings owned or held by an association or
36 corporation created for the purpose of holding the title to such
37 buildings as are actually and exclusively used in the work of two or
38 more associations or corporations organized exclusively for the
39 moral and mental improvement of men, women and children; all
40 buildings owned by a corporation created under or otherwise
41 subject to the provisions of Title 15 of the Revised Statutes or Title
42 15A of the New Jersey Statutes and actually and exclusively used in
43 the work of one or more associations or corporations organized
44 exclusively for charitable or religious purposes, which associations
45 or corporations may or may not pay rent for the use of the premises
46 or the portions of the premises used by them; the buildings, not
47 exceeding two, actually occupied as a parsonage by the officiating
48 clergymen of any religious corporation of this State, together with

1 the accessory buildings located on the same premises; the land
2 whereon any of the buildings hereinbefore mentioned are erected,
3 and which may be necessary for the fair enjoyment thereof, and
4 which is devoted to the purposes above mentioned and to no other
5 purpose and does not exceed five acres in extent; the furniture and
6 personal property in said buildings if used in and devoted to the
7 purposes above mentioned; all property owned and used by any
8 nonprofit corporation in connection with its curriculum, work, care,
9 treatment and study of feebleminded, mentally retarded, or idiotic
10 men, women, or children shall also be exempt from taxation,
11 provided that such corporation conducts and maintains research or
12 professional training facilities for the care and training of
13 feebleminded, mentally retarded, or idiotic men, women, or
14 children; provided, in case of all the foregoing, the buildings, or the
15 lands on which they stand, or the associations, corporations or
16 institutions using and occupying them as aforesaid, are not
17 conducted for profit, except that the exemption of the buildings and
18 lands used for charitable, benevolent or religious purposes shall
19 extend to cases where the charitable, benevolent or religious work
20 therein carried on is supported partly by fees and charges received
21 from or on behalf of beneficiaries using or occupying the buildings;
22 provided the building is wholly controlled by and the entire income
23 therefrom is used for said charitable, benevolent or religious
24 purposes; and any tract of land purchased pursuant to subsection (n)
25 of section 21 of P.L.1971, c.199 (C.40A:12-21), and located within
26 a city of the first or second class, actually used for the cultivation
27 and sale of fresh fruits and vegetables and owned by a duly
28 incorporated nonprofit organization or association which includes
29 among its principal purposes the cultivation and sale of fresh fruits
30 and vegetables, other than a political, partisan, sectarian,
31 denominational or religious organization or association. The
32 foregoing exemption shall apply only where the association,
33 corporation or institution claiming the exemption owns the property
34 in question and is incorporated or organized under the laws of this
35 State and authorized to carry out the purposes on account of which
36 the exemption is claimed or where an educational institution, as
37 provided herein, has leased said property to a historical society or
38 association or to a corporation organized for such purposes and
39 created under or otherwise subject to the provisions of Title 15 of
40 the Revised Statutes or Title 15A of the New Jersey Statutes.

41 As used in this section "hospital purposes" includes health care
42 facilities for the elderly, such as nursing homes; residential health
43 care facilities; assisted living residences; facilities with a Class C
44 license pursuant to P.L.1979, c.496 (C.55:13B-1 et al.), the
45 "Rooming and Boarding House Act of 1979"; similar facilities that
46 provide medical, nursing or personal care services to their residents;
47 and that portion of the central administrative or service facility of a

1 continuing care retirement community that is reasonably allocable
2 as a health care facility for the elderly.

3 (cf: P.L.2001, c.18, s.1)

4

5 5. This act shall take effect immediately.

6

7

8

STATEMENT

9

10 This bill would encourage nonprofit corporations and
11 associations to help transform vacant properties located in older
12 urban areas into vibrant fields of flowers, plants, fruits and
13 vegetables. Too often, these older municipalities accumulate
14 parcels of property that they cannot sell. Existing provisions of law
15 authorize municipalities and counties to lease or sell public property
16 not needed for a public use to nonprofit entities for them to perform
17 specified laudatory public purposes thereon.

