

SPONSORS STATEMENT: (Begins on page 3 of original bill) Yes

Bill and Sponsors Statement identical to A3035

COMMITTEE STATEMENT: **ASSEMBLY:** No

SENATE: Yes

FLOOR AMENDMENT STATEMENTS: No

LEGISLATIVE FISCAL ESTIMATE: No

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

ASSEMBLY, No. 3035

STATE OF NEW JERSEY 209th LEGISLATURE

INTRODUCED DECEMBER 11, 2000

Sponsored by:

Assemblyman LEONARD LANCE

District 23 (Warren, Hunterdon and Mercer)

SYNOPSIS

Limits liability of landowners who convey, to government entities or certain nonprofit organizations, conservation easements on lands upon which public access is allowed.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT concerning the limitation of liability of owners, lessees and
2 occupants of certain premises subject to conservation restrictions,
3 and supplementing Title 2A of the New Jersey Statutes.

4
5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:

7
8 1. a. An owner, lessee or occupant of premises for which a
9 conservation restriction has been acquired by the State, a local unit, or
10 a charitable conservancy and upon which premises subject to the
11 conservation restriction public access is allowed, and regardless of
12 whether public notice is provided, shall be liable only for:

13 (1) willful or malicious failure to guard, or to warn against, a
14 dangerous condition, use, structure or activity; or

15 (2) injury caused by acts of negligence on the part of the owner,
16 lessee or occupant of the premises to any person where permission to
17 engage in sport or recreational activity on the premises was granted
18 for a consideration other than the consideration, if any, paid to the
19 landowner by the State, local unit, or charitable conservancy; or

20 (3) injury caused by acts of gross negligence on the part of the
21 owner, lessee, or occupant of the premises to any person entering or
22 using the land for a use or purpose unrelated to public access
23 purposes.

24 b. For the purposes of this section:

25 "Acquire" means by purchase, installment purchase agreement, gift,
26 donation, eminent domain, or devise;

27 "Charitable conservancy" means the same as that term is defined
28 pursuant to section 2 of P.L.1979, c.378 (C.13:8B-2), or a "qualifying
29 tax exempt nonprofit organization" as defined pursuant to section 3 of
30 P.L.1999, c.152 (C.13:8C-3);

31 "Conservation restriction" means the same as that term is defined
32 pursuant to section 2 of P.L.1979, c.378 (C.13:8B-2);

33 "Local unit" means the same as that term is defined pursuant to
34 section 2 of P.L.1979, c.378 (C.13:8B-2), or a "local government
35 unit" as defined pursuant to section 3 of P.L.1999, c.152 (C.13:8C-3);

36 "Premises" means any land in the State (1) regardless of location or
37 characterization or classification of location including but not limited
38 to land characterized or classified as being located in an urban,
39 suburban, rural, semi-rural, populous, developed, undeveloped,
40 unpopulous, residential, nonresidential, commercial, or industrial area,
41 and (2) regardless of whether or not the land is improved or
42 maintained in a natural condition, or used as part of a commercial
43 enterprise; and

44 "Sport or recreational activity" means a "sport and recreational
45 activity" as defined pursuant to section 1 of P.L.1968, c.73
46 (C.2A:42A-2).

1 2. This act shall take effect immediately.

2

3

4

STATEMENT

5

6 This bill would limit the liability of landowners, who convey to
7 government entities or certain nonprofit organizations conservation
8 easements on lands upon which public access is also allowed, for
9 injuries which occur on those lands.

10 Specifically, the bill would provide that an owner, lessee or
11 occupant of premises for which a conservation restriction has been
12 acquired by the State, a local government, or a nonprofit land
13 conservancy and upon which premises subject to the conservation
14 restriction public access is allowed, and regardless of whether public
15 notice is provided, shall be liable only for:

16 (1) willful or malicious failure to guard, or to warn against, a
17 dangerous condition, use, structure or activity; or

18 (2) injury caused by acts of negligence on the part of the owner,
19 lessee or occupant of the premises to any person where permission to
20 engage in sport or recreational activity on the premises was granted
21 for a consideration other than the consideration, if any, paid to the
22 landowner by the State, local government, or nonprofit land
23 conservancy; or

24 (3) injury caused by acts of gross negligence on the part of the
25 owner, lessee, or occupant of the premises to any person entering or
26 using the land for a use or purpose unrelated to public access
27 purposes.

28 The bill defines "premises" to mean any land in the State (1)
29 regardless of location or characterization or classification of location
30 including but not limited to land characterized or classified as being
31 located in an urban, suburban, rural, semi-rural, populous, developed,
32 undeveloped, unpopulous, residential, nonresidential, commercial, or
33 industrial area, and (2) regardless of whether or not the land is
34 improved or maintained in a natural condition, or used as part of a
35 commercial enterprise. The express purpose of this definition is to
36 avoid any possible interpretation by a court or administrative agency
37 that the immunities provided by the bill apply only in rural or semi-
38 rural areas of the State. Thus, the bill applies to any and all land in the
39 State for which a conservation restriction has been acquired by a
40 government entity or nonprofit land conservancy and upon which land
41 public access is allowed.

