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**ASSEMBLY, No. 1744**

**STATE OF NEW JERSEY**  
**209th LEGISLATURE**

PRE-FILED FOR INTRODUCTION IN THE 2000 SESSION

**Sponsored by:**

**Assemblyman LEONARD LANCE**

**District 23 (Warren, Hunterdon and Mercer)**

**SYNOPSIS**

Provides for preservation of historic buildings and structures on agricultural lands preserved through farmland preservation programs.

**CURRENT VERSION OF TEXT**

Introduced Pending Technical Review by Legislative Counsel.



1 AN ACT concerning the preservation of historic buildings and  
2 structures on preserved farmland and supplementing P.L.1983, c.32  
3 (C.4:1C-11 et seq.) and P.L. , c. (C. ) (now before the  
4 Legislature as Senate Bill No 9 or Assembly Bill No. 1000000 of  
5 1999).

6

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

9

10 1. a. Notwithstanding any law, rule, or regulation to the contrary,  
11 whenever a county or municipality, as the case may be, acquires a  
12 development easement on farmland, or the fee simple title to farmland  
13 which is to be offered for resale or lease with agricultural deed  
14 restrictions as determined by the committee, and there is an historic  
15 building or structure located on the farmland, the county or  
16 municipality may, as a condition of the acquisition, prohibit  
17 demolition, limit expansion, and require preservation of the historic  
18 building or structure. Any such condition or conditions shall be stated  
19 in the form of a historic preservation restriction or a similar interest or  
20 restriction that shall be recorded with the deed, shall run with the land,  
21 and shall be enforceable by the county or municipality, as the case may  
22 be, against all subsequent owners of the development easement or fee  
23 simple interest in the farmland.

24 b. For the purposes of this section:

25 "Historic building or structure" means a building or structure (1)  
26 which has been approved for inclusion, which meets the criteria for  
27 inclusion, or which has been determined to be potentially eligible for  
28 inclusion in the New Jersey Register of Historic Places pursuant to  
29 P.L.1970, c.268 (C.13:1B-15.128 et seq.) or any rules or regulations  
30 adopted pursuant thereto; (2) which has been recognized by a county  
31 or municipality as a place of historic interest in a county or municipal  
32 master plan; or (3) which is located in an historic district on a  
33 municipal zoning map; and

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

36

37 2. a. Notwithstanding any law, rule, or regulation to the contrary,  
38 whenever the State or a qualifying tax exempt nonprofit organization,  
39 as the case may be, acquires a development easement on farmland, or  
40 the fee simple title to farmland which is to be offered for resale or  
41 lease with agricultural deed restrictions as determined by the  
42 committee, and there is an historic building or structure located on the  
43 farmland, the State or qualifying tax exempt nonprofit organization  
44 may, as a condition of the acquisition, prohibit demolition, limit  
45 expansion, and require preservation of the historic building or  
46 structure. Any such condition or conditions shall be stated in the form

1 of a historic preservation restriction or a similar interest or restriction  
2 that shall be recorded with the deed, shall run with the land, and shall  
3 be enforceable by the State or qualifying tax exempt nonprofit  
4 organization, as the case may be, against all subsequent owners of the  
5 development easement or fee simple interest in the farmland.

6 b. For the purposes of this section:

7 "Historic building or structure" means a building or structure (1)  
8 which has been approved for inclusion, which meets the criteria for  
9 inclusion, or which has been determined to be potentially eligible for  
10 inclusion in the New Jersey Register of Historic Places pursuant to  
11 P.L.1970, c.268 (C.13:1B-15.128 et seq.) or any rules or regulations  
12 adopted pursuant thereto; (2) which has been recognized by a county  
13 or municipality as a place of historic interest in a county or municipal  
14 master plan; or (3) which is located in an historic district on a  
15 municipal zoning map; and

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

18  
19 3. This act shall take effect immediately.  
20  
21

22 STATEMENT  
23

24 This bill would expressly authorize a municipality, county, or  
25 nonprofit organization, and the State, to protect historic buildings and  
26 structures located on farmland which is to be preserved for agricultural  
27 purposes through the acquisition of a development easement on, or fee  
28 simple title to, the farmland by any of those entities under farmland  
29 preservation programs established in the State. Specifically, a  
30 municipality, county, or nonprofit organization, or the State, would be  
31 authorized to impose conditions on such an acquisition that would  
32 prohibit demolition, limit expansion, and require preservation of the  
33 historic building or structure. Any such condition or conditions would  
34 be stated in the form of a historic preservation restriction or a similar  
35 interest or restriction that would be recorded with the deed, would run  
36 with the land, and would be enforceable against all subsequent owners  
37 of the development easement or fee simple interest in the farmland.

ASSEMBLY COMMITTEE SUBSTITUTE FOR  
**ASSEMBLY, No. 1744**

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**STATE OF NEW JERSEY**  
**209th LEGISLATURE**

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ADOPTED JANUARY 23, 2001

**Sponsored by:**

**Assemblyman LEONARD LANCE**  
**District 23 (Warren, Hunterdon and Mercer)**

**Co-Sponsored by:**

**Senators Schluter, Adler, Bark and Allen**

**SYNOPSIS**

Provides for preservation of historic buildings or structures on preserved farmland under certain circumstances.

**CURRENT VERSION OF TEXT**

Substitute as adopted by the Assembly Agriculture and Natural Resources Committee.



**(Sponsorship Updated As Of: 1/8/2002)**

1 AN ACT concerning the preservation of historic buildings and  
2 structures on preserved farmland, amending P.L.1983, c.32,  
3 P.L.1988, c.4, and amending and supplementing P.L.1999, c.152.

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

7  
8 1. (New section) a. Notwithstanding any law, rule, or regulation  
9 to the contrary, whenever the State, a local government unit, or a  
10 qualifying tax exempt nonprofit organization acquires, for farmland  
11 preservation purposes using constitutionally dedicated moneys in  
12 whole or in part, the fee simple title to farmland which is to be offered  
13 for resale or lease with agricultural deed restrictions as determined by  
14 the committee, and there is an historic building or structure located on  
15 the farmland, the State, local government unit, or qualifying tax  
16 exempt nonprofit organization may, with the approval of the  
17 committee:

18 (1) place a historic preservation restriction on any historic building  
19 or structure on the farmland as a condition of the resale or lease of the  
20 farmland; or

21 (2) subdivide the historic building or structure, together with at  
22 least enough associated acreage to meet local zoning requirements,  
23 from the remaining portion of the farmland, and, after placing a  
24 historic preservation restriction upon the historic building or structure,  
25 offer the historic building or structure for resale or lease separately  
26 from the remaining portion of the farmland.

27 b. A historic preservation restriction may be placed on any historic  
28 building or structure on farmland as provided pursuant to subsection  
29 a. of this section even if the proceeds received from the resale or lease  
30 of the farmland or the historic building or structure would be less than  
31 otherwise would have been realized for use for farmland preservation  
32 purposes without the historic preservation restriction in place or the  
33 subdivision having been made.

34 c. For the purposes of this section:

35 "Historic building or structure" means a building or structure that:

36 (1) is included, meets the criteria for inclusion, or has been  
37 determined to be potentially eligible for inclusion in the New Jersey  
38 Register of Historic Places pursuant to P.L.1970, c.268 (C.13:1B-  
39 15.128 et seq.) or any rules or regulations adopted pursuant thereto;

40 (2) has been recognized by a county or municipality as a place of  
41 historic interest in a county or municipal master plan;

42 (3) is located in a historic district on a municipal zoning map; or

43 (4) meets any other criteria which may be adopted by the

**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 committee, pursuant to the "Administrative Procedure Act," P.L.1968,  
2 c.410 (C.52:14B-1 et seq.), for recognizing the historical value or  
3 significance of a building or structure on farmland; and

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

6  
7 2. (New section) a. No historic building or structure located on  
8 farmland for which a development easement has been acquired by the  
9 State, a local government unit, or a qualifying tax exempt nonprofit  
10 organization after one year from the date of enactment of this act for  
11 farmland preservation purposes using constitutionally dedicated  
12 moneys in whole or in part may be demolished by the landowner or  
13 any other person without the prior approval of the committee.

14 b. (1) The committee may institute a civil action in a court of  
15 competent jurisdiction to prohibit or prevent a violation of this section,  
16 and the court may proceed in the action in a summary manner. The  
17 committee may also seek damages and other appropriate relief for a  
18 violation of this section.

19 (2) The committee may, pursuant to the "Administrative  
20 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), adopt rules and  
21 regulations providing for liquidated damages to be paid by the violator  
22 to the committee in the event of a violation of this section.

23 c. For the purposes of this section:

24 "Historic building or structure" means a building or structure that:

25 (1) is included in the New Jersey Register of Historic Places  
26 established pursuant to P.L.1970, c.268 (C.13:1B-15.128 et seq.); or

27 (2) meets any other criteria which may be adopted by the  
28 committee, pursuant to the "Administrative Procedure Act," P.L.1968,  
29 c.410 (C.52:14B-1 et seq.), for recognizing the historical value or  
30 significance of a building or structure on farmland, and which criteria  
31 may include but need not be limited to (a) the building or structure  
32 having met the criteria for inclusion, or having been determined to be  
33 potentially eligible for inclusion, in the New Jersey Register of Historic  
34 Places pursuant to P.L.1970, c.268 (C.13:1B-15.128 et seq.) or any  
35 rules or regulations adopted pursuant thereto; (b) recognition by a  
36 county or municipality of the building or structure as a place of  
37 historic interest in a county or municipal master plan; or (c) location  
38 of the building or structure in a historic district on a municipal zoning  
39 map; and

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

42  
43 3. Section 24 of P.L.1983, c.32 (C.4:1C-31) is amended to read  
44 as follows:

45 24. a. Any landowner applying to the board to sell a development  
46 easement pursuant to section 17 of [this act] P.L.1983, c.32 (C.4:1C-



1 24) shall offer to sell the development easement at a price which, in  
 2 the opinion of the landowner, represents a fair value of the  
 3 development potential of the land for nonagricultural purposes, as  
 4 determined in accordance with the provisions of this act.

5 b. Any offer shall be reviewed and evaluated by the board and the  
 6 committee in order to determine the suitability of the land for  
 7 development easement purchase. Decisions regarding suitability shall  
 8 be based on the following criteria:

9 (1) Priority consideration shall be given, in any one county, to  
 10 offers with higher numerical values obtained by applying the following  
 11 formula:

$$\frac{\text{nonagricultural developmental value} - \text{agricultural value}}{\text{landowner's asking price}}$$

$$\frac{\text{nonagricultural development value} - \text{agricultural value}}$$

12  
13  
14  
15  
16  
17  
18  
19  
20  
21 (2) The degree to which the purchase would encourage the  
 22 survivability of the municipally approved program in productive  
 23 agriculture; and

24 (3) The degree of imminence of change of the land from  
 25 productive agriculture to nonagricultural use.

26 The board and the committee shall reject any offer for the sale of  
 27 development easements which is unsuitable according to the above  
 28 criteria and which has not been approved by the board and the  
 29 municipality.

30 c. Two independent appraisals paid for by the board shall be  
 31 conducted for each parcel of land so offered and deemed suitable. The  
 32 appraisals shall be conducted by independent, professional appraisers  
 33 selected by the board and the committee from among members of  
 34 recognized organizations of real estate appraisers. The appraisals shall  
 35 determine the current overall value of the parcel for nonagricultural  
 36 purposes, as well as the current market value of the parcel for  
 37 agricultural purposes. The difference between the two values shall  
 38 represent an appraisal of the value of the development easement. If  
 39 Burlington County or a municipality therein has established a  
 40 development transfer bank pursuant to the provisions of P.L.1989,  
 41 c.86 (C.40:55D-113 et seq.), the municipal average of the value of the  
 42 development potential of property in a sending zone established by the  
 43 bank may be the value used by the board in determining the value of  
 44 the development easement. If a development easement is purchased  
 45 using moneys appropriated from the fund, the State shall provide no  
 46 more than 80%, except 100% under emergency conditions specified

1 by the committee pursuant to rules or regulations, of the cost of the  
2 appraisals conducted pursuant to this section.

3 d. Upon receiving the results of the appraisals, or in Burlington  
4 county or a municipality therein where a municipal average has been  
5 established under P.L.1989, c.86 (C.40:55D-113 et seq.), upon  
6 receiving an application from the landowners, the board and the  
7 committee shall compare the appraised value, or the municipal  
8 average, as the case may be, and the landowner's offer and, pursuant  
9 to the suitability criteria established in subsection b. of this section:

10 (1) Approve the application to sell the development easement and  
11 rank the application in accordance with the criteria established in  
12 subsection b. of this section; or

13 (2) Disapprove the application, stating the reasons therefor.

14 e. Upon approval by the committee and the board, the secretary  
15 is authorized to provide the board, within the limits of funds  
16 appropriated therefor, an amount equal to no more than 80%, except  
17 100% under emergency conditions specified by the committee  
18 pursuant to rules or regulations, of the purchase price of the  
19 development easement, as determined pursuant to the provisions of  
20 this section. The board shall provide its required share and accept the  
21 landowner's offer to sell the development easement. The acceptance  
22 shall cite the specific terms, contingencies and conditions of the  
23 purchase.

24 f. The landowner shall accept or reject the offer within 30 days of  
25 receipt thereof. Any offer not accepted within that time shall be  
26 deemed rejected.

27 g. Any landowner whose application to sell a development  
28 easement has been rejected for any reason other than insufficient funds  
29 may not reapply to sell a development easement on the same land  
30 within two years of the original application.

31 h. No development easement shall be purchased at a price greater  
32 than the appraised value determined pursuant to subsection c. of this  
33 section or the municipal average, as the case may be.

34 i. The appraisals conducted pursuant to this section or the fair  
35 market value of land restricted to agricultural use shall not be used to  
36 increase the assessment and taxation of agricultural land pursuant the  
37 "Farmland Assessment Act of 1964," P.L.1964, c.48 (C.54:4-23.1 et  
38 seq.).

39 j. (1) In determining the suitability of land for development  
40 easement purchase, the board and the committee may also include as  
41 additional factors for consideration the presence of a historic building  
42 or structure on the land and the willingness of the landowner to  
43 preserve that building or structure, but only if the committee first  
44 adopts, pursuant to the "Administrative Procedure Act," P.L.1968,  
45 c.410 (C.52:14B-1 et seq.), rules and regulations implementing this  
46 subsection. The committee may, by rule or regulation adopted

1 pursuant to the "Administrative Procedure Act," assign any such  
2 weight it deems appropriate to be given to these factors.