18 This bill would add the cultivation and sale of fresh fruits and
19 vegetables to the list of purposes for which local units may lease or
20 sell public land for nominal consideration. The bill would also
21 authorize local units to sell land to nonprofit entities for the
22 provision of gardening services to the general public. Current law
23 allows for the long-term lease of excess public land, but not the sale
24 thereof, to nonprofits for gardening purpose. Recognizing that the
25 transformation of excess vacant public lands into vibrant urban
26 farms is a public purpose, the bill would afford these lands
27 exemptions from property taxation.

ASSEMBLY BUDGET COMMITTEE

STATEMENT TO

ASSEMBLY, No. 2859

with committee amendments

STATE OF NEW JERSEY

DATED: DECEMBER 8, 2010

The Assembly Budget Committee reports favorably Assembly Bill No. 2859 with committee amendments.

Assembly Bill No. 2859, as amended, authorizes the sale and lease of certain property not needed for public purposes to certain nonprofit entities to encourage and facilitate urban farming and gardening, and provides an exemption from real property taxation for such property leased or sold to those entities for urban farms.

The bill adds the cultivation and the sale of fresh fruits and vegetables to the list of purposes for which a county or municipal government may lease or sell certain tracts of public land for nominal consideration. The bill specifies that the tracts of land leased or sold by the governing body must be less than five acres in size, located in a city of the first, second, third or fourth class, and leased or sold to a nonprofit entity to cultivate and sell fresh fruits and vegetables. The bill specifies that governing bodies may permit nonprofits that lease, and must authorize nonprofits that purchase, eligible tracts of land to sell fresh fruits and vegetables on or off the land, or both, if the sales are related and incidental to the non-profit purposes of the organization or association and any net proceeds received by the nonprofits are used to further the non-profit purposes of the organization or association.

The bill authorizes the governing body of a county or municipality to sell tracts of public land to nonprofit entities for the provision of gardening services to the general public. Current law permits counties and municipalities to provide for the long-term lease of excess public land, but not the sale thereof, to nonprofits for gardening purposes.

In addition, the bill exempts the tracts of land leased or sold by the governing body of a county or municipality to certain nonprofit entities for the cultivation and the sale of fresh fruits and vegetables from property taxation.

The purpose of the bill is to encourage nonprofits to help transform vacant properties located in the State's urban areas into vibrant fields of flowers and plants and productive lots of fruits and vegetables.

FISCAL IMPACT:

This bill was not certified as requiring a fiscal note.

COMMITTEE AMENDMENTS:

The amendments extend the benefits of the bill, originally limited to cities of the first and second class, to cities of the third and fourth class as well.

The amendments make technical changes to incorporate statutory revisions that were made to the underlying laws amended in sections 2 and 4 of the bill by the provisions of P.L.2010, c.50.

STATEMENT TO
[First Reprint]
ASSEMBLY, No. 2859

with Assembly Floor Amendments
(Proposed by Assemblywoman QUIJANO)

ADOPTED: JANUARY 6, 2011

These amendments provide that whenever a sale of property is proposed pursuant to this bill for the purposes of gardening or the cultivation and sale of fresh fruits and vegetables, the county or municipality shall comply with all notice requirements for an application for development under section 7.1 of P.L.1975, c.291 (C.40:55D-12).

SENATE, No. 1964

STATE OF NEW JERSEY 214th LEGISLATURE

INTRODUCED MAY 20, 2010

Sponsored by:

Senator RAYMOND J. LESNIAK

District 20 (Union)

Senator M. TERESA RUIZ

District 29 (Essex and Union)

Co-Sponsored by:

Senator Weinberg

SYNOPSIS

Authorizes sale and lease of unneeded public property to certain nonprofits for gardening and urban farming and exempts such urban farms from property taxation.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 10/15/2010)

1 AN ACT concerning the lease and sale of certain property not
2 needed for public purposes to certain nonprofits to encourage
3 and facilitate urban farming and gardening, and providing a
4 property tax exemption for land leased or sold for urban farms,
5 amending and supplementing P.L.1971, c.199 and amending
6 R.S.54:4-3.6.