42 The purpose of this bill is to provide appropriate protection from
43 tort liability to landowners who serve an important public interest and
44 provide a valued public benefit by conveying conservation easements
45 on their lands and allowing public access to those lands for public
46 sport and recreational activities. This bill should help encourage more
47 individuals to sell or donate conservation easements, thereby helping

A3035 LANCE

4

- 1 to preserve open space and provide more opportunities for public
- 2 outdoor recreation throughout the entire State.

ASSEMBLY AGRICULTURE AND NATURAL RESOURCES
COMMITTEE

STATEMENT TO

ASSEMBLY, No. 3035

with committee amendments

STATE OF NEW JERSEY

DATED: JANUARY 23, 2001

The Assembly Agriculture and Natural Resources Committee favorably reports Assembly Bill No. 3035 with committee amendments.

This bill, as amended by the committee, would limit the liability of landowners who allow public access on lands subject to conservation or trail easements held by government entities or certain nonprofit organizations.

Specifically, the bill would provide that an owner, lessee or occupant of premises on which a conservation restriction is held by the State, a local government, or a nonprofit land conservancy and upon which premises subject to the conservation restriction public access is allowed, or of premises upon which public access is allowed pursuant to a public pathway or trail easement held by the State, a local unit, or a charitable conservancy, and regardless of whether public notice is provided, shall be liable only for:

(1) willful or malicious failure to guard, or to warn against, a dangerous condition, use, structure or activity; or

(2) injury caused by acts of negligence on the part of the owner, lessee or occupant of the premises to any person where permission to engage in sport or recreational activity on the premises was granted for a consideration other than the consideration, if any, paid to the landowner by the State, local government, or nonprofit land conservancy; or

(3) injury caused by acts of gross negligence on the part of the owner, lessee, or occupant of the premises to any person entering or using the land for a use or purpose unrelated to public access purposes.

The bill defines "premises" to mean any land in the State (1) regardless of location or characterization or classification of location including but not limited to land characterized or classified as being located in an urban, suburban, rural, semi-rural, populous, developed, undeveloped, unpopulous, residential, nonresidential, commercial, or industrial area, and (2) regardless of whether or not the land is

improved or maintained in a natural condition, or used as part of a commercial enterprise. The express purpose of this definition is to avoid any possible interpretation by a court or administrative agency that the immunities provided by the bill apply only in rural or semi-rural areas of the State. Thus, the bill applies to any and all land in the State for which a conservation or trail easement is held by a government entity or nonprofit land conservancy and upon which land public access is allowed.

The committee amended the bill to provide that the provisions would also apply to land subject to a public pathway or trail easement, and to delete the definition of "acquire" so that the bill would apply to any land for which a conservation or trail easement is held by a government entity or nonprofit land conservancy and upon which land public access is allowed.

[First Reprint]

ASSEMBLY, No. 3035

STATE OF NEW JERSEY
209th LEGISLATURE

INTRODUCED DECEMBER 11, 2000

Sponsored by:

Assemblyman LEONARD LANCE

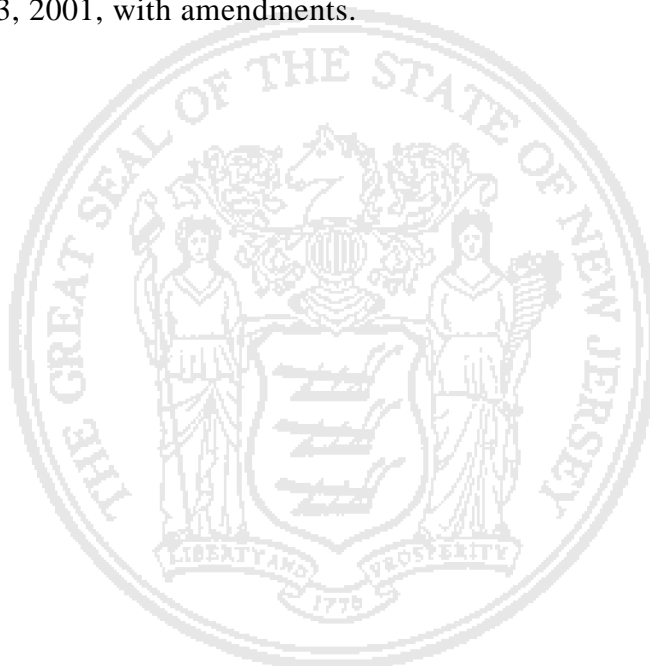
District 23 (Warren, Hunterdon and Mercer)

SYNOPSIS

Limits liability of landowners who allow public access on lands subject to conservation or trail easements held by government entities or certain nonprofit organizations.