3 (2) The provisions of paragraph (1) of this subsection may also be  
4 applied in determining the suitability of land for fee simple purchase  
5 for farmland preservation purposes as authorized by P.L.1983, c.31  
6 (C.4:1C-1 et seq.), P.L.1983, c.32 (C.4:1C-11 et seq.), and P.L.1999,  
7 c.152 (C.13:8C-1 et seq.).

8 (3) (a) For the purposes of paragraph (1) of this subsection:  
9 "historic building or structure" means the same as that term is defined  
10 pursuant to subsection c. of section 2 of P.L. , c. (C. ) (now  
11 before the Legislature as this bill).

12 (b) For the purposes of paragraph (2) of this subsection, "historic  
13 building or structure" means the same as that term is defined pursuant  
14 to subsection c. of section 1 of P.L. , c. (C. ) (now before the  
15 Legislature as this bill).

16 (cf: P.L.1989, c.86, s.15)

17

18 4. Section 5 of P.L.1988, c.4 (C.4:1C-31.1) is amended to read as  
19 follows:

20 5. a. Any landowner of farmland within an agricultural  
21 development area certified by the committee may apply to the  
22 committee to sell the fee simple absolute title at a price which, in the  
23 opinion of the landowner, represents a fair market value of the  
24 property.

25 b. The committee shall evaluate the offer to determine the  
26 suitability of the land for purchase. Decisions regarding suitability  
27 shall be based on the eligibility criteria for the purchase of  
28 development easements listed in [subsection b. of] section 24 of  
29 P.L.1983, c.32 (C.4:1C-31) and the criteria adopted by the committee  
30 and the board of that county. The committee shall also evaluate the  
31 offer taking into account the amount of the asking price, the asking  
32 price relative to other offers, the location of the parcel relative to areas  
33 targeted within the county by the board and among the counties, and  
34 any other criteria as the committee has adopted pursuant to rule or  
35 regulation. The committee may negotiate reimbursement with the  
36 county and include the anticipated reimbursement as part of the  
37 evaluation of an offer.

38 c. The committee shall rank the offers according to the criteria to  
39 determine which, if any, should be appraised. The committee shall  
40 reject any offer for the purchase of fee simple absolute title determined  
41 unsuitable according to any criterion in this subsection or adopted  
42 pursuant to this subsection, or may defer decisions on offers with a  
43 low ranking. The committee shall state, in writing, its reasons for  
44 rejecting an offer.

45 d. Appraisals of the parcel shall be conducted to determine the fair  
46 market value according to procedures adopted by regulation by the

1 committee.

2 e. The committee shall notify the landowner of the fair market  
3 value and negotiate for the purchase of the title in fee simple absolute.

4 f. Any land acquired by the committee pursuant to the provisions  
5 of this amendatory and supplementary act shall be held of record in the  
6 name of the State and shall be offered for resale by the State,  
7 notwithstanding any other law, rule or regulation to the contrary,  
8 within a reasonable time of its acquisition with agricultural deed  
9 restrictions for farmland preservation purposes as determined by the  
10 committee pursuant to the provisions of this act.

11 g. The committee shall be responsible for the operation and  
12 maintenance of lands acquired and shall take all reasonable steps to  
13 maintain the value of the land and its improvements.

14 h. To the end that municipalities may not suffer loss of taxes by  
15 reason of acquisition and ownership by the State of New Jersey of  
16 property under the provisions of this act, the State shall pay annually  
17 on October 1 to each municipality in which property is so acquired and  
18 has not been resold a sum of money equal to the tax last assessed and  
19 last paid by the taxpayer upon this land and the improvement thereon  
20 for the taxable year immediately prior to the time of its acquisition. In  
21 the event that land acquired by the State pursuant to this act had been  
22 assessed at an agricultural and horticultural use valuation in  
23 accordance with provisions of the "Farmland Assessment Act of  
24 1964," P.L.1964, c.48 (C.54:4-23.1 et seq.), at the time of its  
25 acquisition by the State, no rollback tax pursuant to section 8 of  
26 P.L.1964, c.48 (C.54:4-23.8) shall be imposed as to this land nor shall  
27 this rollback tax be applicable in determining the annual payments to  
28 be made by the State to the municipality in which this land is located.

29 All sums of money received by the respective municipalities as  
30 compensation for loss of tax revenue pursuant to this section shall be  
31 applied to the same purposes as is the tax revenue from the assessment  
32 and collection of taxes on real property of these municipalities, and to  
33 accomplish this end the sums shall be apportioned in the same manner  
34 as the general tax rate of the municipality for the tax year preceding  
35 the year of receipt.

36 (cf: P.L.1988, c.4, s.5)

37

38 5. Section 39 of P.L.1999, c.152 (C.13:8C-39) is amended to read  
39 as follows:

40 39. a. The committee may provide a grant to a qualifying tax  
41 exempt nonprofit organization for up to 50% of the cost of acquisition  
42 of (1) a development easement on farmland, provided that the terms  
43 of any such development easement shall be approved by the  
44 committee, or (2) fee simple title to farmland, which shall be offered  
45 for resale or lease with an agricultural deed restriction, as determined  
46 by the committee, and any proceeds received from a resale shall be

1 dedicated for farmland preservation purposes and the State's pro rata  
2 share of any such proceeds shall be deposited in the Garden State  
3 Farmland Preservation Trust Fund to be used for the purposes of that  
4 fund.

5 b. The value of a development easement or fee simple title shall be  
6 established by two appraisals conducted on each parcel and certified  
7 by the committee. The appraisals shall be conducted by independent  
8 professional appraisers selected by the qualifying tax exempt nonprofit  
9 organization and approved by the committee from among members of  
10 recognized organizations of real estate appraisers.

11 c. The appraisals shall determine the fair market value of the fee  
12 simple title to the parcel, as well as the fair market value of the parcel  
13 for agricultural purposes. The difference between the two values shall  
14 represent an appraisal of the value of the parcel for nonagricultural  
15 purposes, which shall be the value of the development easement.

16 d. Any grant provided to a qualifying tax exempt nonprofit  
17 organization pursuant to this section shall not exceed 50% of the  
18 appraised value of the development easement, or of the fee simple title  
19 in the case of fee simple acquisitions, plus up to 50% of any costs  
20 incurred including but not limited to the costs of surveys, appraisals,  
21 and title insurance.

22 e. The appraisals conducted pursuant to this section or the fair  
23 market value of land restricted to agricultural use shall not be used to  
24 increase the assessment and taxation of agricultural land pursuant to  
25 the "Farmland Assessment Act of 1964," P.L.1964, c.48 (C.54:4-23.1  
26 et seq.).

27 f. To qualify to receive a grant pursuant to this section, the  
28 applicant shall:

29 (1) demonstrate that it has the resources to match the grant  
30 requested; and

31 (2) in the case of the acquisition of a development easement, agree  
32 not to convey the development easement except to the federal  
33 government, the State, a local government unit, or another qualifying  
34 tax exempt nonprofit organization, for farmland preservation purposes.

35 g. (1) In deciding whether to award a grant to a qualifying tax  
36 exempt nonprofit organization pursuant to this section, the committee  
37 may also include as additional factors for consideration the presence  
38 of a historic building or structure on the land and the willingness of the  
39 landowner to preserve that building or structure, but only if the  
40 committee first adopts, pursuant to the "Administrative Procedure  
41 Act," P.L.1968, c.410 (C.52:14B-1 et seq.), rules and regulations  
42 implementing this subsection. The committee may, by rule or  
43 regulation adopted pursuant to the "Administrative Procedure Act,"  
44 assign any such weight it deems appropriate to be given to these  
45 factors.

46 (2) For the purposes of this subsection: "historic building or

1 structure," in the context of the grant program for qualifying tax  
2 exempt nonprofit organizations to acquire development easements on  
3 farmland for farmland preservation purposes, means the same as that  
4 term is defined pursuant to subsection c. of section 2 of P.L. , c.  
5 (C. ) (now before the Legislature as this bill); and "historic building  
6 or structure," in the context of the grant program for qualifying tax  
7 exempt nonprofit organizations to acquire fee simple titles to farmland  
8 for farmland preservation purposes, means the same as that term is  
9 defined pursuant to subsection c. of section 1 of P.L. , c. (C. )  
10 (now before the Legislature as this bill).

11 (cf: P.L.1999, c.152, s.39)

12

13 6. Section 40 of P.L.1999, c.152 (C.13:8C-40) is amended to read  
14 as follows:

15 40. a. The committee may acquire and permanently retire  
16 development easements on farmland.

17 b. The committee shall evaluate the suitability of the acquisition  
18 of a development easement based upon the eligibility criteria listed in  
19 [subsection b. of] section 24 of P.L.1983, c.32 (C.4:1C-31) and any  
20 other criteria that may be adopted by the committee.

21 c. Appraisals to determine the fair market value of a development  
22 easement to be acquired by the committee shall be conducted by  
23 appraisers approved by the committee and in a manner consistent with  
24 the process set forth in subsection c. of section 24 of P.L.1983, c.32  
25 (C.4:1C-31).

26 d. Any development easement acquired by the committee shall be  
27 held of record in the name of the committee.

28 (cf: P.L.1999, c.152, s.40)

29

30 7. This act shall take effect on the 180th day after the date of  
31 enactment, but the State Agriculture Development Committee may  
32 take such anticipatory administrative action in advance thereof as may  
33 be necessary for the implementation of this act.

ASSEMBLY AGRICULTURE AND NATURAL RESOURCES  
COMMITTEE

STATEMENT TO

ASSEMBLY COMMITTEE SUBSTITUTE FOR  
**ASSEMBLY, No. 1744**

**STATE OF NEW JERSEY**

DATED: JANUARY 23, 2001

The Assembly Agriculture and Natural Resources Committee favorably reports Assembly Committee Substitute for Assembly Bill No. 1744.

This Assembly Committee Substitute would provide for the preservation of historic buildings and structures located on preserved farmland under certain circumstances.

Specifically, the substitute would:

(1) clarify the authority of the State, local government units, and certain nonprofit organizations, under certain circumstances and with the approval of the State Agriculture Development Committee (SADC), to place historic preservation restrictions on historic buildings or structures found on farmland they have acquired in fee simple for farmland preservation purposes and which farmland they intend to resell or lease with agricultural deed restrictions attached thereto;

(2) authorize those same entities, under certain circumstances and with the approval of the SADC, to subdivide from the farmland that they have acquired in fee simple for farmland preservation purposes any historic buildings or structures (together with a minimal amount of associated acreage) and resell or lease those buildings or structures separately from the remaining portion of the farmland that is to be resold or leased with agricultural deed restrictions attached there;

(3) require the approval of the SADC before a historic building or structure located on farmland for which a development easement has been acquired for farmland preservation purposes after one year from the enactment date of the bill may be demolished, and allow the SADC, in its discretion, to pursue damages if such a historic building or structure is demolished without its approval (with the intent that the proceeds therefrom will be used by the SADC for farmland preservation purposes in accordance with the "Garden State Preservation Trust Act," P.L.1999, c.152 (13:8C-1 et seq.); and

(4) allow county agriculture development boards and the SADC, at the discretion of the SADC, to include the presence of a historic

building or structure on farmland and the willingness of the landowner to preserve that building or structure as additional factors to be considered when ranking farms for development easement or fee simple purchase under the farmland preservation program. The weight, if any, to be given to such factors would be determined by the SADC.

The substitute includes two definitions of "historic building or structure," with the use of either depending upon whether the context is the "fee simple" farmland preservation program or the "development easement" farmland preservation program.

As reported by the committee, this substitute is identical to the Senate Substitute (1R) for Senate Bill No. 48.



# SENATE, No. 48

## STATE OF NEW JERSEY 209th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2000 SESSION

**Sponsored by:**

**Senator WILLIAM E. SCHLUTER**

**District 23 (Warren, Hunterdon and Mercer)**

**Senator JOHN H. ADLER**

**District 6 (Camden)**

**Co-Sponsored by:**

**Senators Bark and Allen**

**SYNOPSIS**

Provides for preservation of historic buildings and structures on agricultural lands preserved through farmland preservation programs.

**CURRENT VERSION OF TEXT**

Introduced Pending Technical Review by Legislative Counsel.



**(Sponsorship Updated As Of: 5/5/2000)**

1 AN ACT concerning the preservation of historic buildings and  
2 structures on preserved farmland and supplementing P.L.1983, c.32  
3 (C.4:1C-11 et seq.) and P.L. , c. (C. ) (now before the  
4 Legislature as Senate Bill No 9 or Assembly Bill No. 1000000 of  
5 1999).

6

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

9

10 1. a. Notwithstanding any law, rule, or regulation to the contrary,  
11 whenever a county or municipality, as the case may be, acquires a  
12 development easement on farmland, or the fee simple title to farmland  
13 which is to be offered for resale or lease with agricultural deed  
14 restrictions as determined by the committee, and there is an historic  
15 building or structure located on the farmland, the county or  
16 municipality may, as a condition of the acquisition, prohibit  
17 demolition, limit expansion, and require preservation of the historic  
18 building or structure. Any such condition or conditions shall be stated  
19 in the form of a historic preservation restriction or a similar interest or  
20 restriction that shall be recorded with the deed, shall run with the land,  
21 and shall be enforceable by the county or municipality, as the case may  
22 be, against all subsequent owners of the development easement or fee  
23 simple interest in the farmland.

24 b. For the purposes of this section:

25 "Historic building or structure" means a building or structure (1)  
26 which has been approved for inclusion, which meets the criteria for  
27 inclusion, or which has been determined to be potentially eligible for  
28 inclusion in the New Jersey Register of Historic Places pursuant to  
29 P.L.1970, c.268 (C.13:1B-15.128 et seq.) or any rules or regulations  
30 adopted pursuant thereto; (2) which has been recognized by a county  
31 or municipality as a place of historic interest in a county or municipal  
32 master plan; or (3) which is located in an historic district on a  
33 municipal zoning map; and

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

36

37 2. a. Notwithstanding any law, rule, or regulation to the contrary,  
38 whenever the State or a qualifying tax exempt nonprofit organization,  
39 as the case may be, acquires a development easement on farmland, or  
40 the fee simple title to farmland which is to be offered for resale or  
41 lease with agricultural deed restrictions as determined by the  
42 committee, and there is an historic building or structure located on the  
43 farmland, the State or qualifying tax exempt nonprofit organization  
44 may, as a condition of the acquisition, prohibit demolition, limit  
45 expansion, and require preservation of the historic building or  
46 structure. Any such condition or conditions shall be stated in the form

1 of a historic preservation restriction or a similar interest or restriction  
2 that shall be recorded with the deed, shall run with the land, and shall  
3 be enforceable by the State or qualifying tax exempt nonprofit  
4 organization, as the case may be, against all subsequent owners of the  
5 development easement or fee simple interest in the farmland.