7
8 **BE IT ENACTED** by the Senate and General Assembly of the State
9 of New Jersey:

- 10
11 1. (New section) The Legislature finds and declares:
- 12 a. There exists in certain older, urban municipalities an excess
 - 13 of vacant property that is not needed for public use; and
 - 14 b. Vacant properties present numerous problems for these
 - 15 municipalities such as: presenting the opportunity for criminal
 - 16 activity, deterring neighboring property owners from improving
 - 17 their properties and prospective purchasers and renters from
 - 18 locating into these areas, and serving as a location to dispose of
 - 19 unwanted items; and
 - 20 c. These municipalities are often centers of high and increasing
 - 21 populations and population densities comprised, in part, of lower
 - 22 income families; and
 - 23 d. Due, in part, to increasing population densities, the
 - 24 deterioration of infrastructure such as parks, and fiscal constraints,
 - 25 these municipalities have been challenged to offer residents
 - 26 opportunities to enhance the quality of their lives; and
 - 27 e. Due to the scarcity of full service supermarkets and farmer's
 - 28 markets within these municipalities, municipal residents often
 - 29 suffer from a shortage of fresh fruits and vegetables; and
 - 30 f. The shortages of recreational opportunities and sources of
 - 31 fresh fruits and vegetables have contributed to alarming increases in
 - 32 childhood obesity and other adverse health consequences for
 - 33 municipal residents; and
 - 34 g. While provisions of statutory law authorize local units to
 - 35 lease or sell property that is not needed for public use in order to
 - 36 further various public purposes, these statutory provisions limit
 - 37 municipalities from enlisting the assistance of nonprofit entities to
 - 38 develop these properties for a range of public purposes that could
 - 39 enhance the recreational, educational, and nutritional needs of local
 - 40 residents; and
 - 41 h. Authorization for local units to lease and sell vacant land to
 - 42 nonprofit entities to cultivate these lands can provide both
 - 43 recreational opportunities and a source of fresh, locally grown fruits
 - 44 and vegetables for local residents; and

EXPLANATION – Matter enclosed in bold-faced brackets **[thus]** in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 i. The nonprofit cultivation of previously vacant land by
2 nonprofit entities is a public purpose for which the long term lease
3 and sale of these properties, and exemption from property taxation
4 therefore, is warranted, even in those instances when produce is
5 sold to further the mission of these nonprofit entities.

6
7 2. Section 15 of P.L.1971, c.199 (C.40A:12-15) is amended to
8 read as follows:

9 15. Purposes for which leases for a public purpose may be made.

10 A leasehold for a term not in excess of 50 years may be made
11 pursuant to this act and extended for an additional 25 years by
12 ordinance or resolution thereafter for any county or municipal
13 public purpose, including, but not limited to:

14 (a) The provision of fire protection, first aid, rescue and
15 emergency services by an association duly incorporated for such
16 purposes.

17 (b) The provision of health care or services by a nonprofit clinic,
18 hospital, residential home, outpatient center or other similar
19 corporation or association.

20 (c) The housing, recreation, education or health care of veterans
21 of any war of the United States by any nonprofit corporation or
22 association.

23 (d) Mental health or psychiatric services or education for the
24 mentally ill, mentally retarded, or mentally defective by any
25 nonprofit corporation or association.

26 (e) Any shelter care or services for persons aged 62 or over
27 receiving Social Security payments, pensions, or disability benefits
28 which constitute a substantial portion of the gross income by any
29 nonprofit corporation or association.

30 (f) Services or care for the education or treatment of cerebral
31 palsy patients by any nonprofit corporation or association.

32 (g) Any civic or historic programs or activities by duly
33 incorporated historical societies.

34 (h) Services, education, training, care or treatment of poor or
35 indigent persons or families by any nonprofit corporation or
36 association.

37 (i) Any activity for the promotion of the health, safety, morals
38 and general welfare of the community of any nonprofit corporation
39 or association.

40 (j) The cultivation or use of vacant lots for gardening or
41 recreational purposes.

42 (k) The provision of electrical transmission service across the
43 lines of a public utility for a county or municipality pursuant to
44 R.S.40:62-12 through R.S.40:62-25.

45 (l) In any city of the first or second class, the lease of a tract of
46 land of less than five acres to a nonprofit corporation or association
47 to cultivate and sell fresh fruits and vegetables.