CURRENT VERSION OF TEXT

As reported by the Assembly Agriculture and Natural Resources Committee on January 23, 2001, with amendments.



1 AN ACT concerning the limitation of liability of owners, lessees and
2 occupants of certain premises subject to conservation restrictions
3 ¹or certain other interests¹, and supplementing Title 2A of the New
4 Jersey Statutes.

5
6 **BE IT ENACTED** by the Senate and General Assembly of the State
7 of New Jersey:

8
9 1. a. An owner, lessee or occupant of premises ¹[for] on¹ which
10 a conservation restriction ¹[has been acquired] is held¹ by the State,
11 a local unit, or a charitable conservancy and upon which premises
12 subject to the conservation restriction public access is allowed, ¹or of
13 premises upon which public access is allowed pursuant to a public
14 pathway or trail easement held by the State, a local unit, or a
15 charitable conservancy,¹ and regardless of whether public notice is
16 provided, shall be liable only for:

17 (1) willful or malicious failure to guard, or to warn against, a
18 dangerous condition, use, structure or activity; or

19 (2) injury caused by acts of negligence on the part of the owner,
20 lessee or occupant of the premises to any person where permission to
21 engage in sport or recreational activity on the premises was granted
22 for a consideration other than the consideration, if any, paid to the
23 landowner by the State, local unit, or charitable conservancy; or

24 (3) injury caused by acts of gross negligence on the part of the
25 owner, lessee, or occupant of the premises to any person entering or
26 using the land for a use or purpose unrelated to public access
27 purposes.

28 b. For the purposes of this section:

29 ¹["Acquire" means by purchase, installment purchase agreement,
30 gift, donation, eminent domain, or devise;]¹

31 "Charitable conservancy" means the same as that term is defined
32 pursuant to section 2 of P.L.1979, c.378 (C.13:8B-2), or a "qualifying
33 tax exempt nonprofit organization" as defined pursuant to section 3 of
34 P.L.1999, c.152 (C.13:8C-3);

35 "Conservation restriction" means the same as that term is defined
36 pursuant to section 2 of P.L.1979, c.378 (C.13:8B-2);

37 "Local unit" means the same as that term is defined pursuant to
38 section 2 of P.L.1979, c.378 (C.13:8B-2), or a "local government
39 unit" as defined pursuant to section 3 of P.L.1999, c.152 (C.13:8C-3);

40 "Premises" means any land in the State (1) regardless of location or
41 characterization or classification of location including but not limited
42 to land characterized or classified as being located in an urban,

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

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹ Assembly AAN committee amendments adopted January 23, 2001.

A3035 [1R] LANCE

3

1 suburban, rural, semi-rural, populous, developed, undeveloped,
2 unpopulous, residential, nonresidential, commercial, or industrial area,
3 and (2) regardless of whether or not the land is improved or
4 maintained in a natural condition, or used as part of a commercial
5 enterprise; and

6 "Sport or recreational activity" means a "sport and recreational
7 activity" as defined pursuant to section 1 of P.L.1968, c.73
8 (C.2A:42A-2).

9

10 2. This act shall take effect immediately.

ASSEMBLY JUDICIARY COMMITTEE

STATEMENT TO

[First Reprint]

ASSEMBLY, No. 3035

with committee amendments

STATE OF NEW JERSEY

DATED: MAY 7, 2001

The Assembly Judiciary Committee reports favorably and with committee amendments Assembly Bill No. 3035 (1R).

This bill would limit the liability of landowners who allow public access on lands subject to conservation or trail easements held by government entities or certain nonprofit organizations.

Specifically, the bill would provide that an owner, lessee or occupant of premises on which a conservation restriction is held by the State, a local government, or a nonprofit land conservancy and upon which premises subject to the conservation restriction public access is allowed, or of premises upon which public access is allowed pursuant to a public pathway or trail easement held by the State, a local unit, or a charitable conservancy, and regardless of whether public notice is provided, shall be liable only for:

(1) willful or malicious failure to guard, or to warn against, a dangerous condition, use, structure or activity; or

(2) injury caused by acts of negligence on the part of the owner, lessee or occupant of the premises to any person where permission to engage in sport or recreational activity on the premises was granted for a consideration other than the consideration, if any, paid to the landowner by the State, local government, or nonprofit land conservancy; or

(3) injury caused by acts of gross negligence on the part of the owner, lessee, or occupant of the premises to any person entering or using the land for a use or purpose unrelated to public access purposes.

The bill defines "premises" to mean any land in the State (1) regardless of location or characterization or classification of location including but not limited to land characterized or classified as being located in an urban, suburban, rural, semi-rural, populous, developed, undeveloped, unpopulous, residential, nonresidential, commercial, or industrial area, and (2) regardless of whether or not the land is improved or maintained in a natural condition, or used as part of a commercial enterprise.

