

13:8A-47

LEGISLATIVE HISTORY CHECKLIST

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LAWS OF: 2002 **CHAPTER:** 124
NJSA: 13:8A-47 (Recreation lands—Green Acres)
BILL NO: A2714 (Substituted for S1939)
SPONSOR(S): Green
DATE INTRODUCED: September 12, 2002
COMMITTEE: **ASSEMBLY:** Housing; Environment and Solid Waste

SENATE: ----

AMENDED DURING PASSAGE: Yes

DATE OF PASSAGE: **ASSEMBLY:** October 28, 2002

SENATE: October 31, 2002

DATE OF APPROVAL: December 12, 2002

FOLLOWING ARE ATTACHED IF AVAILABLE:

[FINAL TEXT OF BILL](#) (2nd reprint enacted)
(Amendments during passage denoted by superscript numbers)

A2714

[SPONSORS STATEMENT:](#) (Begins on page 4 of original bill) [Yes](#)

COMMITTEE STATEMENT: **ASSEMBLY:** Yes [9/19/01 \(Housing\)](#)
[10/24/02 \(Environment\)](#)

SENATE: No

FLOOR AMENDMENT STATEMENTS: No

LEGISLATIVE FISCAL ESTIMATE: No

S1939

[SPONSORS STATEMENT:](#) (Begins on page 4 of original bill) [Yes](#)

COMMITTEE STATEMENT: **ASSEMBLY:** No

SENATE: [Yes](#)

[FLOOR AMENDMENT STATEMENT:](#) [Yes](#)

LEGISLATIVE FISCAL ESTIMATE: No

VETO MESSAGE: No

GOVERNOR'S PRESS RELEASE ON SIGNING: No

FOLLOWING WERE PRINTED:

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HEARINGS:

No

NEWSPAPER ARTICLES:

No

P.L. 2002, CHAPTER 124, *approved December 12, 2002*
Assembly, No. 2714 (*Second Reprint*)

1 **AN ACT** concerning the use for recreation and conservation purposes
2 of lands included in certain redevelopment plans, and amending
3 P.L.1975, c.155 and 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. Section 13 of P.L.1975, c.155 (C.13:8A-47) is amended to read
9 as follows:

10 13. a. Lands acquired or developed by a local unit with the aid of
11 a grant under this act shall not be disposed of or diverted to a use for
12 other than recreation and conservation purposes without the approval
13 of the commissioner and the State House Commission and following
14 a public hearing at least 1 month prior to any such approvals. Such
15 approval of the State House Commission shall not be given unless the
16 local unit shall agree to pay an amount equal to 50% of the current
17 value of such land, as determined by the commission, into the State
18 Recreation and Conservation Land Acquisition and Development Fund
19 if the original grant shall have been made from that fund, or, if not,
20 then into the State Treasury. Money so returned to said fund shall be
21 deemed wholly a part of the portion of that fund available for grants
22 to local units under this act.

23 b. (1) A local unit which receives a grant under this act shall not
24 dispose of or divert to a use for other than recreation and conservation
25 purposes any lands held by such local unit for such purposes at the
26 time of receipt of said grant without the approval of the commissioner
27 and the State House Commission and following a public hearing by the
28 local unit at least 1 month prior to any such approvals.

29 (2) (a) Except as provided pursuant to subparagraph (b) of this
30 paragraph, paragraph (1) of this subsection shall not apply to lands
31 included in a redevelopment plan adopted pursuant to section 7 of
32 P.L.1992, c.79 (C.40A:12A-7) that are being, or which have been,
33 used for recreation and conservation purposes pending implementation
34 of the redevelopment plan and ¹the eventual¹ use of those lands for
35 other purposes in accordance with the redevelopment plan. Such
36 lands, because of their use for recreation and conservation purposes,
37 shall not be deemed to be part of any inventory of lands prepared for
38 the purposes of administering or enforcing this section. ¹The
39 exception provided by this subparagraph shall apply only to lands not

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:

¹ Assembly AHO committee amendments adopted September 19, 2002.

² Assembly AEN committee amendments adopted October 24, 2002.

1 acquired or developed for recreation or conservation purposes with
2 financial assistance in whole or in part provided by the State², the
3 federal Land and Water Conservation Fund, 16 U.S.C. s.4601-4 et al.,
4 the federal "Urban Park and Recreation Recovery Act of 1978," 16
5 U.S.C. s.2501 et seq., or a county or local open space trust fund
6 created pursuant to P.L.1997, c.24 (C.40:12-15.1 et seq.)^{2, 1}

7 (b) A municipality may adopt an ordinance specifically including
8 the lands described in subparagraph (a) of this paragraph as part of any
9 inventory of lands prepared for the purposes of administering or
10 enforcing this section, in which case paragraph (1) of this subsection
11 shall apply to those lands thereby included in the inventory. Any such
12 ordinance shall cite to this subparagraph as authority for the
13 ordinance.

14 (c) This paragraph shall apply only to redevelopment plans adopted
15 pursuant to section 7 of P.L.1992, c.79 (C.40A:12A-7) prior to
16 July 18, 2002.