1 Except as otherwise provided in subsection (k) of this section, in
2 no event shall any lease under this section be entered into for, with,
3 or on behalf of any commercial, business, trade, manufacturing,
4 wholesaling, retailing, or other profit-making enterprise, nor shall
5 any lease pursuant to this section be entered into with any political,
6 partisan, sectarian, denominational or religious corporation or
7 association, or for any political, partisan, sectarian, denominational
8 or religious purpose, except that a county or municipality may enter
9 into a lease for the use permitted under subsection (j) with a
10 sectarian, denominational or religious corporation; provided the
11 property is not used for a sectarian, denominational or religious
12 purpose. In the case of a municipality the governing body may
13 designate the municipal manager, business administrator or any
14 other municipal official for the purpose of entering into a lease for
15 the use permitted under subsection (j). Any lease entered into
16 pursuant to subsection (l) with a non-profit corporation or
17 association may permit the non-profit corporation or association to
18 sell fresh fruits and vegetables on the leased land, off the leased
19 land, or both, provided, that the sales are related and incidental to
20 the non-profit purposes of the corporation or association and the net
21 proceeds received by the non-profit corporation or association are
22 used to further the non-profit purposes of the corporation or
23 association. Property leased pursuant to subsection (l) of this
24 section shall be exempt from property taxation.

25 (cf: P.L.1991, c.143, s.6)

26

27 3. Section 21 of P.L.1971, c.199 (C.40A:12-21) is amended to
28 read as follows:

29 21. Private sales to certain organizations upon nominal
30 consideration. When the governing body of any county or
31 municipality shall determine that all or any part of a tract of land,
32 with or without improvements, owned by the county or
33 municipality, is not then needed for county or municipal purposes,
34 as the case may be, said governing body, by resolution or
35 ordinance, may authorize a private sale and conveyance of the
36 same, or any part thereof without compliance with any other law
37 governing disposal of lands by counties and municipalities, for a
38 consideration, which may be nominal, and containing a limitation
39 that such lands or buildings shall be used only for the purposes of
40 such organization or association, and to render such services or to
41 provide such facilities as may be agreed upon, and except as
42 provided in subsection (n) of this section not for commercial
43 business, trade or manufacture, and that, unless waived, released,
44 modified, or subordinated pursuant to P.L.1943, c.33 (C.40:60-
45 51.2), if said lands or buildings are not used in accordance with said
46 limitation, title thereto shall revert to the county or municipality
47 without any entry or reentry made thereon on behalf of such county
48 or municipality, to

1 (a) A duly incorporated volunteer fire company or board of fire
2 commissioners or first aid and emergency or volunteer ambulance
3 or rescue squad association of a municipality within the county, in
4 the case of a county, or of the municipality, in the case of a
5 municipality, for the construction thereon of a firehouse or fire
6 school or a first aid and emergency or volunteer ambulance or
7 rescue squad building or for the use of any existing building for any
8 or all of said purposes and any such land or building sold to any
9 duly incorporated volunteer fire company may be leased by such
10 fire company to any volunteer firemen's association for the use
11 thereof for fire school purposes for the benefit of the members of
12 such association, or

13 (b) Any nationally chartered organization or association of
14 veterans of any war, in which the United States has or shall have
15 been engaged, by a conveyance for consideration, a part of which
16 may be an agreement by the organization or association to render
17 service or to provide facilities for the general public of the county
18 or municipality, of a kind which the county or municipality may
19 furnish to its citizens and to the general public, or

20 (c) A duly incorporated nonprofit hospital association for the
21 construction or maintenance thereon of a general hospital, or

22 (d) Any paraplegic veteran, that is to say, any officer, soldier,
23 sailor, marine, nurse or other person, regularly enlisted or inducted,
24 who was or shall have been in the active military or naval forces of
25 the United States in any war in which the United States was
26 engaged, including any member of the American Merchant Marine
27 during World War II who is declared by the United States
28 Department of Defense to be eligible for federal veterans' benefits,
29 and who, at the time he was commissioned, enlisted, inducted,
30 appointed or mustered into such military or naval service, was a
31 resident of and who continues to reside in this State, who is
32 suffering from paraplegia and has permanent paralysis of both legs
33 or the lower parts of the body resulting from injuries sustained
34 through enemy action or accident while in such active military or
35 naval service, for the construction of a home to domicile him, or to
36 any organization or association of veterans, for the construction of a
37 home or homes to domicile paraplegic veterans, with powers to
38 convey said lands and premises to the paraplegic veteran or
39 veterans on whose behalf said organization or association shall
40 acquire title to said land, or