6 b. For the purposes of this section:

7 "Historic building or structure" means a building or structure (1)  
8 which has been approved for inclusion, which meets the criteria for  
9 inclusion, or which has been determined to be potentially eligible for  
10 inclusion in the New Jersey Register of Historic Places pursuant to  
11 P.L.1970, c.268 (C.13:1B-15.128 et seq.) or any rules or regulations  
12 adopted pursuant thereto; (2) which has been recognized by a county  
13 or municipality as a place of historic interest in a county or municipal  
14 master plan; or (3) which is located in an historic district on a  
15 municipal zoning map; and

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

18  
19 3. This act shall take effect immediately.  
20  
21

22 STATEMENT  
23

24 This bill would expressly authorize a municipality, county, or  
25 nonprofit organization, and the State, to protect historic buildings and  
26 structures located on farmland which is to be preserved for agricultural  
27 purposes through the acquisition of a development easement on, or fee  
28 simple title to, the farmland by any of those entities under farmland  
29 preservation programs established in the State. Specifically, a  
30 municipality, county, or nonprofit organization, or the State, would be  
31 authorized to impose conditions on such an acquisition that would  
32 prohibit demolition, limit expansion, and require preservation of the  
33 historic building or structure. Any such condition or conditions would  
34 be stated in the form of a historic preservation restriction or a similar  
35 interest or restriction that would be recorded with the deed, would run  
36 with the land, and would be enforceable against all subsequent owners  
37 of the development easement or fee simple interest in the farmland.

SENATE ECONOMIC GROWTH, AGRICULTURE AND  
TOURISM COMMITTEE

STATEMENT TO

**SENATE, No. 48**

**STATE OF NEW JERSEY**

DATED: SEPTEMBER 14, 2000

The Senate Economic Growth, Agriculture and Tourism Committee reports favorably Senate Bill No. 48.

This bill would expressly authorize a municipality, county, or nonprofit organization, and the State, to protect historic buildings and structures located on farmland which is to be preserved for agricultural purposes through the acquisition of a development easement on, or fee simple title to, the farmland by any of those entities under farmland preservation programs established in the State. Specifically, a municipality, county, or nonprofit organization, or the State, would be authorized to impose conditions on such an acquisition that would prohibit demolition, limit expansion, and require preservation of the historic building or structure. Any such condition or conditions would be stated in the form of a historic preservation restriction or a similar interest or restriction that would be recorded with the deed, would run with the land, and would be enforceable against all subsequent owners of the development easement or fee simple interest in the farmland.

This bill was prefiled for introduction in the 2000-2001 session pending technical review. As reported, the bill includes the changes required by technical review which has been performed.

# SENATE, No. 48

## STATE OF NEW JERSEY 209th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2000 SESSION

**Sponsored by:**

**Senator WILLIAM E. SCHLUTER**  
**District 23 (Warren, Hunterdon and Mercer)**  
**Senator JOHN H. ADLER**  
**District 6 (Camden)**

**Co-Sponsored by:**

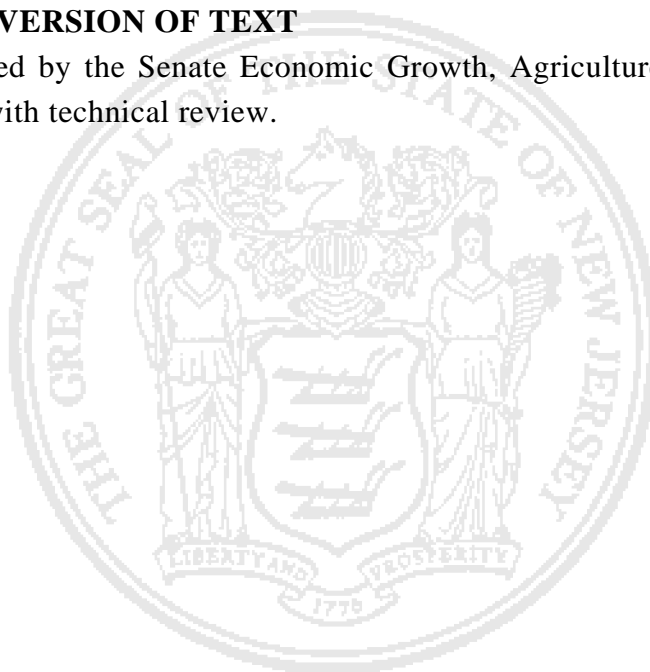
**Senators Bark and Allen**

**SYNOPSIS**

Provides for preservation of historic buildings and structures on agricultural lands preserved through farmland preservation programs.

**CURRENT VERSION OF TEXT**

As reported by the Senate Economic Growth, Agriculture and Tourism Committee with technical review.



**(Sponsorship Updated As Of: 5/5/2000)**

1 AN ACT concerning the preservation of historic buildings and  
2 structures on preserved farmland and supplementing P.L.1983, c.32  
3 (C.4:1C-11 et seq.) and P.L.1999, c.152 (C.13:8C-1 et seq.).  
4

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

8 1. a. Notwithstanding any law, rule, or regulation to the contrary,  
9 whenever a county or municipality, as the case may be, acquires a  
10 development easement on farmland, or the fee simple title to farmland  
11 which is to be offered for resale or lease with agricultural deed  
12 restrictions as determined by the committee, and there is an historic  
13 building or structure located on the farmland, the county or  
14 municipality may, as a condition of the acquisition, prohibit  
15 demolition, limit expansion, and require preservation of the historic  
16 building or structure. Any such condition or conditions shall be stated  
17 in the form of a historic preservation restriction or a similar interest or  
18 restriction that shall be recorded with the deed, shall run with the land,  
19 and shall be enforceable by the county or municipality, as the case may  
20 be, against all subsequent owners of the development easement or fee  
21 simple interest in the farmland.

22 b. For the purposes of this section:

23 "Historic building or structure" means a building or structure: (1)  
24 which has been approved for inclusion, which meets the criteria for  
25 inclusion, or which has been determined to be potentially eligible for  
26 inclusion in the New Jersey Register of Historic Places pursuant to  
27 P.L.1970, c.268 (C.13:1B-15.128 et seq.) or any rules or regulations  
28 adopted pursuant thereto; (2) which has been recognized by a county  
29 or municipality as a place of historic interest in a county or municipal  
30 master plan; or (3) which is located in an historic district on a  
31 municipal zoning map; and

32 "Historic preservation restriction" means the same as that term is  
33 defined pursuant to section 2 of P.L.1979, c.378 (C.13:8B-2).  
34

35 2. a. Notwithstanding any law, rule, or regulation to the contrary,  
36 whenever the State or a qualifying tax exempt nonprofit organization,  
37 as the case may be, acquires a development easement on farmland, or  
38 the fee simple title to farmland which is to be offered for resale or  
39 lease with agricultural deed restrictions as determined by the  
40 committee, and there is an historic building or structure located on the  
41 farmland, the State or qualifying tax exempt nonprofit organization  
42 may, as a condition of the acquisition, prohibit demolition, limit  
43 expansion, and require preservation of the historic building or  
44 structure. Any such condition or conditions shall be stated in the form  
45 of a historic preservation restriction or a similar interest or restriction  
46 that shall be recorded with the deed, shall run with the land, and shall

1 be enforceable by the State or qualifying tax exempt nonprofit  
2 organization, as the case may be, against all subsequent owners of the  
3 development easement or fee simple interest in the farmland.

4 b. For the purposes of this section:

5 "Historic building or structure" means a building or structure: (1)  
6 which has been approved for inclusion, which meets the criteria for  
7 inclusion, or which has been determined to be potentially eligible for  
8 inclusion in the New Jersey Register of Historic Places pursuant to  
9 P.L.1970, c.268 (C.13:1B-15.128 et seq.) or any rules or regulations  
10 adopted pursuant thereto; (2) which has been recognized by a county  
11 or municipality as a place of historic interest in a county or municipal  
12 master plan; or (3) which is located in an historic district on a  
13 municipal zoning map; and

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

16

17 3. This act shall take effect immediately.

SENATE SUBSTITUTE FOR  
**SENATE, No. 48**

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**STATE OF NEW JERSEY**  
**209th LEGISLATURE**

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ADOPTED OCTOBER 23, 2000

**Sponsored by:**

**Senator WILLIAM E. SCHLUTER**

**District 23 (Warren, Hunterdon and Mercer)**

**Senator JOHN H. ADLER**

**District 6 (Camden)**

**Co-Sponsored by:**

**Senators Bark and Allen**

**SYNOPSIS**

Provides for preservation of historic buildings or structures on preserved farmland under certain circumstances.

**CURRENT VERSION OF TEXT**

Substitute as adopted by the Senate.





1 AN ACT concerning the preservation of historic buildings and  
2 structures on preserved farmland, amending P.L.1983, c.32,  
3 P.L.1988, c.4, and amending and supplementing P.L.1999, c.152.

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

7  
8 1. (New section) a. Notwithstanding any law, rule, or regulation  
9 to the contrary, whenever the State, a local government unit, or a  
10 qualifying tax exempt nonprofit organization acquires, for farmland  
11 preservation purposes using constitutionally dedicated moneys in  
12 whole or in part, the fee simple title to farmland which is to be offered  
13 for resale or lease with agricultural deed restrictions as determined by  
14 the committee, and there is an historic building or structure located on  
15 the farmland, the State, local government unit, or qualifying tax  
16 exempt nonprofit organization may, with the approval of the  
17 committee:

18 (1) place a historic preservation restriction on any historic building  
19 or structure on the farmland as a condition of the resale or lease of the  
20 farmland; or

21 (2) subdivide the historic building or structure, together with at  
22 least enough associated acreage to meet local zoning requirements,  
23 from the remaining portion of the farmland, and, after placing a  
24 historic preservation restriction upon the historic building or structure,  
25 offer the historic building or structure for resale or lease separately  
26 from the remaining portion of the farmland.

27 b. A historic preservation restriction may be placed on any historic  
28 building or structure on farmland as provided pursuant to subsection  
29 a. of this section even if the proceeds received from the resale or lease  
30 of the farmland or the historic building or structure would be less than  
31 otherwise would have been realized for use for farmland preservation  
32 purposes without the historic preservation restriction in place or the  
33 subdivision having been made.

34 c. For the purposes of this section:

35 "Historic building or structure" means a building or structure that:

36 (1) is included, meets the criteria for inclusion, or has been  
37 determined to be potentially eligible for inclusion in the New Jersey  
38 Register of Historic Places pursuant to P.L.1970, c.268 (C.13:1B-  
39 15.128 et seq.) or any rules or regulations adopted pursuant thereto;

40 (2) has been recognized by a county or municipality as a place of  
41 historic interest in a county or municipal master plan;

42 (3) is located in a historic district on a municipal zoning map; or

43 (4) meets any other criteria which may be adopted by the

**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 committee, pursuant to the "Administrative Procedure Act," P.L.1968,  
2 c.410 (C.52:14B-1 et seq.), for recognizing the historical value or  
3 significance of a building or structure on farmland; and

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

6  
7 2. (New section) a. No historic building or structure located on  
8 farmland for which a development easement has been acquired by the  
9 State, a local government unit, or a qualifying tax exempt nonprofit  
10 organization after one year from the date of enactment of this act for  
11 farmland preservation purposes using constitutionally dedicated  
12 moneys in whole or in part may be demolished by the landowner or  
13 any other person without the prior approval of the committee.

14 b. (1) The committee may institute a civil action in a court of  
15 competent jurisdiction to prohibit or prevent a violation of this section,  
16 and the court may proceed in the action in a summary manner. The  
17 committee may also seek damages and other appropriate relief for a  
18 violation of this section.

19 (2) The committee may, pursuant to the "Administrative  
20 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), adopt rules and  
21 regulations providing for liquidated damages to be paid by the violator  
22 to the committee in the event of a violation of this section.

23 c. For the purposes of this section:

24 "Historic building or structure" means a building or structure that:

25 (1) is included in the New Jersey Register of Historic Places  
26 established pursuant to P.L.1970, c.268 (C.13:1B-15.128 et seq.); or

27 (2) meets any other criteria which may be adopted by the  
28 committee, pursuant to the "Administrative Procedure Act," P.L.1968,  
29 c.410 (C.52:14B-1 et seq.), for recognizing the historical value or  
30 significance of a building or structure on farmland, and which criteria  
31 may include but need not be limited to (a) the building or structure  
32 having met the criteria for inclusion, or having been determined to be  
33 potentially eligible for inclusion, in the New Jersey Register of Historic  
34 Places pursuant to P.L.1970, c.268 (C.13:1B-15.128 et seq.) or any  
35 rules or regulations adopted pursuant thereto; (b) recognition by a  
36 county or municipality of the building or structure as a place of  
37 historic interest in a county or municipal master plan; or (c) location  
38 of the building or structure in a historic district on a municipal zoning  
39 map; and

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

42  
43 3. Section 24 of P.L.1983, c.32 (C.4:1C-31) is amended to read  
44 as follows:

45 24. a. Any landowner applying to the board to sell a development

1 easement pursuant to section 17 of [this act] P.L.1983, c.32 (C.4:1C-  
2 24) shall offer to sell the development easement at a price which, in  
3 the opinion of the landowner, represents a fair value of the  
4 development potential of the land for nonagricultural purposes, as  
5 determined in accordance with the provisions of this act.

6 b. Any offer shall be reviewed and evaluated by the board and the  
7 committee in order to determine the suitability of the land for  
8 development easement purchase. Decisions regarding suitability shall  
9 be based on the following criteria:

10 (1) Priority consideration shall be given, in any one county, to  
11 offers with higher numerical values obtained by applying the following  
12 formula:

$$\frac{\text{nonagricultural - agricultural - landowner's} \\ \text{developmental value value asking price}}{\text{nonagricultural - agricultural} \\ \text{development value value}}$$

22 (2) The degree to which the purchase would encourage the  
23 survivability of the municipally approved program in productive  
24 agriculture; and

25 (3) The degree of imminence of change of the land from  
26 productive agriculture to nonagricultural use.

27 The board and the committee shall reject any offer for the sale of  
28 development easements which is unsuitable according to the above  
29 criteria and which has not been approved by the board and the  
30 municipality.