The committee amended the bill to clarify that the liability addressed by the bill applies to a person injured on the premises. See that addition in subsection a. of section 1. The provisions of the bill do not limit or waive any immunity available to a public entity pursuant to the "New Jersey Tort Claims Act." Further, the provisions of the bill do not limit the liability of an owner, lessee or occupant of a premises under any environmental statute.

As amended, this bill is identical to Senate, No. 1958 (1R).

[Second Reprint]

ASSEMBLY, No. 3035

STATE OF NEW JERSEY
209th LEGISLATURE

INTRODUCED DECEMBER 11, 2000

Sponsored by:

Assemblyman LEONARD LANCE

District 23 (Warren, Hunterdon and Mercer)

Co-Sponsored by:

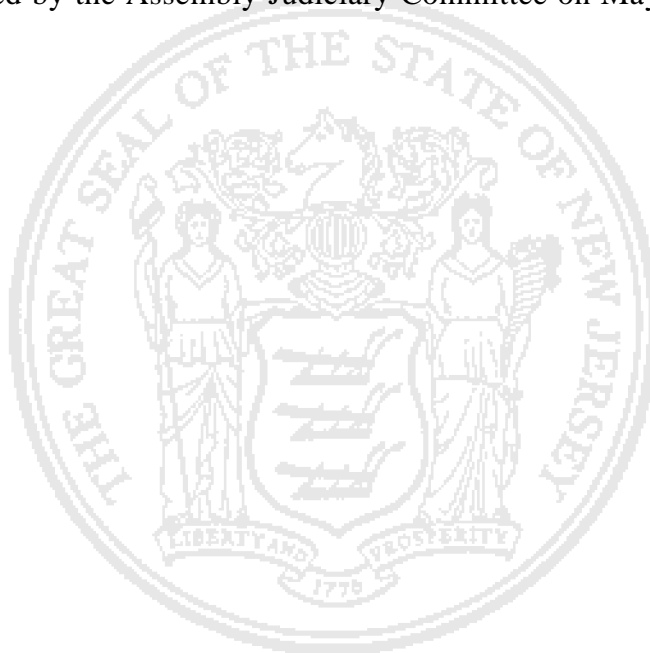
Assemblywoman Heck and Senator Schluter

SYNOPSIS

Limits liability of landowners who allow public access on lands subject to conservation or trail easements held by government entities or certain nonprofit organizations.

CURRENT VERSION OF TEXT

As reported by the Assembly Judiciary Committee on May 7, 2001, with amendments.



(Sponsorship Updated As Of: 11/27/2001)

1 AN ACT concerning the limitation of liability of owners, lessees and
2 occupants of certain premises subject to conservation restrictions
3 ¹or certain other interests¹, and supplementing Title 2A of the New
4 Jersey Statutes.

5
6 **BE IT ENACTED** by the Senate and General Assembly of the State
7 of New Jersey:

8
9 1. a. An owner, lessee or occupant of premises ¹[for] on¹ which
10 a conservation restriction ¹[has been acquired] is held¹ by the State,
11 a local unit, or a charitable conservancy and upon which premises
12 subject to the conservation restriction public access is allowed, ¹or of
13 premises upon which public access is allowed pursuant to a public
14 pathway or trail easement held by the State, a local unit, or a
15 charitable conservancy,¹ and regardless of whether public notice is
16 provided, shall be liable ²to a person injured on the premises² only
17 for:

18 (1) willful or malicious failure to guard, or to warn against, a
19 dangerous condition, use, structure or activity; or

20 (2) injury caused by acts of negligence on the part of the owner,
21 lessee or occupant of the premises to any person where permission to
22 engage in sport or recreational activity on the premises was granted
23 for a consideration other than the consideration, if any, paid to the
24 landowner by the State, local unit, or charitable conservancy; or

25 (3) injury caused by acts of gross negligence on the part of the
26 owner, lessee, or occupant of the premises to any person entering or
27 using the land for a use or purpose unrelated to public access
28 purposes.

29 b. For the purposes of this section:

30 ¹["Acquire" means by purchase, installment purchase agreement,
31 gift, donation, eminent domain, or devise;]¹

32 "Charitable conservancy" means the same as that term is defined
33 pursuant to section 2 of P.L.1979, c.378 (C.13:8B-2), or a "qualifying
34 tax exempt nonprofit organization" as defined pursuant to section 3 of
35 P.L.1999, c.152 (C.13:8C-3);

36 "Conservation restriction" means the same as that term is defined
37 pursuant to section 2 of P.L.1979, c.378 (C.13:8B-2);

38 "Local unit" means the same as that term is defined pursuant to
39 section 2 of P.L.1979, c.378 (C.13:8B-2), or a "local government
40 unit" as defined pursuant to section 3 of P.L.1999, c.152 (C.13:8C-3);

41 "Premises" means any land in the State (1) regardless of location or
42 characterization or classification of location including but not limited

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

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹ Assembly AAN committee amendments adopted January 23, 2001.