41 (e) Any duly incorporated nonprofit association or any regional
42 commission or authority composed of one or more municipalities or
43 one or more counties for the construction or maintenance thereon of
44 an animal shelter, or

45 (f) Any duly incorporated nonprofit historical society for the
46 acquisition of publicly owned historic sites for their restoration,
47 preservation, improvement and utilization for the benefit of the
48 general public, or

- 1 (g) Any duly incorporated nonprofit cemetery organization or
2 association serving the residents of the municipality or county, or
3 (h) Any duly incorporated nonprofit organization for the
4 principal purpose of the education or treatment of persons afflicted
5 with developmental disabilities including cerebral palsy, or
6 (i) Any county or municipal sewerage authority serving the
7 residents of the county or municipality, for the use thereof for
8 sewerage authority purposes, or
9 (j) Any duly incorporated nonprofit organization for the purpose
10 of building or rehabilitating residential property for resale. Any
11 profits from the resale of the property shall be applied by the
12 nonprofit organization to the costs of acquiring and rehabilitating
13 other residential property in need of rehabilitation owned by the
14 county or municipality, or
15 (k) Any duly incorporated nonprofit organization or association,
16 other than a political, partisan, sectarian, denominational or
17 religious organization or association, which includes among its
18 principal purposes the provision of educational, gardening,
19 recreational, medical or social services to the general public,
20 including residents of the county or municipality, or
21 (l) Any duly incorporated nonprofit housing corporation or any
22 limited-dividend housing corporation or housing association
23 organized pursuant to P.L.1949, c.184 (C.55:16-1 et seq.) for the
24 purpose of constructing housing for low or moderate income
25 persons or families or handicapped persons, or
26 (m) Any duly incorporated nonprofit hospice organization whose
27 principal purpose is to provide hospice services to the terminally ill,
28 or
29 (n) Any duly incorporated nonprofit organization or association
30 for the cultivation and sale of fresh fruits and vegetables on a tract
31 of land of less than five acres within a city of the first or second
32 class, provided that the nonprofit organization or association is not
33 controlled, directly or indirectly, by any agricultural, commercial,
34 or other business. The nonprofit organization or association shall
35 be authorized to sell fresh fruits and vegetables either on the land
36 that was conveyed, off that land, or both, provided, that the sales
37 are related and incidental to the non-profit purposes of the
38 organization or association and the net proceeds received by the
39 nonprofit organization or association are used to further the non-
40 profit purposes of the organization or association.
41 (cf: P.L.2005, c.52, s.2)

42
43 4. R.S.54:4-3.6 is amended to read as follows:
44 54:4-3.6. The following property shall be exempt from taxation
45 under this chapter: all buildings actually used for colleges, schools,
46 academies or seminaries, provided that if any portion of such
47 buildings are leased to profit-making organizations or otherwise
48 used for purposes which are not themselves exempt from taxation,