31 c. Two independent appraisals paid for by the board shall be  
32 conducted for each parcel of land so offered and deemed suitable. The  
33 appraisals shall be conducted by independent, professional appraisers  
34 selected by the board and the committee from among members of  
35 recognized organizations of real estate appraisers. The appraisals shall  
36 determine the current overall value of the parcel for nonagricultural  
37 purposes, as well as the current market value of the parcel for  
38 agricultural purposes. The difference between the two values shall  
39 represent an appraisal of the value of the development easement. If  
40 Burlington County or a municipality therein has established a  
41 development transfer bank pursuant to the provisions of P.L.1989,  
42 c.86 (C.40:55D-113 et seq.), the municipal average of the value of the  
43 development potential of property in a sending zone established by the  
44 bank may be the value used by the board in determining the value of  
45 the development easement. If a development easement is purchased  
46 using moneys appropriated from the fund, the State shall provide no

1 more than 80%, except 100% under emergency conditions specified  
2 by the committee pursuant to rules or regulations, of the cost of the  
3 appraisals conducted pursuant to this section.

4 d. Upon receiving the results of the appraisals, or in Burlington  
5 county or a municipality therein where a municipal average has been  
6 established under P.L.1989, c.86 (C.40:55D-113 et seq.), upon  
7 receiving an application from the landowners, the board and the  
8 committee shall compare the appraised value, or the municipal  
9 average, as the case may be, and the landowner's offer and, pursuant  
10 to the suitability criteria established in subsection b. of this section:

11 (1) Approve the application to sell the development easement and  
12 rank the application in accordance with the criteria established in  
13 subsection b. of this section; or

14 (2) Disapprove the application, stating the reasons therefor.

15 e. Upon approval by the committee and the board, the secretary  
16 is authorized to provide the board, within the limits of funds  
17 appropriated therefor, an amount equal to no more than 80%, except  
18 100% under emergency conditions specified by the committee  
19 pursuant to rules or regulations, of the purchase price of the  
20 development easement, as determined pursuant to the provisions of  
21 this section. The board shall provide its required share and accept the  
22 landowner's offer to sell the development easement. The acceptance  
23 shall cite the specific terms, contingencies and conditions of the  
24 purchase.

25 f. The landowner shall accept or reject the offer within 30 days of  
26 receipt thereof. Any offer not accepted within that time shall be  
27 deemed rejected.

28 g. Any landowner whose application to sell a development  
29 easement has been rejected for any reason other than insufficient funds  
30 may not reapply to sell a development easement on the same land  
31 within two years of the original application.

32 h. No development easement shall be purchased at a price greater  
33 than the appraised value determined pursuant to subsection c. of this  
34 section or the municipal average, as the case may be.

35 i. The appraisals conducted pursuant to this section or the fair  
36 market value of land restricted to agricultural use shall not be used to  
37 increase the assessment and taxation of agricultural land pursuant the  
38 "Farmland Assessment Act of 1964," P.L.1964, c.48 (C.54:4-23.1 et  
39 seq.).

40 j. (1) In determining the suitability of land for development  
41 easement purchase, the board and the committee may also include as  
42 additional factors for consideration the presence of a historic building  
43 or structure on the land and the willingness of the landowner to  
44 preserve that building or structure, but only if the committee first  
45 adopts, pursuant to the "Administrative Procedure Act," P.L.1968,  
46 c.410 (C.52:14B-1 et seq.), rules and regulations implementing this

1 subsection. The committee may, by rule or regulation adopted  
2 pursuant to the "Administrative Procedure Act," assign any such  
3 weight it deems appropriate to be given to these factors.

4 The provisions of this paragraph may also be applied in  
5 determining the suitability of land for fee simple purchase for farmland  
6 preservation purposes as authorized by P.L.1983, c.31 (C.4:1C-1 et  
7 seq.), P.L.1983, c.32 (C.4:1C-11 et seq.), and P.L.1999, c.152  
8 (C.13:8C-1 et seq.).

9 (2) For the purposes of this subsection, "historic building or  
10 structure" means a building or structure that:

11 (a) is included in the New Jersey Register of Historic Places  
12 established pursuant to P.L.1970, c.268 (C.13:1B-15.128 et seq.); or

13 (b) meets any other criteria which may be adopted by the  
14 committee, pursuant to the "Administrative Procedure Act," P.L.1968,  
15 c.410 (C.52:14B-1 et seq.), for recognizing the historical value or  
16 significance of a building or structure on farmland, and which criteria  
17 may include but need not be limited to (i) the building or structure  
18 having met the criteria for inclusion, or having been determined to be  
19 potentially eligible for inclusion, in the New Jersey Register of Historic  
20 Places pursuant to P.L.1970, c.268 (C.13:1B-15.128 et seq.) or any  
21 rules or regulations adopted pursuant thereto; (ii) recognition by a  
22 county or municipality of the building or structure as a place of  
23 historic interest in a county or municipal master plan; or (iii) location  
24 of the building or structure in a historic district on a municipal zoning  
25 map.

26 (cf: P.L.1989, c.86, s.15)

27  
28 4. Section 5 of P.L.1988, c.4 (C.4:1C-31.1) is amended to read as  
29 follows:

30 5. a. Any landowner of farmland within an agricultural  
31 development area certified by the committee may apply to the  
32 committee to sell the fee simple absolute title at a price which, in the  
33 opinion of the landowner, represents a fair market value of the  
34 property.

35 b. The committee shall evaluate the offer to determine the  
36 suitability of the land for purchase. Decisions regarding suitability  
37 shall be based on the eligibility criteria for the purchase of  
38 development easements listed in [subsection b. of] section 24 of  
39 P.L.1983, c.32 (C.4:1C-31) and the criteria adopted by the committee  
40 and the board of that county. The committee shall also evaluate the  
41 offer taking into account the amount of the asking price, the asking  
42 price relative to other offers, the location of the parcel relative to areas  
43 targeted within the county by the board and among the counties, and  
44 any other criteria as the committee has adopted pursuant to rule or  
45 regulation. The committee may negotiate reimbursement with the  
46 county and include the anticipated reimbursement as part of the

1 evaluation of an offer.

2 c. The committee shall rank the offers according to the criteria to  
3 determine which, if any, should be appraised. The committee shall  
4 reject any offer for the purchase of fee simple absolute title determined  
5 unsuitable according to any criterion in this subsection or adopted  
6 pursuant to this subsection, or may defer decisions on offers with a  
7 low ranking. The committee shall state, in writing, its reasons for  
8 rejecting an offer.

9 d. Appraisals of the parcel shall be conducted to determine the fair  
10 market value according to procedures adopted by regulation by the  
11 committee.

12 e. The committee shall notify the landowner of the fair market  
13 value and negotiate for the purchase of the title in fee simple absolute.

14 f. Any land acquired by the committee pursuant to the provisions  
15 of this amendatory and supplementary act shall be held of record in the  
16 name of the State and shall be offered for resale by the State,  
17 notwithstanding any other law, rule or regulation to the contrary,  
18 within a reasonable time of its acquisition with agricultural deed  
19 restrictions for farmland preservation purposes as determined by the  
20 committee pursuant to the provisions of this act.

21 g. The committee shall be responsible for the operation and  
22 maintenance of lands acquired and shall take all reasonable steps to  
23 maintain the value of the land and its improvements.

24 h. To the end that municipalities may not suffer loss of taxes by  
25 reason of acquisition and ownership by the State of New Jersey of  
26 property under the provisions of this act, the State shall pay annually  
27 on October 1 to each municipality in which property is so acquired and  
28 has not been resold a sum of money equal to the tax last assessed and  
29 last paid by the taxpayer upon this land and the improvement thereon  
30 for the taxable year immediately prior to the time of its acquisition. In  
31 the event that land acquired by the State pursuant to this act had been  
32 assessed at an agricultural and horticultural use valuation in  
33 accordance with provisions of the "Farmland Assessment Act of  
34 1964," P.L.1964, c.48 (C.54:4-23.1 et seq.), at the time of its  
35 acquisition by the State, no rollback tax pursuant to section 8 of  
36 P.L.1964, c.48 (C.54:4-23.8) shall be imposed as to this land nor shall  
37 this rollback tax be applicable in determining the annual payments to  
38 be made by the State to the municipality in which this land is located.

39 All sums of money received by the respective municipalities as  
40 compensation for loss of tax revenue pursuant to this section shall be  
41 applied to the same purposes as is the tax revenue from the assessment  
42 and collection of taxes on real property of these municipalities, and to  
43 accomplish this end the sums shall be apportioned in the same manner  
44 as the general tax rate of the municipality for the tax year preceding  
45 the year of receipt.

46 (cf: P.L.1988, c.4, s.5)

1       5. Section 39 of P.L.1999, c.152 (C.13:8C-39) is amended to read  
2 as follows:

3       39. a. The committee may provide a grant to a qualifying tax  
4 exempt nonprofit organization for up to 50% of the cost of acquisition  
5 of (1) a development easement on farmland, provided that the terms  
6 of any such development easement shall be approved by the  
7 committee, or (2) fee simple title to farmland, which shall be offered  
8 for resale or lease with an agricultural deed restriction, as determined  
9 by the committee, and any proceeds received from a resale shall be  
10 dedicated for farmland preservation purposes and the State's pro rata  
11 share of any such proceeds shall be deposited in the Garden State  
12 Farmland Preservation Trust Fund to be used for the purposes of that  
13 fund.

14       b. The value of a development easement or fee simple title shall be  
15 established by two appraisals conducted on each parcel and certified  
16 by the committee. The appraisals shall be conducted by independent  
17 professional appraisers selected by the qualifying tax exempt nonprofit  
18 organization and approved by the committee from among members of  
19 recognized organizations of real estate appraisers.

20       c. The appraisals shall determine the fair market value of the fee  
21 simple title to the parcel, as well as the fair market value of the parcel  
22 for agricultural purposes. The difference between the two values shall  
23 represent an appraisal of the value of the parcel for nonagricultural  
24 purposes, which shall be the value of the development easement.

25       d. Any grant provided to a qualifying tax exempt nonprofit  
26 organization pursuant to this section shall not exceed 50% of the  
27 appraised value of the development easement, or of the fee simple title  
28 in the case of fee simple acquisitions, plus up to 50% of any costs  
29 incurred including but not limited to the costs of surveys, appraisals,  
30 and title insurance.

31       e. The appraisals conducted pursuant to this section or the fair  
32 market value of land restricted to agricultural use shall not be used to  
33 increase the assessment and taxation of agricultural land pursuant to  
34 the "Farmland Assessment Act of 1964," P.L.1964, c.48 (C.54:4-23.1  
35 et seq.).

36       f. To qualify to receive a grant pursuant to this section, the  
37 applicant shall:

38       (1) demonstrate that it has the resources to match the grant  
39 requested; and

40       (2) in the case of the acquisition of a development easement, agree  
41 not to convey the development easement except to the federal  
42 government, the State, a local government unit, or another qualifying  
43 tax exempt nonprofit organization, for farmland preservation purposes.

44       g. (1) In deciding whether to award a grant to a qualifying tax  
45 exempt nonprofit organization pursuant to this section, the committee  
46 may also include as additional factors for consideration the presence

1 of a historic building or structure on the land and the willingness of the  
2 landowner to preserve that building or structure, but only if the  
3 committee first adopts, pursuant to the "Administrative Procedure  
4 Act," P.L.1968, c.410 (C.52:14B-1 et seq.), rules and regulations  
5 implementing this subsection. The committee may, by rule or  
6 regulation adopted pursuant to the "Administrative Procedure Act,"  
7 assign any such weight it deems appropriate to be given to these  
8 factors.

9 (2) For the purposes of this subsection, "historic building or  
10 structure" means a building or structure that:

11 (a) is included in the New Jersey Register of Historic Places  
12 established pursuant to P.L.1970, c.268 (C.13:1B-15.128 et seq.); or

13 (b) meets any other criteria which may be adopted by the  
14 committee, pursuant to the "Administrative Procedure Act," P.L.1968,  
15 c.410 (C.52:14B-1 et seq.), for recognizing the historical value or  
16 significance of a building or structure on farmland, and which criteria  
17 may include but need not be limited to (i) the building or structure  
18 having met the criteria for inclusion, or having been determined to be  
19 potentially eligible for inclusion, in the New Jersey Register of Historic  
20 Places pursuant to P.L.1970, c.268 (C.13:1B-15.128 et seq.) or any  
21 rules or regulations adopted pursuant thereto; (ii) recognition by a  
22 county or municipality of the building or structure as a place of  
23 historic interest in a county or municipal master plan; or (iii) location  
24 of the building or structure in a historic district on a municipal zoning  
25 map.

26 (cf: P.L.1999, c.152, s.39)

27  
28 6. Section 40 of P.L.1999, c.152 (C.13:8C-40) is amended to read  
29 as follows:

30 40. a. The committee may acquire and permanently retire  
31 development easements on farmland.

32 b. The committee shall evaluate the suitability of the acquisition  
33 of a development easement based upon the eligibility criteria listed in  
34 [subsection b. of] section 24 of P.L.1983, c.32 (C.4:1C-31) and any  
35 other criteria that may be adopted by the committee.

36 c. Appraisals to determine the fair market value of a development  
37 easement to be acquired by the committee shall be conducted by  
38 appraisers approved by the committee and in a manner consistent with  
39 the process set forth in subsection c. of section 24 of P.L.1983, c.32  
40 (C.4:1C-31).

41 d. Any development easement acquired by the committee shall be  
42 held of record in the name of the committee.

43 (cf: P.L.1999, c.152, s.40)

44  
45 7. This act shall take effect on the 180th day after the date of  
46 enactment, but the State Agriculture Development Committee may



1 take such anticipatory administrative action in advance thereof as may  
2 be necessary for the implementation of this act.

3

4

5

STATEMENT

6

7 This bill would provide for the preservation of historic buildings  
8 and structures located on preserved farmland under certain  
9 circumstances.

10 Specifically, the bill would:

11 (1) clarify the authority of the State, local government units, and  
12 certain nonprofit organizations, under certain circumstances and with  
13 the approval of the State Agriculture Development Committee  
14 (SADC), to place historic preservation restrictions on historic  
15 buildings or structures found on farmland they have acquired in fee  
16 simple for farmland preservation purposes and which farmland they  
17 intend to resell or lease with agricultural deed restrictions attached  
18 thereto;

19 (2) authorize those same entities, under certain circumstances and  
20 with the approval of the SADC, to subdivide from the farmland that  
21 they have acquired in fee simple for farmland preservation purposes  
22 any historic buildings or structures (together with a minimal amount  
23 of associated acreage) and resell or lease those buildings or structures  
24 separately from the remaining portion of the farmland that is to be  
25 resold or leased with agricultural deed restrictions attached there;

26 (3) require the approval of the SADC before a historic building or  
27 structure located on farmland for which a development easement has  
28 been acquired for farmland preservation purposes after one year from  
29 the enactment date of the bill may be demolished; and

30 (4) allow county agriculture development boards and the SADC,  
31 at the discretion of the SADC, to include the presence of a historic  
32 building or structure on farmland and the willingness of the landowner  
33 to preserve that building or structure as additional factors to be  
34 considered when ranking farms for development easement or fee  
35 simple purchase under the farmland preservation program. The  
36 weight, if any, to be given to such factors would be determined by the  
37 SADC.