² Assembly AJU committee amendments adopted May 7, 2001.

1 to land characterized or classified as being located in an urban,
2 suburban, rural, semi-rural, populous, developed, undeveloped,
3 unpopulous, residential, nonresidential, commercial, or industrial area,
4 and (2) regardless of whether or not the land is improved or
5 maintained in a natural condition, or used as part of a commercial
6 enterprise; and

7 "Sport or recreational activity" means a "sport and recreational
8 activity" as defined pursuant to section 1 of P.L.1968, c.73
9 (C.2A:42A-2).

10

11 2. This act shall take effect immediately.

SENATE, No. 1958

STATE OF NEW JERSEY
209th LEGISLATURE

INTRODUCED DECEMBER 14, 2000

Sponsored by:

Senator WILLIAM E. SCHLUTER

District 23 (Warren, Hunterdon and Mercer)

SYNOPSIS

Limits liability of landowners who convey, to government entities or certain nonprofit organizations, conservation easements on lands upon which public access is allowed.

CURRENT VERSION OF TEXT

As introduced.



S1958 SCHLUTER

2

1 AN ACT concerning the limitation of liability of owners, lessees and
2 occupants of certain premises subject to conservation restrictions,
3 and supplementing Title 2A of the New Jersey Statutes.

4
5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:

7
8 1. a. An owner, lessee or occupant of premises for which a
9 conservation restriction has been acquired by the State, a local unit, or
10 a charitable conservancy and upon which premises subject to the
11 conservation restriction public access is allowed, and regardless of
12 whether public notice is provided, shall be liable only for:

13 (1) willful or malicious failure to guard, or to warn against, a
14 dangerous condition, use, structure or activity; or

15 (2) injury caused by acts of negligence on the part of the owner,
16 lessee or occupant of the premises to any person where permission to
17 engage in sport or recreational activity on the premises was granted
18 for a consideration other than the consideration, if any, paid to the
19 landowner by the State, local unit, or charitable conservancy; or

20 (3) injury caused by acts of gross negligence on the part of the
21 owner, lessee, or occupant of the premises to any person entering or
22 using the land for a use or purpose unrelated to public access
23 purposes.

24 b. For the purposes of this section:

25 "Acquire" means by purchase, installment purchase agreement, gift,
26 donation, eminent domain, or devise;

27 "Charitable conservancy" means the same as that term is defined
28 pursuant to section 2 of P.L.1979, c.378 (C.13:8B-2), or a "qualifying
29 tax exempt nonprofit organization" as defined pursuant to section 3 of
30 P.L.1999, c.152 (C.13:8C-3);

31 "Conservation restriction" means the same as that term is defined
32 pursuant to section 2 of P.L.1979, c.378 (C.13:8B-2);

33 "Local unit" means the same as that term is defined pursuant to
34 section 2 of P.L.1979, c.378 (C.13:8B-2), or a "local government
35 unit" as defined pursuant to section 3 of P.L.1999, c.152 (C.13:8C-3);

36 "Premises" means any land in the State (1) regardless of location or
37 characterization or classification of location including but not limited
38 to land characterized or classified as being located in an urban,
39 suburban, rural, semi-rural, populous, developed, undeveloped,
40 unpopulous, residential, nonresidential, commercial, or industrial area,
41 and (2) regardless of whether or not the land is improved or
42 maintained in a natural condition, or used as part of a commercial
43 enterprise; and

44 "Sport or recreational activity" means a "sport and recreational
45 activity" as defined pursuant to section 1 of P.L.1968, c.73
46 (C.2A:42A-2).

1 2. This act shall take effect immediately.

2

3

4

STATEMENT

5

6 This bill would limit the liability of landowners, who convey to
7 government entities or certain nonprofit organizations conservation
8 easements on lands upon which public access is also allowed, for
9 injuries which occur on those lands.

10 Specifically, the bill would provide that an owner, lessee or
11 occupant of premises for which a conservation restriction has been
12 acquired by the State, a local government, or a nonprofit land
13 conservancy and upon which premises subject to the conservation
14 restriction public access is allowed, and regardless of whether public
15 notice is provided, shall be liable only for:

16 (1) willful or malicious failure to guard, or to warn against, a
17 dangerous condition, use, structure or activity; or

18 (2) injury caused by acts of negligence on the part of the owner,
19 lessee or occupant of the premises to any person where permission to
20 engage in sport or recreational activity on the premises was granted
21 for a consideration other than the consideration, if any, paid to the
22 landowner by the State, local government, or nonprofit land
23 conservancy; or

24 (3) injury caused by acts of gross negligence on the part of the
25 owner, lessee, or occupant of the premises to any person entering or
26 using the land for a use or purpose unrelated to public access
27 purposes.