1 said portion shall be subject to taxation and the remaining portion
2 only shall be exempt; all buildings actually used for historical
3 societies, associations or exhibitions, when owned by the State,
4 county or any political subdivision thereof or when located on land
5 owned by an educational institution which derives its primary
6 support from State revenue; all buildings actually and exclusively
7 used for public libraries, asylum or schools for feebleminded or
8 idiotic persons and children; all buildings used exclusively by any
9 association or corporation formed for the purpose and actually
10 engaged in the work of preventing cruelty to animals; all buildings
11 actually and exclusively used and owned by volunteer first-aid
12 squads, which squads are or shall be incorporated as associations
13 not for pecuniary profit; all buildings actually used in the work of
14 associations and corporations organized exclusively for the moral
15 and mental improvement of men, women and children, provided
16 that if any portion of a building used for that purpose is leased to
17 profit-making organizations or is otherwise used for purposes which
18 are not themselves exempt from taxation, that portion shall be
19 subject to taxation and the remaining portion only shall be exempt;
20 all buildings actually used in the work of associations and
21 corporations organized exclusively for religious purposes, including
22 religious worship, or charitable purposes, provided that if any
23 portion of a building used for that purpose is leased to a profit-
24 making organization or is otherwise used for purposes which are not
25 themselves exempt from taxation, that portion shall be subject to
26 taxation and the remaining portion shall be exempt from taxation,
27 and provided further that if any portion of a building is used for a
28 different exempt use by an exempt entity, that portion shall also be
29 exempt from taxation; all buildings actually used in the work of
30 associations and corporations organized exclusively for hospital
31 purposes, provided that if any portion of a building used for hospital
32 purposes is leased to profit-making organizations or otherwise used
33 for purposes which are not themselves exempt from taxation, that
34 portion shall be subject to taxation and the remaining portion only
35 shall be exempt; all buildings owned or held by an association or
36 corporation created for the purpose of holding the title to such
37 buildings as are actually and exclusively used in the work of two or
38 more associations or corporations organized exclusively for the
39 moral and mental improvement of men, women and children; all
40 buildings owned by a corporation created under or otherwise
41 subject to the provisions of Title 15 of the Revised Statutes or Title
42 15A of the New Jersey Statutes and actually and exclusively used in
43 the work of one or more associations or corporations organized
44 exclusively for charitable or religious purposes, which associations
45 or corporations may or may not pay rent for the use of the premises
46 or the portions of the premises used by them; the buildings, not
47 exceeding two, actually occupied as a parsonage by the officiating
48 clergymen of any religious corporation of this State, together with

1 the accessory buildings located on the same premises; the land
2 whereon any of the buildings hereinbefore mentioned are erected,
3 and which may be necessary for the fair enjoyment thereof, and
4 which is devoted to the purposes above mentioned and to no other
5 purpose and does not exceed five acres in extent; the furniture and
6 personal property in said buildings if used in and devoted to the
7 purposes above mentioned; all property owned and used by any
8 nonprofit corporation in connection with its curriculum, work, care,
9 treatment and study of feebleminded, mentally retarded, or idiotic
10 men, women, or children shall also be exempt from taxation,
11 provided that such corporation conducts and maintains research or
12 professional training facilities for the care and training of
13 feebleminded, mentally retarded, or idiotic men, women, or
14 children; provided, in case of all the foregoing, the buildings, or the
15 lands on which they stand, or the associations, corporations or
16 institutions using and occupying them as aforesaid, are not
17 conducted for profit, except that the exemption of the buildings and
18 lands used for charitable, benevolent or religious purposes shall
19 extend to cases where the charitable, benevolent or religious work
20 therein carried on is supported partly by fees and charges received
21 from or on behalf of beneficiaries using or occupying the buildings;
22 provided the building is wholly controlled by and the entire income
23 therefrom is used for said charitable, benevolent or religious
24 purposes; and any tract of land purchased pursuant to subsection (n)
25 of section 21 of P.L.1971, c.199 (C.40A:12-21), and located within
26 a city of the first or second class, actually used for the cultivation
27 and sale of fresh fruits and vegetables and owned by a duly
28 incorporated nonprofit organization or association which includes
29 among its principal purposes the cultivation and sale of fresh fruits
30 and vegetables, other than a political, partisan, sectarian,
31 denominational or religious organization or association. The
32 foregoing exemption shall apply only where the association,
33 corporation or institution claiming the exemption owns the property
34 in question and is incorporated or organized under the laws of this
35 State and authorized to carry out the purposes on account of which
36 the exemption is claimed or where an educational institution, as
37 provided herein, has leased said property to a historical society or
38 association or to a corporation organized for such purposes and
39 created under or otherwise subject to the provisions of Title 15 of
40 the Revised Statutes or Title 15A of the New Jersey Statutes.