38 The bill includes two definitions of "historic building or structure,"  
39 with the use of either depending upon whether the context is the "fee  
40 simple" farmland preservation program or the "development easement"  
41 farmland preservation program.

STATEMENT TO

SENATE SUBSTITUTE FOR

**SENATE, No. 48**

with Senate Floor Amendments  
(Proposed By Senator SCHLUTER)

ADOPTED: DECEMBER 4, 2000

These amendments would clarify application of the two different definitions of "historic building or structure" in the bill as they relate respectively to the farmland preservation development easement purchase program and the farmland preservation fee simple purchase program.

[First Reprint]

SENATE SUBSTITUTE FOR  
**SENATE, No. 48**

**STATE OF NEW JERSEY**  
**209th LEGISLATURE**

ADOPTED OCTOBER 23, 2000

**Sponsored by:**

**Senator WILLIAM E. SCHLUTER**

**District 23 (Warren, Hunterdon and Mercer)**

**Senator JOHN H. ADLER**

**District 6 (Camden)**

**Co-Sponsored by:**

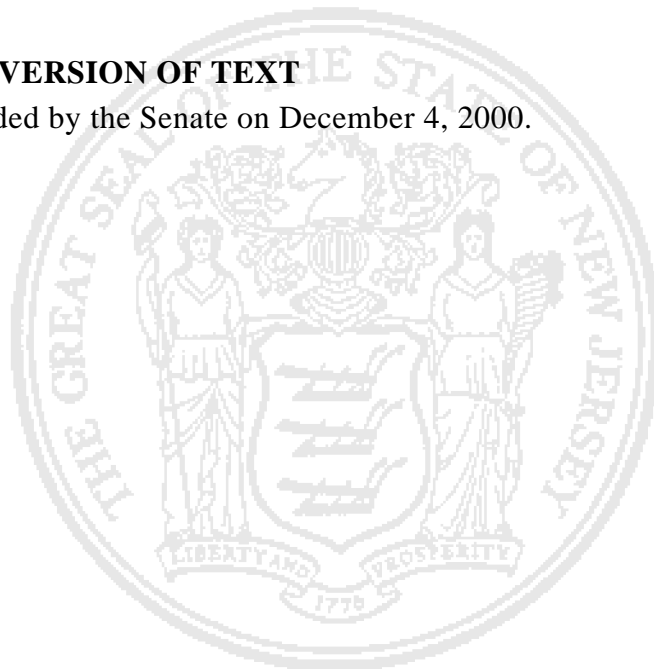
**Senators Bark and Allen**

**SYNOPSIS**

Provides for preservation of historic buildings or structures on preserved farmland under certain circumstances.

**CURRENT VERSION OF TEXT**

As amended by the Senate on December 4, 2000.



1 AN ACT concerning the preservation of historic buildings and  
2 structures on preserved farmland, amending P.L.1983, c.32,  
3 P.L.1988, c.4, and amending and supplementing P.L.1999, c.152.

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

7  
8 1. (New section) a. Notwithstanding any law, rule, or regulation  
9 to the contrary, whenever the State, a local government unit, or a  
10 qualifying tax exempt nonprofit organization acquires, for farmland  
11 preservation purposes using constitutionally dedicated moneys in  
12 whole or in part, the fee simple title to farmland which is to be offered  
13 for resale or lease with agricultural deed restrictions as determined by  
14 the committee, and there is an historic building or structure located on  
15 the farmland, the State, local government unit, or qualifying tax  
16 exempt nonprofit organization may, with the approval of the  
17 committee:

18 (1) place a historic preservation restriction on any historic building  
19 or structure on the farmland as a condition of the resale or lease of the  
20 farmland; or

21 (2) subdivide the historic building or structure, together with at  
22 least enough associated acreage to meet local zoning requirements,  
23 from the remaining portion of the farmland, and, after placing a  
24 historic preservation restriction upon the historic building or structure,  
25 offer the historic building or structure for resale or lease separately  
26 from the remaining portion of the farmland.

27 b. A historic preservation restriction may be placed on any historic  
28 building or structure on farmland as provided pursuant to subsection  
29 a. of this section even if the proceeds received from the resale or lease  
30 of the farmland or the historic building or structure would be less than  
31 otherwise would have been realized for use for farmland preservation  
32 purposes without the historic preservation restriction in place or the  
33 subdivision having been made.

34 c. For the purposes of this section:

35 "Historic building or structure" means a building or structure that:

36 (1) is included, meets the criteria for inclusion, or has been  
37 determined to be potentially eligible for inclusion in the New Jersey  
38 Register of Historic Places pursuant to P.L.1970, c.268 (C.13:1B-  
39 15.128 et seq.) or any rules or regulations adopted pursuant thereto;

40 (2) has been recognized by a county or municipality as a place of  
41 historic interest in a county or municipal master plan;

42 (3) is located in a historic district on a municipal zoning map; or

**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:**

**<sup>1</sup> Senate floor amendments adopted December 4, 2000.**

1 (4) meets any other criteria which may be adopted by the  
2 committee, pursuant to the "Administrative Procedure Act," P.L.1968,  
3 c.410 (C.52:14B-1 et seq.), for recognizing the historical value or  
4 significance of a building or structure on farmland; and

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

7  
8 2. (New section) a. No historic building or structure located on  
9 farmland for which a development easement has been acquired by the  
10 State, a local government unit, or a qualifying tax exempt nonprofit  
11 organization after one year from the date of enactment of this act for  
12 farmland preservation purposes using constitutionally dedicated  
13 moneys in whole or in part may be demolished by the landowner or  
14 any other person without the prior approval of the committee.

15 b. (1) The committee may institute a civil action in a court of  
16 competent jurisdiction to prohibit or prevent a violation of this section,  
17 and the court may proceed in the action in a summary manner. The  
18 committee may also seek damages and other appropriate relief for a  
19 violation of this section.

20 (2) The committee may, pursuant to the "Administrative  
21 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), adopt rules and  
22 regulations providing for liquidated damages to be paid by the violator  
23 to the committee in the event of a violation of this section.

24 c. For the purposes of this section:

25 "Historic building or structure" means a building or structure that:

26 (1) is included in the New Jersey Register of Historic Places  
27 established pursuant to P.L.1970, c.268 (C.13:1B-15.128 et seq.); or

28 (2) meets any other criteria which may be adopted by the  
29 committee, pursuant to the "Administrative Procedure Act," P.L.1968,  
30 c.410 (C.52:14B-1 et seq.), for recognizing the historical value or  
31 significance of a building or structure on farmland, and which criteria  
32 may include but need not be limited to (a) the building or structure  
33 having met the criteria for inclusion, or having been determined to be  
34 potentially eligible for inclusion, in the New Jersey Register of Historic  
35 Places pursuant to P.L.1970, c.268 (C.13:1B-15.128 et seq.) or any  
36 rules or regulations adopted pursuant thereto; (b) recognition by a  
37 county or municipality of the building or structure as a place of  
38 historic interest in a county or municipal master plan; or (c) location  
39 of the building or structure in a historic district on a municipal zoning  
40 map; and

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

43  
44 3. Section 24 of P.L.1983, c.32 (C.4:1C-31) is amended to read  
45 as follows:

46 24. a. Any landowner applying to the board to sell a development

1 easement pursuant to section 17 of [this act] P.L.1983, c.32 (C.4:1C-  
2 24) shall offer to sell the development easement at a price which, in  
3 the opinion of the landowner, represents a fair value of the  
4 development potential of the land for nonagricultural purposes, as  
5 determined in accordance with the provisions of this act.

6 b. Any offer shall be reviewed and evaluated by the board and the  
7 committee in order to determine the suitability of the land for  
8 development easement purchase. Decisions regarding suitability shall  
9 be based on the following criteria:

10 (1) Priority consideration shall be given, in any one county, to  
11 offers with higher numerical values obtained by applying the following  
12 formula:

$$\frac{\text{nonagricultural - agricultural - landowner's} \\ \text{developmental value value asking price}}$$

---

$$\frac{\text{nonagricultural - agricultural} \\ \text{development value value}}$$

22 (2) The degree to which the purchase would encourage the  
23 survivability of the municipally approved program in productive  
24 agriculture; and

25 (3) The degree of imminence of change of the land from  
26 productive agriculture to nonagricultural use.

27 The board and the committee shall reject any offer for the sale of  
28 development easements which is unsuitable according to the above  
29 criteria and which has not been approved by the board and the  
30 municipality.

31 c. Two independent appraisals paid for by the board shall be  
32 conducted for each parcel of land so offered and deemed suitable. The  
33 appraisals shall be conducted by independent, professional appraisers  
34 selected by the board and the committee from among members of  
35 recognized organizations of real estate appraisers. The appraisals shall  
36 determine the current overall value of the parcel for nonagricultural  
37 purposes, as well as the current market value of the parcel for  
38 agricultural purposes. The difference between the two values shall  
39 represent an appraisal of the value of the development easement. If  
40 Burlington County or a municipality therein has established a  
41 development transfer bank pursuant to the provisions of P.L.1989,  
42 c.86 (C.40:55D-113 et seq.), the municipal average of the value of the  
43 development potential of property in a sending zone established by the  
44 bank may be the value used by the board in determining the value of  
45 the development easement. If a development easement is purchased  
46 using moneys appropriated from the fund, the State shall provide no

1 more than 80%, except 100% under emergency conditions specified  
2 by the committee pursuant to rules or regulations, of the cost of the  
3 appraisals conducted pursuant to this section.

4 d. Upon receiving the results of the appraisals, or in Burlington  
5 county or a municipality therein where a municipal average has been  
6 established under P.L.1989, c.86 (C.40:55D-113 et seq.), upon  
7 receiving an application from the landowners, the board and the  
8 committee shall compare the appraised value, or the municipal  
9 average, as the case may be, and the landowner's offer and, pursuant  
10 to the suitability criteria established in subsection b. of this section:

11 (1) Approve the application to sell the development easement and  
12 rank the application in accordance with the criteria established in  
13 subsection b. of this section; or

14 (2) Disapprove the application, stating the reasons therefor.

15 e. Upon approval by the committee and the board, the secretary  
16 is authorized to provide the board, within the limits of funds  
17 appropriated therefor, an amount equal to no more than 80%, except  
18 100% under emergency conditions specified by the committee  
19 pursuant to rules or regulations, of the purchase price of the  
20 development easement, as determined pursuant to the provisions of  
21 this section. The board shall provide its required share and accept the  
22 landowner's offer to sell the development easement. The acceptance  
23 shall cite the specific terms, contingencies and conditions of the  
24 purchase.

25 f. The landowner shall accept or reject the offer within 30 days of  
26 receipt thereof. Any offer not accepted within that time shall be  
27 deemed rejected.

28 g. Any landowner whose application to sell a development  
29 easement has been rejected for any reason other than insufficient funds  
30 may not reapply to sell a development easement on the same land  
31 within two years of the original application.

32 h. No development easement shall be purchased at a price greater  
33 than the appraised value determined pursuant to subsection c. of this  
34 section or the municipal average, as the case may be.

35 i. The appraisals conducted pursuant to this section or the fair  
36 market value of land restricted to agricultural use shall not be used to  
37 increase the assessment and taxation of agricultural land pursuant the  
38 "Farmland Assessment Act of 1964," P.L.1964, c.48 (C.54:4-23.1 et  
39 seq.).

40 j. (1) In determining the suitability of land for development  
41 easement purchase, the board and the committee may also include as  
42 additional factors for consideration the presence of a historic building  
43 or structure on the land and the willingness of the landowner to  
44 preserve that building or structure, but only if the committee first  
45 adopts, pursuant to the "Administrative Procedure Act," P.L.1968,  
46 c.410 (C.52:14B-1 et seq.), rules and regulations implementing this

1 subsection. The committee may, by rule or regulation adopted  
2 pursuant to the "Administrative Procedure Act," assign any such  
3 weight it deems appropriate to be given to these factors.

4 <sup>1</sup>(2)<sup>1</sup> The provisions of <sup>1</sup>[this]<sup>1</sup> paragraph <sup>1</sup>(1) of this subsection<sup>1</sup>  
5 may also be applied in determining the suitability of land for fee simple  
6 purchase for farmland preservation purposes as authorized by  
7 P.L.1983, c.31 (C.4:1C-1 et seq.), P.L.1983, c.32 (C.4:1C-11 et seq.),  
8 and P.L.1999, c.152 (C.13:8C-1 et seq.).

9 <sup>1</sup>[(2) For the purposes of this subsection, "historic building or  
10 structure" means a building or structure that:

11 (a) is included in the New Jersey Register of Historic Places  
12 established pursuant to P.L.1970, c.268 (C.13:1B-15.128 et seq.); or

13 (b) meets any other criteria which may be adopted by the  
14 committee, pursuant to the "Administrative Procedure Act," P.L.1968,  
15 c.410 (C.52:14B-1 et seq.), for recognizing the historical value or  
16 significance of a building or structure on farmland, and which criteria  
17 may include but need not be limited to (i) the building or structure  
18 having met the criteria for inclusion, or having been determined to be  
19 potentially eligible for inclusion, in the New Jersey Register of Historic  
20 Places pursuant to P.L.1970, c.268 (C.13:1B-15.128 et seq.) or any  
21 rules or regulations adopted pursuant thereto; (ii) recognition by a  
22 county or municipality of the building or structure as a place of  
23 historic interest in a county or municipal master plan; or (iii) location  
24 of the building or structure in a historic district on a municipal zoning  
25 map.]

26 (3) (a) For the purposes of paragraph (1) of this subsection:  
27 "historic building or structure" means the same as that term is defined  
28 pursuant to subsection c. of section 2 of P.L. , c. (C. ) (now  
29 before the Legislature as this bill).