28 The bill defines "premises" to mean any land in the State (1)
29 regardless of location or characterization or classification of location
30 including but not limited to land characterized or classified as being
31 located in an urban, suburban, rural, semi-rural, populous, developed,
32 undeveloped, unpopulous, residential, nonresidential, commercial, or
33 industrial area, and (2) regardless of whether or not the land is
34 improved or maintained in a natural condition, or used as part of a
35 commercial enterprise. The express purpose of this definition is to
36 avoid any possible interpretation by a court or administrative agency
37 that the immunities provided by the bill apply only in rural or semi-
38 rural areas of the State. Thus, the bill applies to any and all land in the
39 State for which a conservation restriction has been acquired by a
40 government entity or nonprofit land conservancy and upon which land
41 public access is allowed.

42 The purpose of this bill is to provide appropriate protection from
43 tort liability to landowners who serve an important public interest and
44 provide a valued public benefit by conveying conservation easements
45 on their lands and allowing public access to those lands for public
46 sport and recreational activities. This bill should help encourage more

S1958 SCHLUTER

4

- 1 individuals to sell or donate conservation easements, thereby helping
- 2 to preserve open space and provide more opportunities for public
- 3 outdoor recreation throughout the entire State.

SENATE ENVIRONMENT COMMITTEE

STATEMENT TO

SENATE, No. 1958

with committee amendments

STATE OF NEW JERSEY

DATED: FEBRUARY 8, 2001

The Senate Environment Committee reports favorably Senate Bill No. 1958 with committee amendments.

This bill, as amended, would limit the liability of landowners of premises, on which a conservation easement is held by a government entity or certain nonprofit organizations, upon which public access is also allowed, for injuries to persons which occur on those lands.

Specifically, the bill would provide that an owner, lessee or occupant of premises on which a conservation restriction is held by the State, a local government, or a nonprofit land conservancy and upon which premises subject to the conservation restriction public access is allowed, and regardless of whether public notice is provided, shall be liable to a person injured on the premises only for:

(1) willful or malicious failure to guard, or to warn against, a dangerous condition, use, structure or activity; or

(2) injury caused by acts of negligence on the part of the owner, lessee or occupant of the premises to any person where permission to engage in sport or recreational activity on the premises was granted for a consideration other than the consideration, if any, paid to the landowner by the State, local government, or nonprofit land conservancy; or

(3) injury caused by acts of gross negligence on the part of the owner, lessee, or occupant of the premises to any person entering or using the land for a use or purpose unrelated to public access purposes.

The bill defines "premises" to mean any land in the State (1) regardless of location or characterization or classification of location including but not limited to land characterized or classified as being located in an urban, suburban, rural, semi-rural, populous, developed, undeveloped, unpopulous, residential, nonresidential, commercial, or industrial area, and (2) regardless of whether or not the land is improved or maintained in a natural condition, or used as part of a commercial enterprise. The express purpose of this definition is to avoid any possible interpretation by a court or administrative agency that the immunities provided by the bill apply only in rural or semi-

rural areas of the State. Thus, the bill applies to any and all land in the State on which a conservation restriction is held by a government entity or nonprofit land conservancy and upon which land public access is allowed. The provisions of the bill do not limit or waive any immunity available to a public entity pursuant to the "New Jersey Tort Claims Act." Further, the provisions of the bill do not limit the liability of an owner, lessee, or occupant of a premises under any environmental statute.

The purpose of this bill is to provide appropriate protection from tort liability to landowners who serve an important public interest and provide a valued public benefit by conveying conservation easements on their lands and allowing public access to those lands for public sport and recreational activities. This bill should help encourage more individuals to sell or donate conservation easements, thereby helping to preserve open space and provide more opportunities for public outdoor recreation throughout the entire State.

The committee amendments provide that the provisions would also apply to land subject to a public pathway or trail easement, and delete the definition of "acquire" so that the bill would apply to any land for which a conservation or trail easement is held by a government entity or nonprofit land conservancy and upon which land public access is allowed. The committee amendments also clarify that the liability limitations apply to persons injured on the premises.

[First Reprint]

SENATE, No. 1958

STATE OF NEW JERSEY
209th LEGISLATURE

INTRODUCED DECEMBER 14, 2000

Sponsored by:

Senator WILLIAM E. SCHLUTER

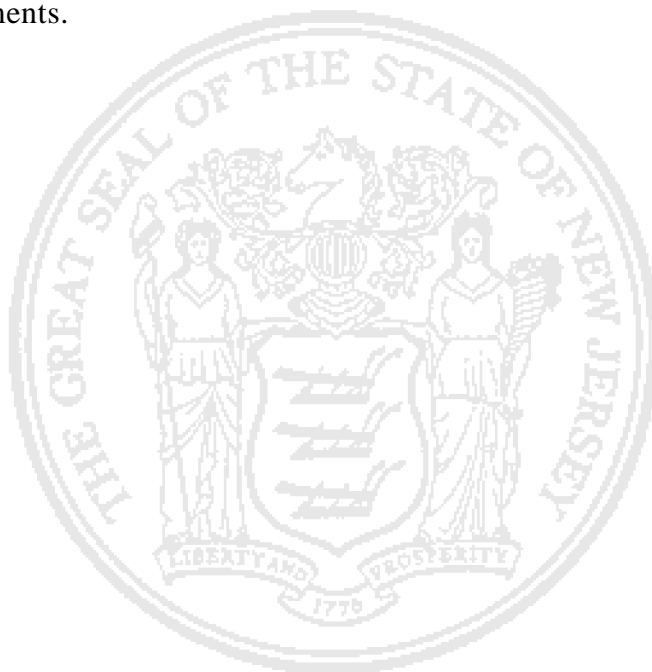
District 23 (Warren, Hunterdon and Mercer)

SYNOPSIS

Limits liability of landowners who allow public access on lands subject to conservation or trail easements held by government entities or certain nonprofit organizations.

CURRENT VERSION OF TEXT

As reported by the Senate Environment Committee on February 8, 2001, with amendments.



1 AN ACT concerning the limitation of liability of owners, lessees and
2 occupants of certain premises subject to conservation restrictions
3 ¹or certain other interests¹, and supplementing Title 2A of the New
4 Jersey Statutes.

5
6 **BE IT ENACTED** by the Senate and General Assembly of the State
7 of New Jersey:

8
9 1. a. An owner, lessee or occupant of premises ¹~~[for]~~ on¹ which
10 a conservation restriction ¹~~[has been acquired]~~ is held¹ by the State,
11 a local unit, or a charitable conservancy and upon which premises
12 subject to the conservation restriction public access is allowed, ¹~~or of~~
13 premises upon which public access is allowed pursuant to a public
14 pathway or trail easement held by the State, a local unit, or a
15 charitable conservancy,¹ and regardless of whether public notice is
16 provided, shall be liable ¹to a person injured on the premises¹ only for:

17 (1) willful or malicious failure to guard, or to warn against, a
18 dangerous condition, use, structure or activity; or

19 (2) injury caused by acts of negligence on the part of the owner,
20 lessee or occupant of the premises to any person where permission to
21 engage in sport or recreational activity on the premises was granted
22 for a consideration other than the consideration, if any, paid to the
23 landowner by the State, local unit, or charitable conservancy; or

24 (3) injury caused by acts of gross negligence on the part of the
25 owner, lessee, or occupant of the premises to any person entering or
26 using the land for a use or purpose unrelated to public access
27 purposes.

28 b. For the purposes of this section:

29 ¹~~["Acquire" means by purchase, installment purchase agreement,~~
30 ~~gift, donation, eminent domain, or devise;]~~¹

31 "Charitable conservancy" means the same as that term is defined
32 pursuant to section 2 of P.L.1979, c.378 (C.13:8B-2), or a "qualifying
33 tax exempt nonprofit organization" as defined pursuant to section 3 of
34 P.L.1999, c.152 (C.13:8C-3);

35 "Conservation restriction" means the same as that term is defined
36 pursuant to section 2 of P.L.1979, c.378 (C.13:8B-2);

37 "Local unit" means the same as that term is defined pursuant to
38 section 2 of P.L.1979, c.378 (C.13:8B-2), or a "local government
39 unit" as defined pursuant to section 3 of P.L.1999, c.152 (C.13:8C-3);

40 "Premises" means any land in the State (1) regardless of location or
41 characterization or classification of location including but not limited
42 to land characterized or classified as being located in an urban,

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

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹ Senate SEN committee amendments adopted February 8, 2001.

S1958 [1R] SCHLUTER

3

1 suburban, rural, semi-rural, populous, developed, undeveloped,
2 unpopulous, residential, nonresidential, commercial, or industrial area,
3 and (2) regardless of whether or not the land is improved or
4 maintained in a natural condition, or used as part of a commercial
5 enterprise; and

6 "Sport or recreational activity" means a "sport and recreational
7 activity" as defined pursuant to section 1 of P.L.1968, c.73
8 (C.2A:42A-2).

9

10 2. This act shall take effect immediately.

P.L. 2001, CHAPTER 265, *approved December 11, 2001*
Assembly, No. 3035 (*Second Reprint*)

1 **AN ACT** concerning the limitation of liability of owners, lessees and
2 occupants of certain premises subject to conservation restrictions
3 ¹or certain other interests¹, and supplementing Title 2A of the New
4 Jersey Statutes.