41 As used in this section "hospital purposes" includes health care
42 facilities for the elderly, such as nursing homes; residential health
43 care facilities; assisted living residences; facilities with a Class C
44 license pursuant to P.L.1979, c.496 (C.55:13B-1 et al.), the
45 "Rooming and Boarding House Act of 1979"; similar facilities that
46 provide medical, nursing or personal care services to their residents;
47 and that portion of the central administrative or service facility of a

1 continuing care retirement community that is reasonably allocable
2 as a health care facility for the elderly.

3 (cf: P.L.2001, c.18, s.1)

4

5 5. This act shall take effect immediately.

6

7

8

STATEMENT

9

10 This bill would encourage nonprofit corporations and
11 associations to help transform vacant properties located in older
12 urban areas into vibrant fields of flowers, plants, fruits and
13 vegetables. Too often, these older municipalities accumulate
14 parcels of property that they cannot sell. Existing provisions of law
15 authorize municipalities and counties to lease or sell public property
16 not needed for a public use to nonprofit entities for them to perform
17 specified laudatory public purposes thereon.

18 This bill would add the cultivation and sale of fresh fruits and
19 vegetables to the list of purposes for which local units may lease or
20 sell public land for nominal consideration. The bill would also
21 authorize local units to sell land to nonprofit entities for the
22 provision of gardening services to the general public. Current law
23 allows for the long-term lease of excess public land, but not the sale
24 thereof, to nonprofits for gardening purpose. Recognizing that the
25 transformation of excess vacant public lands into vibrant urban
26 farms is a public purpose, the bill would afford these lands
27 exemptions from property taxation.

SENATE BUDGET AND APPROPRIATIONS COMMITTEE

STATEMENT TO

SENATE, No. 1964

with committee amendments

STATE OF NEW JERSEY

DATED: DECEMBER 14, 2010

The Senate Budget and Appropriations committee reports favorably Senate Bill No. 1964, with committee amendments.

As amended, the bill authorizes the sale and lease of certain property not needed for public purposes to certain nonprofit entities to encourage and facilitate urban farming and gardening, and provides an exemption from real property taxation for such property leased or sold to those entities for urban farms.

The bill adds the cultivation and the sale of fresh fruits and vegetables to the list of purposes for which a county or municipal government may lease or sell certain tracts of public land for nominal consideration. The bill specifies that the tracts of land leased or sold by the governing body must be less than five acres in size, located in a city of the first, second, third or fourth class, and leased or sold to a nonprofit entity to cultivate and sell fresh fruits and vegetables. The bill specifies that governing bodies may permit nonprofits that lease, and must authorize nonprofits that purchase, eligible tracts of land to sell fresh fruits and vegetables on or off the land, or both, if the sales are related and incidental to the non-profit purposes of the organization or association and any net proceeds received by the nonprofits are used to further the non-profit purposes of the organization or association.

The bill authorizes the governing body of a county or municipality to sell tracts of public land to nonprofit entities for the provision of gardening services to the general public. Current law permits counties and municipalities to provide for the long-term lease of excess public land, but not the sale thereof, to nonprofits for gardening purposes.

In addition, the bill exempts the tracts of land leased or sold by the governing body of a county or municipality to certain nonprofit entities for the cultivation and the sale of fresh fruits and vegetables from property taxation.

The purpose of the bill is to encourage nonprofits to help transform vacant properties located in the State's urban areas into vibrant fields of flowers and plants and productive lots of fruits and vegetables.

COMMITTEE AMENDMENTS:

The amendments extend the benefits of the bill, originally limited to cities of the first and second class, to cities of the third and fourth class as well.

The amendments make technical changes to incorporate statutory revisions that were made to the underlying laws amended in sections 2 and 4 of the bill by the provisions of P.L.2010, c.50.

FISCAL IMPACT:

This bill was not certified as requiring a fiscal note.

STATEMENT TO
[First Reprint]
SENATE, No. 1964

with Senate Floor Amendments
(Proposed by Senator LESNIAK)

ADOPTED: JANUARY 6, 2011

These amendments provide that whenever a sale of property is proposed pursuant to this bill for the purposes of gardening or the cultivation and sale of fresh fruits and vegetables, the county or municipality shall comply with all notice requirements for an application for development under section 7.1 of P.L.1975, c.291 (C.40:55D-12).