30 (b) For the purposes of paragraph (2) of this subsection, "historic  
31 building or structure" means the same as that term is defined pursuant  
32 to subsection c. of section 1 of P.L. , c. (C. ) (now before the  
33 Legislature as this bill).<sup>1</sup>

34 (cf: P.L.1989, c.86, s.15)

35

36 4. Section 5 of P.L.1988, c.4 (C.4:1C-31.1) is amended to read as  
37 follows:

38 5. a. Any landowner of farmland within an agricultural  
39 development area certified by the committee may apply to the  
40 committee to sell the fee simple absolute title at a price which, in the  
41 opinion of the landowner, represents a fair market value of the  
42 property.

43 b. The committee shall evaluate the offer to determine the  
44 suitability of the land for purchase. Decisions regarding suitability  
45 shall be based on the eligibility criteria for the purchase of  
46 development easements listed in [subsection b. of] section 24 of



1 P.L.1983, c.32 (C.4:1C-31) and the criteria adopted by the committee  
2 and the board of that county. The committee shall also evaluate the  
3 offer taking into account the amount of the asking price, the asking  
4 price relative to other offers, the location of the parcel relative to areas  
5 targeted within the county by the board and among the counties, and  
6 any other criteria as the committee has adopted pursuant to rule or  
7 regulation. The committee may negotiate reimbursement with the  
8 county and include the anticipated reimbursement as part of the  
9 evaluation of an offer.

10 c. The committee shall rank the offers according to the criteria to  
11 determine which, if any, should be appraised. The committee shall  
12 reject any offer for the purchase of fee simple absolute title determined  
13 unsuitable according to any criterion in this subsection or adopted  
14 pursuant to this subsection, or may defer decisions on offers with a  
15 low ranking. The committee shall state, in writing, its reasons for  
16 rejecting an offer.

17 d. Appraisals of the parcel shall be conducted to determine the fair  
18 market value according to procedures adopted by regulation by the  
19 committee.

20 e. The committee shall notify the landowner of the fair market  
21 value and negotiate for the purchase of the title in fee simple absolute.

22 f. Any land acquired by the committee pursuant to the provisions  
23 of this amendatory and supplementary act shall be held of record in the  
24 name of the State and shall be offered for resale by the State,  
25 notwithstanding any other law, rule or regulation to the contrary,  
26 within a reasonable time of its acquisition with agricultural deed  
27 restrictions for farmland preservation purposes as determined by the  
28 committee pursuant to the provisions of this act.

29 g. The committee shall be responsible for the operation and  
30 maintenance of lands acquired and shall take all reasonable steps to  
31 maintain the value of the land and its improvements.

32 h. To the end that municipalities may not suffer loss of taxes by  
33 reason of acquisition and ownership by the State of New Jersey of  
34 property under the provisions of this act, the State shall pay annually  
35 on October 1 to each municipality in which property is so acquired and  
36 has not been resold a sum of money equal to the tax last assessed and  
37 last paid by the taxpayer upon this land and the improvement thereon  
38 for the taxable year immediately prior to the time of its acquisition. In  
39 the event that land acquired by the State pursuant to this act had been  
40 assessed at an agricultural and horticultural use valuation in  
41 accordance with provisions of the "Farmland Assessment Act of  
42 1964," P.L.1964, c.48 (C.54:4-23.1 et seq.), at the time of its  
43 acquisition by the State, no rollback tax pursuant to section 8 of  
44 P.L.1964, c.48 (C.54:4-23.8) shall be imposed as to this land nor shall  
45 this rollback tax be applicable in determining the annual payments to  
46 be made by the State to the municipality in which this land is located.

1 All sums of money received by the respective municipalities as  
2 compensation for loss of tax revenue pursuant to this section shall be  
3 applied to the same purposes as is the tax revenue from the assessment  
4 and collection of taxes on real property of these municipalities, and to  
5 accomplish this end the sums shall be apportioned in the same manner  
6 as the general tax rate of the municipality for the tax year preceding  
7 the year of receipt.

8 (cf: P.L.1988, c.4, s.5)

9  
10 5. Section 39 of P.L.1999, c.152 (C.13:8C-39) is amended to read  
11 as follows:

12 39. a. The committee may provide a grant to a qualifying tax  
13 exempt nonprofit organization for up to 50% of the cost of acquisition  
14 of (1) a development easement on farmland, provided that the terms  
15 of any such development easement shall be approved by the  
16 committee, or (2) fee simple title to farmland, which shall be offered  
17 for resale or lease with an agricultural deed restriction, as determined  
18 by the committee, and any proceeds received from a resale shall be  
19 dedicated for farmland preservation purposes and the State's pro rata  
20 share of any such proceeds shall be deposited in the Garden State  
21 Farmland Preservation Trust Fund to be used for the purposes of that  
22 fund.

23 b. The value of a development easement or fee simple title shall be  
24 established by two appraisals conducted on each parcel and certified  
25 by the committee. The appraisals shall be conducted by independent  
26 professional appraisers selected by the qualifying tax exempt nonprofit  
27 organization and approved by the committee from among members of  
28 recognized organizations of real estate appraisers.

29 c. The appraisals shall determine the fair market value of the fee  
30 simple title to the parcel, as well as the fair market value of the parcel  
31 for agricultural purposes. The difference between the two values shall  
32 represent an appraisal of the value of the parcel for nonagricultural  
33 purposes, which shall be the value of the development easement.

34 d. Any grant provided to a qualifying tax exempt nonprofit  
35 organization pursuant to this section shall not exceed 50% of the  
36 appraised value of the development easement, or of the fee simple title  
37 in the case of fee simple acquisitions, plus up to 50% of any costs  
38 incurred including but not limited to the costs of surveys, appraisals,  
39 and title insurance.

40 e. The appraisals conducted pursuant to this section or the fair  
41 market value of land restricted to agricultural use shall not be used to  
42 increase the assessment and taxation of agricultural land pursuant to  
43 the "Farmland Assessment Act of 1964," P.L.1964, c.48 (C.54:4-23.1  
44 et seq.).

45 f. To qualify to receive a grant pursuant to this section, the  
46 applicant shall:

1 (1) demonstrate that it has the resources to match the grant  
2 requested; and

3 (2) in the case of the acquisition of a development easement, agree  
4 not to convey the development easement except to the federal  
5 government, the State, a local government unit, or another qualifying  
6 tax exempt nonprofit organization, for farmland preservation purposes.

7 g. (1) In deciding whether to award a grant to a qualifying tax  
8 exempt nonprofit organization pursuant to this section, the committee  
9 may also include as additional factors for consideration the presence  
10 of a historic building or structure on the land and the willingness of the  
11 landowner to preserve that building or structure, but only if the  
12 committee first adopts, pursuant to the "Administrative Procedure  
13 Act," P.L.1968, c.410 (C.52:14B-1 et seq.), rules and regulations  
14 implementing this subsection. The committee may, by rule or  
15 regulation adopted pursuant to the "Administrative Procedure Act,"  
16 assign any such weight it deems appropriate to be given to these  
17 factors.

18 (2) For the purposes of this subsection <sup>1</sup>[, "historic building or  
19 structure" means a building or structure that:

20 (a) is included in the New Jersey Register of Historic Places  
21 established pursuant to P.L.1970, c.268 (C.13:1B-15.128 et seq.); or

22 (b) meets any other criteria which may be adopted by the  
23 committee, pursuant to the "Administrative Procedure Act," P.L.1968,  
24 c.410 (C.52:14B-1 et seq.), for recognizing the historical value or  
25 significance of a building or structure on farmland, and which criteria  
26 may include but need not be limited to (i) the building or structure  
27 having met the criteria for inclusion, or having been determined to be  
28 potentially eligible for inclusion, in the New Jersey Register of Historic  
29 Places pursuant to P.L.1970, c.268 (C.13:1B-15.128 et seq.) or any  
30 rules or regulations adopted pursuant thereto; (ii) recognition by a  
31 county or municipality of the building or structure as a place of  
32 historic interest in a county or municipal master plan; or (iii) location  
33 of the building or structure in a historic district on a municipal zoning  
34 map.] : "historic building or structure," in the context of the grant  
35 program for qualifying tax exempt nonprofit organizations to acquire  
36 development easements on farmland for farmland preservation  
37 purposes, means the same as that term is defined pursuant to  
38 subsection c. of section 2 of P.L. , c. (C. ) (now before the  
39 Legislature as this bill); and "historic building or structure," in the  
40 context of the grant program for qualifying tax exempt nonprofit  
41 organizations to acquire fee simple titles to farmland for farmland  
42 preservation purposes, means the same as that term is defined pursuant  
43 to subsection c. of section 1 of P.L. , c. (C. ) (now before the  
44 Legislature as this bill).<sup>1</sup>

45 (cf: P.L.1999, c.152, s.39)

1       6. Section 40 of P.L.1999, c.152 (C.13:8C-40) is amended to read  
2 as follows:

3       40. a. The committee may acquire and permanently retire  
4 development easements on farmland.

5       b. The committee shall evaluate the suitability of the acquisition  
6 of a development easement based upon the eligibility criteria listed in  
7 [subsection b. of] section 24 of P.L.1983, c.32 (C.4:1C-31) and any  
8 other criteria that may be adopted by the committee.

9       c. Appraisals to determine the fair market value of a development  
10 easement to be acquired by the committee shall be conducted by  
11 appraisers approved by the committee and in a manner consistent with  
12 the process set forth in subsection c. of section 24 of P.L.1983, c.32  
13 (C.4:1C-31).

14       d. Any development easement acquired by the committee shall be  
15 held of record in the name of the committee.  
16 (cf: P.L.1999, c.152, s.40)

17

18       7. This act shall take effect on the 180th day after the date of  
19 enactment, but the State Agriculture Development Committee may  
20 take such anticipatory administrative action in advance thereof as may  
21 be necessary for the implementation of this act.

P.L. 2001, CHAPTER 405, *approved January 8, 2002*

Assembly Committee Substitute for

Assembly, No. 1744

1 **AN ACT** concerning the preservation of historic buildings and  
2 structures on preserved farmland, amending P.L.1983, c.32,  
3 P.L.1988, c.4, and amending and supplementing P.L.1999, c.152.

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

7  
8 1. (New section) a. Notwithstanding any law, rule, or regulation  
9 to the contrary, whenever the State, a local government unit, or a  
10 qualifying tax exempt nonprofit organization acquires, for farmland  
11 preservation purposes using constitutionally dedicated moneys in  
12 whole or in part, the fee simple title to farmland which is to be offered  
13 for resale or lease with agricultural deed restrictions as determined by  
14 the committee, and there is an historic building or structure located on  
15 the farmland, the State, local government unit, or qualifying tax  
16 exempt nonprofit organization may, with the approval of the  
17 committee:

18 (1) place a historic preservation restriction on any historic building  
19 or structure on the farmland as a condition of the resale or lease of the  
20 farmland; or

21 (2) subdivide the historic building or structure, together with at  
22 least enough associated acreage to meet local zoning requirements,  
23 from the remaining portion of the farmland, and, after placing a  
24 historic preservation restriction upon the historic building or structure,  
25 offer the historic building or structure for resale or lease separately  
26 from the remaining portion of the farmland.

27 b. A historic preservation restriction may be placed on any historic  
28 building or structure on farmland as provided pursuant to subsection  
29 a. of this section even if the proceeds received from the resale or lease  
30 of the farmland or the historic building or structure would be less than  
31 otherwise would have been realized for use for farmland preservation  
32 purposes without the historic preservation restriction in place or the  
33 subdivision having been made.

34 c. For the purposes of this section:

35 "Historic building or structure" means a building or structure that:

36 (1) is included, meets the criteria for inclusion, or has been  
37 determined to be potentially eligible for inclusion in the New Jersey  
38 Register of Historic Places pursuant to P.L.1970, c.268 (C.13:1B-

**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 15.128 et seq.) or any rules or regulations adopted pursuant thereto;

2 (2) has been recognized by a county or municipality as a place of  
3 historic interest in a county or municipal master plan;

4 (3) is located in a historic district on a municipal zoning map; or

5 (4) meets any other criteria which may be adopted by the  
6 committee, pursuant to the "Administrative Procedure Act," P.L.1968,  
7 c.410 (C.52:14B-1 et seq.), for recognizing the historical value or  
8 significance of a building or structure on farmland; and

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

11

12 2. (New section) a. No historic building or structure located on  
13 farmland for which a development easement has been acquired by the  
14 State, a local government unit, or a qualifying tax exempt nonprofit  
15 organization after one year from the date of enactment of this act for  
16 farmland preservation purposes using constitutionally dedicated  
17 moneys in whole or in part may be demolished by the landowner or  
18 any other person without the prior approval of the committee.

19 b. (1) The committee may institute a civil action in a court of  
20 competent jurisdiction to prohibit or prevent a violation of this section,  
21 and the court may proceed in the action in a summary manner. The  
22 committee may also seek damages and other appropriate relief for a  
23 violation of this section.

24 (2) The committee may, pursuant to the "Administrative  
25 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), adopt rules and  
26 regulations providing for liquidated damages to be paid by the violator  
27 to the committee in the event of a violation of this section.

28 c. For the purposes of this section:

29 "Historic building or structure" means a building or structure that:

30 (1) is included in the New Jersey Register of Historic Places  
31 established pursuant to P.L.1970, c.268 (C.13:1B-15.128 et seq.); or

32 (2) meets any other criteria which may be adopted by the  
33 committee, pursuant to the "Administrative Procedure Act," P.L.1968,  
34 c.410 (C.52:14B-1 et seq.), for recognizing the historical value or  
35 significance of a building or structure on farmland, and which criteria  
36 may include but need not be limited to (a) the building or structure  
37 having met the criteria for inclusion, or having been determined to be  
38 potentially eligible for inclusion, in the New Jersey Register of Historic  
39 Places pursuant to P.L.1970, c.268 (C.13:1B-15.128 et seq.) or any  
40 rules or regulations adopted pursuant thereto; (b) recognition by a  
41 county or municipality of the building or structure as a place of  
42 historic interest in a county or municipal master plan; or (c) location  
43 of the building or structure in a historic district on a municipal zoning  
44 map; and

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

1       3. Section 24 of P.L.1983, c.32 (C.4:1C-31) is amended to read  
2 as follows:

3       24. a. Any landowner applying to the board to sell a development  
4 easement pursuant to section 17 of [this act] P.L.1983, c.32 (C.4:1C-  
5 24) shall offer to sell the development easement at a price which, in  
6 the opinion of the landowner, represents a fair value of the  
7 development potential of the land for nonagricultural purposes, as  
8 determined in accordance with the provisions of this act.