5

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

8

9 1. a. An owner, lessee or occupant of premises ¹**[for] on¹** which
10 a conservation restriction ¹**[has been acquired] is held¹** by the State,
11 a local unit, or a charitable conservancy and upon which premises
12 subject to the conservation restriction public access is allowed, ¹or of
13 premises upon which public access is allowed pursuant to a public
14 pathway or trail easement held by the State, a local unit, or a
15 charitable conservancy.¹ and regardless of whether public notice is
16 provided, shall be liable ²to a person injured on the premises² only
17 for:

18 (1) willful or malicious failure to guard, or to warn against, a
19 dangerous condition, use, structure or activity; or

20 (2) injury caused by acts of negligence on the part of the owner,
21 lessee or occupant of the premises to any person where permission to
22 engage in sport or recreational activity on the premises was granted
23 for a consideration other than the consideration, if any, paid to the
24 landowner by the State, local unit, or charitable conservancy; or

25 (3) injury caused by acts of gross negligence on the part of the
26 owner, lessee, or occupant of the premises to any person entering or
27 using the land for a use or purpose unrelated to public access
28 purposes.

29 b. For the purposes of this section:

30 ¹**["Acquire" means by purchase, installment purchase agreement,**
31 **gift, donation, eminent domain, or devise;]**¹

32 "Charitable conservancy" means the same as that term is defined
33 pursuant to section 2 of P.L.1979, c.378 (C.13:8B-2), or a "qualifying
34 tax exempt nonprofit organization" as defined pursuant to section 3 of
35 P.L.1999, c.152 (C.13:8C-3);

36 "Conservation restriction" means the same as that term is defined
37 pursuant to section 2 of P.L.1979, c.378 (C.13:8B-2);

38 "Local unit" means the same as that term is defined pursuant to
39 section 2 of P.L.1979, c.378 (C.13:8B-2), or a "local government

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

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹ Assembly AAN committee amendments adopted January 23, 2001.

² Assembly AJU committee amendments adopted May 7, 2001.

1 unit" as defined pursuant to section 3 of P.L.1999, c.152 (C.13:8C-3);

2 "Premises" means any land in the State (1) regardless of location or
3 characterization or classification of location including but not limited
4 to land characterized or classified as being located in an urban,
5 suburban, rural, semi-rural, populous, developed, undeveloped,
6 unpopulous, residential, nonresidential, commercial, or industrial area,
7 and (2) regardless of whether or not the land is improved or
8 maintained in a natural condition, or used as part of a commercial
9 enterprise; and

10 "Sport or recreational activity" means a "sport and recreational
11 activity" as defined pursuant to section 1 of P.L.1968, c.73
12 (C.2A:42A-2).

13

14 2. This act shall take effect immediately.

15

16

17

18

19 _____
20 Limits liability of landowners who allow public access on lands subject
21 to conservation or trail easements held by government entities or
certain nonprofit organizations.

CHAPTER 265

AN ACT concerning the limitation of liability of owners, lessees and occupants of certain premises subject to conservation restrictions or certain other interests, and supplementing Title 2A of the New Jersey Statutes.

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

C.2A:42A-8.1 Liability of owners of certain premises which allow public access.

1. a. An owner, lessee or occupant of premises on which a conservation restriction is held by the State, a local unit, or a charitable conservancy and upon which premises subject to the conservation restriction public access is allowed, or of premises upon which public access is allowed pursuant to a public pathway or trail easement held by the State, a local unit, or a charitable conservancy, and regardless of whether public notice is provided, shall be liable to a person injured on the premises only for:

(1) willful or malicious failure to guard, or to warn against, a dangerous condition, use, structure or activity; or

(2) injury caused by acts of negligence on the part of the owner, lessee or occupant of the premises to any person where permission to engage in sport or recreational activity on the premises was granted for a consideration other than the consideration, if any, paid to the landowner by the State, local unit, or charitable conservancy; or

(3) injury caused by acts of gross negligence on the part of the owner, lessee, or occupant of the premises to any person entering or using the land for a use or purpose unrelated to public access purposes.

b. For the purposes of this section:

"Charitable conservancy" means the same as that term is defined pursuant to section 2 of P.L.1979, c.378 (C.13:8B-2), or a "qualifying tax exempt nonprofit organization" as defined pursuant to section 3 of P.L.1999, c.152 (C.13:8C-3);

"Conservation restriction" means the same as that term is defined pursuant to section 2 of P.L.1979, c.378 (C.13:8B-2);

"Local unit" means the same as that term is defined pursuant to section 2 of P.L.1979, c.378 (C.13:8B-2), or a "local government unit" as defined pursuant to section 3 of P.L.1999, c.152 (C.13:8C-3);

"Premises" means any land in the State (1) regardless of location or characterization or classification of location including but not limited to land characterized or classified as being located in an urban, suburban, rural, semi-rural, populous, developed, undeveloped, unpopulous, residential, nonresidential, commercial, or industrial area, and (2) regardless of whether or not the land is improved or maintained in a natural condition, or used as part of a commercial enterprise; and

"Sport or recreational activity" means a "sport and recreational activity" as defined pursuant to section 1 of P.L.1968, c.73 (C.2A:42A-2).

2. This act shall take effect immediately.

Approved December 11, 2001.