9       b. Any offer shall be reviewed and evaluated by the board and the  
10 committee in order to determine the suitability of the land for  
11 development easement purchase. Decisions regarding suitability shall  
12 be based on the following criteria:

13       (1) Priority consideration shall be given, in any one county, to  
14 offers with higher numerical values obtained by applying the following  
15 formula:

16  
17           nonagricultural - agricultural - landowner's  
18       developmental value    value            asking price  
19  
20       \_\_\_\_\_

21  
22           nonagricultural - agricultural  
23       development value    value

24  
25       (2) The degree to which the purchase would encourage the  
26 survivability of the municipally approved program in productive  
27 agriculture; and

28       (3) The degree of imminence of change of the land from  
29 productive agriculture to nonagricultural use.

30       The board and the committee shall reject any offer for the sale of  
31 development easements which is unsuitable according to the above  
32 criteria and which has not been approved by the board and the  
33 municipality.

34       c. Two independent appraisals paid for by the board shall be  
35 conducted for each parcel of land so offered and deemed suitable. The  
36 appraisals shall be conducted by independent, professional appraisers  
37 selected by the board and the committee from among members of  
38 recognized organizations of real estate appraisers. The appraisals shall  
39 determine the current overall value of the parcel for nonagricultural  
40 purposes, as well as the current market value of the parcel for  
41 agricultural purposes. The difference between the two values shall  
42 represent an appraisal of the value of the development easement. If  
43 Burlington County or a municipality therein has established a  
44 development transfer bank pursuant to the provisions of P.L.1989,  
45 c.86 (C.40:55D-113 et seq.), the municipal average of the value of the  
46 development potential of property in a sending zone established by the

1 bank may be the value used by the board in determining the value of  
2 the development easement. If a development easement is purchased  
3 using moneys appropriated from the fund, the State shall provide no  
4 more than 80%, except 100% under emergency conditions specified  
5 by the committee pursuant to rules or regulations, of the cost of the  
6 appraisals conducted pursuant to this section.

7 d. Upon receiving the results of the appraisals, or in Burlington  
8 county or a municipality therein where a municipal average has been  
9 established under P.L.1989, c.86 (C.40:55D-113 et seq.), upon  
10 receiving an application from the landowners, the board and the  
11 committee shall compare the appraised value, or the municipal  
12 average, as the case may be, and the landowner's offer and, pursuant  
13 to the suitability criteria established in subsection b. of this section:

14 (1) Approve the application to sell the development easement and  
15 rank the application in accordance with the criteria established in  
16 subsection b. of this section; or

17 (2) Disapprove the application, stating the reasons therefor.

18 e. Upon approval by the committee and the board, the secretary  
19 is authorized to provide the board, within the limits of funds  
20 appropriated therefor, an amount equal to no more than 80%, except  
21 100% under emergency conditions specified by the committee  
22 pursuant to rules or regulations, of the purchase price of the  
23 development easement, as determined pursuant to the provisions of  
24 this section. The board shall provide its required share and accept the  
25 landowner's offer to sell the development easement. The acceptance  
26 shall cite the specific terms, contingencies and conditions of the  
27 purchase.

28 f. The landowner shall accept or reject the offer within 30 days of  
29 receipt thereof. Any offer not accepted within that time shall be  
30 deemed rejected.

31 g. Any landowner whose application to sell a development  
32 easement has been rejected for any reason other than insufficient funds  
33 may not reapply to sell a development easement on the same land  
34 within two years of the original application.

35 h. No development easement shall be purchased at a price greater  
36 than the appraised value determined pursuant to subsection c. of this  
37 section or the municipal average, as the case may be.

38 i. The appraisals conducted pursuant to this section or the fair  
39 market value of land restricted to agricultural use shall not be used to  
40 increase the assessment and taxation of agricultural land pursuant the  
41 "Farmland Assessment Act of 1964," P.L.1964, c.48 (C.54:4-23.1 et  
42 seq.).

43 j. (1) In determining the suitability of land for development  
44 easement purchase, the board and the committee may also include as  
45 additional factors for consideration the presence of a historic building  
46 or structure on the land and the willingness of the landowner to



1 preserve that building or structure, but only if the committee first  
2 adopts, pursuant to the "Administrative Procedure Act," P.L.1968,  
3 c.410 (C.52:14B-1 et seq.), rules and regulations implementing this  
4 subsection. The committee may, by rule or regulation adopted  
5 pursuant to the "Administrative Procedure Act," assign any such  
6 weight it deems appropriate to be given to these factors.

7 (2) The provisions of paragraph (1) of this subsection may also be  
8 applied in determining the suitability of land for fee simple purchase  
9 for farmland preservation purposes as authorized by P.L.1983, c.31  
10 (C.4:1C-1 et seq.), P.L.1983, c.32 (C.4:1C-11 et seq.), and P.L.1999,  
11 c.152 (C.13:8C-1 et seq.).

12 (3) (a) For the purposes of paragraph (1) of this subsection:  
13 "historic building or structure" means the same as that term is defined  
14 pursuant to subsection c. of section 2 of P.L. , c. (C. ) (now  
15 before the Legislature as this bill).

16 (b) For the purposes of paragraph (2) of this subsection, "historic  
17 building or structure" means the same as that term is defined pursuant  
18 to subsection c. of section 1 of P.L. , c. (C. ) (now before the  
19 Legislature as this bill).

20 (cf: P.L.1989, c.86, s.15)

21

22 4. Section 5 of P.L.1988, c.4 (C.4:1C-31.1) is amended to read as  
23 follows:

24 5. a. Any landowner of farmland within an agricultural  
25 development area certified by the committee may apply to the  
26 committee to sell the fee simple absolute title at a price which, in the  
27 opinion of the landowner, represents a fair market value of the  
28 property.

29 b. The committee shall evaluate the offer to determine the  
30 suitability of the land for purchase. Decisions regarding suitability  
31 shall be based on the eligibility criteria for the purchase of  
32 development easements listed in [subsection b. of] section 24 of  
33 P.L.1983, c.32 (C.4:1C-31) and the criteria adopted by the committee  
34 and the board of that county. The committee shall also evaluate the  
35 offer taking into account the amount of the asking price, the asking  
36 price relative to other offers, the location of the parcel relative to areas  
37 targeted within the county by the board and among the counties, and  
38 any other criteria as the committee has adopted pursuant to rule or  
39 regulation. The committee may negotiate reimbursement with the  
40 county and include the anticipated reimbursement as part of the  
41 evaluation of an offer.

42 c. The committee shall rank the offers according to the criteria to  
43 determine which, if any, should be appraised. The committee shall  
44 reject any offer for the purchase of fee simple absolute title determined  
45 unsuitable according to any criterion in this subsection or adopted  
46 pursuant to this subsection, or may defer decisions on offers with a

1 low ranking. The committee shall state, in writing, its reasons for  
2 rejecting an offer.

3 d. Appraisals of the parcel shall be conducted to determine the fair  
4 market value according to procedures adopted by regulation by the  
5 committee.

6 e. The committee shall notify the landowner of the fair market  
7 value and negotiate for the purchase of the title in fee simple absolute.

8 f. Any land acquired by the committee pursuant to the provisions  
9 of this amendatory and supplementary act shall be held of record in the  
10 name of the State and shall be offered for resale by the State,  
11 notwithstanding any other law, rule or regulation to the contrary,  
12 within a reasonable time of its acquisition with agricultural deed  
13 restrictions for farmland preservation purposes as determined by the  
14 committee pursuant to the provisions of this act.

15 g. The committee shall be responsible for the operation and  
16 maintenance of lands acquired and shall take all reasonable steps to  
17 maintain the value of the land and its improvements.

18 h. To the end that municipalities may not suffer loss of taxes by  
19 reason of acquisition and ownership by the State of New Jersey of  
20 property under the provisions of this act, the State shall pay annually  
21 on October 1 to each municipality in which property is so acquired and  
22 has not been resold a sum of money equal to the tax last assessed and  
23 last paid by the taxpayer upon this land and the improvement thereon  
24 for the taxable year immediately prior to the time of its acquisition. In  
25 the event that land acquired by the State pursuant to this act had been  
26 assessed at an agricultural and horticultural use valuation in  
27 accordance with provisions of the "Farmland Assessment Act of  
28 1964," P.L.1964, c.48 (C.54:4-23.1 et seq.), at the time of its  
29 acquisition by the State, no rollback tax pursuant to section 8 of  
30 P.L.1964, c.48 (C.54:4-23.8) shall be imposed as to this land nor shall  
31 this rollback tax be applicable in determining the annual payments to  
32 be made by the State to the municipality in which this land is located.

33 All sums of money received by the respective municipalities as  
34 compensation for loss of tax revenue pursuant to this section shall be  
35 applied to the same purposes as is the tax revenue from the assessment  
36 and collection of taxes on real property of these municipalities, and to  
37 accomplish this end the sums shall be apportioned in the same manner  
38 as the general tax rate of the municipality for the tax year preceding  
39 the year of receipt.

40 (cf: P.L.1988, c.4, s.5)

41

42 5. Section 39 of P.L.1999, c.152 (C.13:8C-39) is amended to read  
43 as follows:

44 39. a. The committee may provide a grant to a qualifying tax  
45 exempt nonprofit organization for up to 50% of the cost of acquisition  
46 of (1) a development easement on farmland, provided that the terms

1 of any such development easement shall be approved by the  
2 committee, or (2) fee simple title to farmland, which shall be offered  
3 for resale or lease with an agricultural deed restriction, as determined  
4 by the committee, and any proceeds received from a resale shall be  
5 dedicated for farmland preservation purposes and the State's pro rata  
6 share of any such proceeds shall be deposited in the Garden State  
7 Farmland Preservation Trust Fund to be used for the purposes of that  
8 fund.

9 b. The value of a development easement or fee simple title shall be  
10 established by two appraisals conducted on each parcel and certified  
11 by the committee. The appraisals shall be conducted by independent  
12 professional appraisers selected by the qualifying tax exempt nonprofit  
13 organization and approved by the committee from among members of  
14 recognized organizations of real estate appraisers.

15 c. The appraisals shall determine the fair market value of the fee  
16 simple title to the parcel, as well as the fair market value of the parcel  
17 for agricultural purposes. The difference between the two values shall  
18 represent an appraisal of the value of the parcel for nonagricultural  
19 purposes, which shall be the value of the development easement.

20 d. Any grant provided to a qualifying tax exempt nonprofit  
21 organization pursuant to this section shall not exceed 50% of the  
22 appraised value of the development easement, or of the fee simple title  
23 in the case of fee simple acquisitions, plus up to 50% of any costs  
24 incurred including but not limited to the costs of surveys, appraisals,  
25 and title insurance.

26 e. The appraisals conducted pursuant to this section or the fair  
27 market value of land restricted to agricultural use shall not be used to  
28 increase the assessment and taxation of agricultural land pursuant to  
29 the "Farmland Assessment Act of 1964," P.L.1964, c.48 (C.54:4-23.1  
30 et seq.).

31 f. To qualify to receive a grant pursuant to this section, the  
32 applicant shall:

33 (1) demonstrate that it has the resources to match the grant  
34 requested; and

35 (2) in the case of the acquisition of a development easement, agree  
36 not to convey the development easement except to the federal  
37 government, the State, a local government unit, or another qualifying  
38 tax exempt nonprofit organization, for farmland preservation purposes.

39 g. (1) In deciding whether to award a grant to a qualifying tax  
40 exempt nonprofit organization pursuant to this section, the committee  
41 may also include as additional factors for consideration the presence  
42 of a historic building or structure on the land and the willingness of the  
43 landowner to preserve that building or structure, but only if the  
44 committee first adopts, pursuant to the "Administrative Procedure  
45 Act," P.L.1968, c.410 (C.52:14B-1 et seq.), rules and regulations  
46 implementing this subsection. The committee may, by rule or

1 regulation adopted pursuant to the "Administrative Procedure Act,"  
2 assign any such weight it deems appropriate to be given to these  
3 factors.

4 (2) For the purposes of this subsection: "historic building or  
5 structure," in the context of the grant program for qualifying tax  
6 exempt nonprofit organizations to acquire development easements on  
7 farmland for farmland preservation purposes, means the same as that  
8 term is defined pursuant to subsection c. of section 2 of P.L. , c.  
9 (C. ) (now before the Legislature as this bill); and "historic building  
10 or structure," in the context of the grant program for qualifying tax  
11 exempt nonprofit organizations to acquire fee simple titles to farmland  
12 for farmland preservation purposes, means the same as that term is  
13 defined pursuant to subsection c. of section 1 of P.L. , c. (C. )  
14 (now before the Legislature as this bill).

15 (cf: P.L.1999, c.152, s.39)

16

17 6. Section 40 of P.L.1999, c.152 (C.13:8C-40) is amended to read  
18 as follows:

19 40. a. The committee may acquire and permanently retire  
20 development easements on farmland.

21 b. The committee shall evaluate the suitability of the acquisition  
22 of a development easement based upon the eligibility criteria listed in  
23 [subsection b. of] section 24 of P.L.1983, c.32 (C.4:1C-31) and any  
24 other criteria that may be adopted by the committee.

25 c. Appraisals to determine the fair market value of a development  
26 easement to be acquired by the committee shall be conducted by  
27 appraisers approved by the committee and in a manner consistent with  
28 the process set forth in subsection c. of section 24 of P.L.1983, c.32  
29 (C.4:1C-31).

30 d. Any development easement acquired by the committee shall be  
31 held of record in the name of the committee.

32 (cf: P.L.1999, c.152, s.40)

33

34 7. This act shall take effect on the 180th day after the date of  
35 enactment, but the State Agriculture Development Committee may  
36 take such anticipatory administrative action in advance thereof as may  
37 be necessary for the implementation of this act.

38 Provides for preservation of historic buildings or structures on  
39 preserved farmland under certain circumstances.

40

41

42

43

44 Provides for preservation of historic buildings or structures on  
45 preserved farmland under certain circumstances.

## CHAPTER 405

AN ACT concerning the preservation of historic buildings and structures on preserved farmland, amending P.L.1983, c.32, P.L.1988, c.4, and amending and supplementing P.L.1999, c.152.

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

C.13:8C-40.1 Property acquired for farmland preservation of historic buildings, structures; terms defined.

1. a. Notwithstanding any law, rule, or regulation to the contrary, whenever the State, a local government unit, or a qualifying tax exempt nonprofit organization acquires, for farmland preservation purposes using constitutionally dedicated moneys in whole or in part, the fee simple title to farmland which is to be offered for resale or lease with agricultural deed restrictions as determined by the committee, and there is an historic building or structure located on the farmland, the State, local government unit, or qualifying tax exempt nonprofit organization may, with the approval of the committee:

(1) place a historic preservation restriction on any historic building or structure on the farmland as a condition of the resale or lease of the farmland; or

(2) subdivide the historic building or structure, together with at least enough associated acreage to meet local zoning requirements, from the remaining portion of the farmland, and, after placing a historic preservation restriction upon the historic building or structure, offer the historic building or structure for resale or lease separately from the remaining portion of the farmland.

b. A historic preservation restriction may be placed on any historic building or structure on farmland as provided pursuant to subsection a. of this section even if the proceeds received from the resale or lease of the farmland or the historic building or structure would be less than otherwise would have been realized for use for farmland preservation purposes without the historic preservation restriction in place or the subdivision having been made.

c. For the purposes of this section:

"Historic building or structure" means a building or structure that:

(1) is included, meets the criteria for inclusion, or has been determined to be potentially eligible for inclusion in the New Jersey Register of Historic Places pursuant to P.L.1970, c.268 (C.13:1B-15.128 et seq.) or any rules or regulations adopted pursuant thereto;

(2) has been recognized by a county or municipality as a place of historic interest in a county or municipal master plan;

(3) is located in a historic district on a municipal zoning map; or

(4) meets any other criteria which may be adopted by the committee, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), for recognizing the historical value or significance of a building or structure on farmland; and

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

C.13:8C-40.2 Demolishing of historic building, structure prohibited, terms defined.

2. a. No historic building or structure located on farmland for which a development easement has been acquired by the State, a local government unit, or a qualifying tax exempt nonprofit organization after one year from the date of enactment of this act for farmland preservation purposes using constitutionally dedicated moneys in whole or in part may be demolished by the landowner or any other person without the prior approval of the committee.

b. (1) The committee may institute a civil action in a court of competent jurisdiction to prohibit or prevent a violation of this section, and the court may proceed in the action in a summary manner. The committee may also seek damages and other appropriate relief for a violation of this section.

(2) The committee may, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), adopt rules and regulations providing for liquidated damages to be paid by the violator to the committee in the event of a violation of this section.

c. For the purposes of this section:

"Historic building or structure" means a building or structure that:

(1) is included in the New Jersey Register of Historic Places established pursuant to P.L.1970, c.268 (C.13:1B-15.128 et seq.); or

(2) meets any other criteria which may be adopted by the committee, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), for recognizing the historical value or significance of a building or structure on farmland, and which criteria may include but need not be limited to (a) the building or structure having met the criteria for inclusion, or having been determined to be potentially eligible for inclusion, in the New Jersey Register of Historic Places pursuant to P.L.1970, c.268 (C.13:1B-15.128 et seq.) or any rules or regulations adopted pursuant thereto; (b) recognition by a county or municipality of the building or structure as a place of historic interest in a county or municipal master plan; or (c) location of the building or structure in a historic district on a municipal zoning map; and

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

3. Section 24 of P.L.1983, c.32 (C.4:1C-31) is amended to read as follows:

C.4:1C-31 Development easement purchases.

24. a. Any landowner applying to the board to sell a development easement pursuant to section 17 of P.L.1983, c.32 (C.4:1C-24) shall offer to sell the development easement at a price which, in the opinion of the landowner, represents a fair value of the development potential of the land for nonagricultural purposes, as determined in accordance with the provisions of this act.

b. Any offer shall be reviewed and evaluated by the board and the committee in order to determine the suitability of the land for development easement purchase. Decisions regarding suitability shall be based on the following criteria:

(1) Priority consideration shall be given, in any one county, to offers with higher numerical values obtained by applying the following formula:

$$\frac{\text{nonagricultural developmental value} - \text{agricultural value}}{\text{landowner's asking price}}$$

$$\frac{\text{nonagricultural development value} - \text{agricultural value}}$$

(2) The degree to which the purchase would encourage the survivability of the municipally approved program in productive agriculture; and

(3) The degree of imminence of change of the land from productive agriculture to nonagricultural use.

The board and the committee shall reject any offer for the sale of development easements which is unsuitable according to the above criteria and which has not been approved by the board and the municipality.

c. Two independent appraisals paid for by the board shall be conducted for each parcel of land so offered and deemed suitable. The appraisals shall be conducted by independent, professional appraisers selected by the board and the committee from among members of recognized organizations of real estate appraisers. The appraisals shall determine the current overall value of the parcel for nonagricultural purposes, as well as the current market value of the parcel for agricultural purposes. The difference between the two values shall represent an appraisal of the value of the development easement. If Burlington County or a municipality therein has established a development transfer bank pursuant to the provisions of P.L.1989, c.86 (C.40:55D-113 et seq.), the municipal average of the value of the development potential of property in a sending zone established by the bank may be the value used by the board in determining the value of the development easement. If a development easement is purchased using moneys appropriated from the fund, the State shall provide no more than 80%, except 100% under emergency conditions specified by the committee pursuant to rules or regulations, of the cost of the appraisals conducted pursuant to this section.

d. Upon receiving the results of the appraisals, or in Burlington county or a municipality therein where a municipal average has been established under P.L.1989, c.86 (C.40:55D-113 et seq.), upon receiving an application from the landowners, the board and the committee shall compare the appraised value, or the municipal average, as the case may be, and the landowner's offer and, pursuant to the suitability criteria established in subsection b. of this section:

(1) Approve the application to sell the development easement and rank the application in accordance with the criteria established in subsection b. of this section; or

(2) Disapprove the application, stating the reasons therefor.

e. Upon approval by the committee and the board, the secretary is authorized to provide the board, within the limits of funds appropriated therefor, an amount equal to no more than 80%, except 100% under emergency conditions specified by the committee pursuant to rules or regulations, of the purchase price of the development easement, as determined pursuant to the provisions of this section. The board shall provide its required share and accept the landowner's offer to sell the development easement. The acceptance shall cite the specific terms, contingencies and conditions of the purchase.

f. The landowner shall accept or reject the offer within 30 days of receipt thereof. Any offer not accepted within that time shall be deemed rejected.

g. Any landowner whose application to sell a development easement has been rejected for any reason other than insufficient funds may not reapply to sell a development easement on the same land within two years of the original application.

h. No development easement shall be purchased at a price greater than the appraised value determined pursuant to subsection c. of this section or the municipal average, as the case may be.

i. The appraisals conducted pursuant to this section or the fair market value of land restricted to agricultural use shall not be used to increase the assessment and taxation of agricultural land pursuant to the "Farmland Assessment Act of 1964," P.L.1964, c.48 (C.54:4-23.1 et seq.).

j. (1) In determining the suitability of land for development easement purchase, the board and the committee may also include as additional factors for consideration the presence of a historic building or structure on the land and the willingness of the landowner to preserve that building or structure, but only if the committee first adopts, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), rules and regulations implementing this subsection. The committee may, by rule or regulation adopted pursuant to the "Administrative Procedure Act," assign any such weight it deems appropriate to be given to these factors.

(2) The provisions of paragraph (1) of this subsection may also be applied in determining the suitability of land for fee simple purchase for farmland preservation purposes as authorized by P.L.1983, c.31 (C.4:1C-1 et seq.), P.L.1983, c.32 (C.4:1C-11 et seq.), and P.L.1999, c.152 (C.13:8C-1 et seq.).

(3) (a) For the purposes of paragraph (1) of this subsection: "historic building or structure" means the same as that term is defined pursuant to subsection c. of section 2 of P.L.2001, c.405 (C.13:8C-40.2).

(b) For the purposes of paragraph (2) of this subsection, "historic building or structure" means the same as that term is defined pursuant to subsection c. of section 1 of P.L.2001, c.405 (C.13:8C-40.1).

4. Section 5 of P.L.1988, c.4 (C.4:1C-31.1) is amended to read as follows:

C.4:1C-31.1 Fee simple absolute purchases.

5. a. Any landowner of farmland within an agricultural development area certified by the committee may apply to the committee to sell the fee simple absolute title at a price which, in the opinion of the landowner, represents a fair market value of the property.

b. The committee shall evaluate the offer to determine the suitability of the land for purchase. Decisions regarding suitability shall be based on the eligibility criteria for the purchase of development easements listed in section 24 of P.L.1983, c.32 (C.4:1C-31) and the criteria adopted by the committee and the board of that county. The committee shall also evaluate the

offer taking into account the amount of the asking price, the asking price relative to other offers, the location of the parcel relative to areas targeted within the county by the board and among the counties, and any other criteria as the committee has adopted pursuant to rule or regulation. The committee may negotiate reimbursement with the county and include the anticipated reimbursement as part of the evaluation of an offer.

c. The committee shall rank the offers according to the criteria to determine which, if any, should be appraised. The committee shall reject any offer for the purchase of fee simple absolute title determined unsuitable according to any criterion in this subsection or adopted pursuant to this subsection, or may defer decisions on offers with a low ranking. The committee shall state, in writing, its reasons for rejecting an offer.

d. Appraisals of the parcel shall be conducted to determine the fair market value according to procedures adopted by regulation by the committee.

e. The committee shall notify the landowner of the fair market value and negotiate for the purchase of the title in fee simple absolute.

f. Any land acquired by the committee pursuant to the provisions of this amendatory and supplementary act shall be held of record in the name of the State and shall be offered for resale by the State, notwithstanding any other law, rule or regulation to the contrary, within a reasonable time of its acquisition with agricultural deed restrictions for farmland preservation purposes as determined by the committee pursuant to the provisions of this act.

g. The committee shall be responsible for the operation and maintenance of lands acquired and shall take all reasonable steps to maintain the value of the land and its improvements.

h. To the end that municipalities may not suffer loss of taxes by reason of acquisition and ownership by the State of New Jersey of property under the provisions of this act, the State shall pay annually on October 1 to each municipality in which property is so acquired and has not been resold a sum of money equal to the tax last assessed and last paid by the taxpayer upon this land and the improvement thereon for the taxable year immediately prior to the time of its acquisition. In the event that land acquired by the State pursuant to this act had been assessed at an agricultural and horticultural use valuation in accordance with provisions of the "Farmland Assessment Act of 1964," P.L.1964, c.48 (C.54:4-23.1 et seq.), at the time of its acquisition by the State, no rollback tax pursuant to section 8 of P.L.1964, c.48 (C.54:4-23.8) shall be imposed as to this land nor shall this rollback tax be applicable in determining the annual payments to be made by the State to the municipality in which this land is located.

All sums of money received by the respective municipalities as compensation for loss of tax revenue pursuant to this section shall be applied to the same purposes as is the tax revenue from the assessment and collection of taxes on real property of these municipalities, and to accomplish this end the sums shall be apportioned in the same manner as the general tax rate of the municipality for the tax year preceding the year of receipt.

5. Section 39 of P.L.1999, c.152 (C.13:8C-39) is amended to read as follows:

C.13:8C-39 Grant to qualifying tax exempt nonprofit organization for farmland.

39. a. The committee may provide a grant to a qualifying tax exempt nonprofit organization for up to 50% of the cost of acquisition of (1) a development easement on farmland, provided that the terms of any such development easement shall be approved by the committee, or (2) fee simple title to farmland, which shall be offered for resale or lease with an agricultural deed restriction, as determined by the committee, and any proceeds received from a resale shall be dedicated for farmland preservation purposes and the State's pro rata share of any such proceeds shall be deposited in the Garden State Farmland Preservation Trust Fund to be used for the purposes of that fund.

b. The value of a development easement or fee simple title shall be established by two appraisals conducted on each parcel and certified by the committee. The appraisals shall be conducted by independent professional appraisers selected by the qualifying tax exempt nonprofit organization and approved by the committee from among members of recognized organizations of real estate appraisers.

c. The appraisals shall determine the fair market value of the fee simple title to the parcel,



as well as the fair market value of the parcel for agricultural purposes. The difference between the two values shall represent an appraisal of the value of the parcel for nonagricultural purposes, which shall be the value of the development easement.

d. Any grant provided to a qualifying tax exempt nonprofit organization pursuant to this section shall not exceed 50% of the appraised value of the development easement, or of the fee simple title in the case of fee simple acquisitions, plus up to 50% of any costs incurred including but not limited to the costs of surveys, appraisals, and title insurance.

e. The appraisals conducted pursuant to this section or the fair market value of land restricted to agricultural use shall not be used to increase the assessment and taxation of agricultural land pursuant to the "Farmland Assessment Act of 1964," P.L.1964, c.48 (C.54:4-23.1 et seq.).

f. To qualify to receive a grant pursuant to this section, the applicant shall:

(1) demonstrate that it has the resources to match the grant requested; and

(2) in the case of the acquisition of a development easement, agree not to convey the development easement except to the federal government, the State, a local government unit, or another qualifying tax exempt nonprofit organization, for farmland preservation purposes.

g. (1) In deciding whether to award a grant to a qualifying tax exempt nonprofit organization pursuant to this section, the committee may also include as additional factors for consideration the presence of a historic building or structure on the land and the willingness of the landowner to preserve that building or structure, but only if the committee first adopts, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), rules and regulations implementing this subsection. The committee may, by rule or regulation adopted pursuant to the "Administrative Procedure Act," assign any such weight it deems appropriate to be given to these factors.

(2) For the purposes of this subsection: "historic building or structure," in the context of the grant program for qualifying tax exempt nonprofit organizations to acquire development easements on farmland for farmland preservation purposes, means the same as that term is defined pursuant to subsection c. of section 2 of P.L.2001, c.405 (C.13:8C-40.2); and "historic building or structure," in the context of the grant program for qualifying tax exempt nonprofit organizations to acquire fee simple titles to farmland for farmland preservation purposes, means the same as that term is defined pursuant to subsection c. of section 1 of P.L.2001, c.405 (C.13:8C-40.1).

6. Section 40 of P.L.1999, c.152 (C.13:8C-40) is amended to read as follows:

C.13:8C-40 Acquisition, permanent retirement of development easements on farmland.

40. a. The committee may acquire and permanently retire development easements on farmland.

b. The committee shall evaluate the suitability of the acquisition of a development easement based upon the eligibility criteria listed in section 24 of P.L.1983, c.32 (C.4:1C-31) and any other criteria that may be adopted by the committee.

c. Appraisals to determine the fair market value of a development easement to be acquired by the committee shall be conducted by appraisers approved by the committee and in a manner consistent with the process set forth in subsection c. of section 24 of P.L.1983, c.32 (C.4:1C-31).

d. Any development easement acquired by the committee shall be held of record in the name of the committee.

7. This act shall take effect on the 180th day after the date of enactment, but the State Agriculture Development Committee may take such anticipatory administrative action in advance thereof as may be necessary for the implementation of this act.

Approved January 8, 2002.