17 (cf: P.L.1975, c.155, s.13)

18
19 2. Section 32 of P.L.1999, c.152 (C.13:8C-32) is amended to read
20 as follows:

21 32. a. Lands acquired or developed by a local government unit or
22 a qualifying tax exempt nonprofit organization for recreation and
23 conservation purposes using constitutionally dedicated moneys in
24 whole or in part shall not be conveyed, disposed of, or diverted to a
25 use for other than recreation and conservation purposes without the
26 approval of the commissioner and the State House Commission and
27 following a public hearing held at least one month prior to those
28 approvals. Approval of the commissioner and the State House
29 Commission shall not be given unless the local government unit or
30 qualifying tax exempt nonprofit organization agrees to (1) replace the
31 lands with lands of equal or greater fair market value and of
32 reasonably equivalent size, quality, location, and usefulness for
33 recreation and conservation purposes, as approved by the
34 commissioner, or (2) pay an amount equal to or greater than the fair
35 market value of the lands, as determined by the commission, into the
36 Garden State Green Acres Preservation Trust Fund. Moneys so
37 returned to that fund shall be deemed wholly a part of the portion of
38 that fund available for grants or loans to local government units or
39 grants to qualifying tax exempt nonprofit organizations for the
40 acquisition of lands for recreation and conservation purposes as
41 provided pursuant to this act.

42 b. (1) A local government unit that receives a grant or loan for
43 recreation and conservation purposes pursuant to this act shall not
44 convey, dispose of, or divert to a use for other than recreation and
45 conservation purposes any lands held by the local government unit for
46 those purposes at the time of receipt of the grant or loan without the

1 approval of the commissioner and the State House Commission and
2 following a public hearing held by the local government unit at least
3 one month prior to those approvals. Approval of the commissioner
4 and the State House Commission shall not be given unless the local
5 government unit agrees to (a) replace the lands with lands of equal or
6 greater fair market value and of reasonably equivalent size, quality,
7 location, and usefulness for recreation and conservation purposes, as
8 approved by the commissioner, or (b) pay an amount equal to or
9 greater than the fair market value of the lands, as determined by the
10 commission, into the Garden State Green Acres Preservation Trust
11 Fund. Moneys so returned to that fund shall be deemed wholly a part
12 of the portion of that fund available for grants or loans to local
13 government units for the acquisition of lands for recreation and
14 conservation purposes as provided pursuant to this act.

15 (2) (a) Except as provided pursuant to subparagraph (b) of this
16 paragraph, paragraph (1) of this subsection shall not apply to lands
17 included in a redevelopment plan adopted pursuant to section 7 of
18 P.L.1992, c.79 (C.40A:12A-7) that are being, or which have been,
19 used for recreation and conservation purposes pending implementation
20 of the redevelopment plan and ¹the eventual¹ use of those lands for
21 other purposes in accordance with the redevelopment plan. Such
22 lands, because of their use for recreation and conservation purposes,
23 shall not be deemed to be part of any inventory of lands prepared for
24 the purposes of administering or enforcing this section. ¹The
25 exception provided by this subparagraph shall apply only to lands not
26 acquired or developed for recreation or conservation purposes with
27 financial assistance in whole or in part provided by the State², the
28 federal Land and Water Conservation Fund, 16 U.S.C. s.4601-4 et al.,
29 the federal "Urban Park and Recreation Recovery Act of 1978,"
30 16 U.S.C. s.2501 et seq., or a county or local open space trust fund
31 created pursuant to P.L.1997, c.24 (C.40:12-15.1 et seq.)².¹

32 (b) A municipality may adopt an ordinance specifically including
33 the lands described in subparagraph (a) of this paragraph as part of any
34 inventory of lands prepared for the purposes of administering or
35 enforcing this section, in which case paragraph (1) of this subsection
36 shall apply to those lands thereby included in the inventory. Any such
37 ordinance shall cite to this subparagraph as authority for the
38 ordinance.

39 (c) This paragraph shall apply only to redevelopment plans adopted
40 pursuant to section 7 of P.L.1992, c.79 (C.40A:12A-7) prior to
41 July 18, 2002.

42 c. For the purposes of this section, "fair market value" shall mean
43 the fair market value at the time of the proposed conveyance, disposal,
44 or diversion.

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

1 3. This act shall take effect immediately.

2

3

4

5

6 Provides that use for recreation and conservation purposes of lands
7 included in certain adopted redevelopment plans does not subject
8 those lands to Green Acres diversion requirements and process when
9 they are eventually used for other purposes as designated in those
10 plans.

ASSEMBLY, No. 2714

STATE OF NEW JERSEY 210th LEGISLATURE

INTRODUCED SEPTEMBER 12, 2002

Sponsored by:

Assemblyman JERRY GREEN

District 22 (Middlesex, Somerset and Union)

SYNOPSIS

Provides that use for recreation and conservation purposes of lands included in certain adopted redevelopment plans does not subject those lands to Green Acres diversion requirements and process when they are eventually used for other purposes as designated in those plans.

CURRENT VERSION OF TEXT

As introduced.



A2714 GREEN

2

1 AN ACT concerning the use for recreation and conservation purposes
2 of lands included in certain redevelopment plans, and amending
3 P.L.1975, c.155 and P.L.1999, c.152.

4

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

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8 1. Section 13 of P.L.1975, c.155 (C.13:8A-47) is amended to read
9 as follows:

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11 a grant under this act shall not be disposed of or diverted to a use for
12 other than recreation and conservation purposes without the approval
13 of the commissioner and the State House Commission and following
14 a public hearing at least 1 month prior to any such approvals. Such
15 approval of the State House Commission shall not be given unless the
16 local unit shall agree to pay an amount equal to 50% of the current
17 value of such land, as determined by the commission, into the State
18 Recreation and Conservation Land Acquisition and Development Fund
19 if the original grant shall have been made from that fund, or, if not,
20 then into the State Treasury. Money so returned to said fund shall be
21 deemed wholly a part of the portion of that fund available for grants
22 to local units under this act.

23 b. (1) A local unit which receives a grant under this act shall not
24 dispose of or divert to a use for other than recreation and conservation
25 purposes any lands held by such local unit for such purposes at the
26 time of receipt of said grant without the approval of the commissioner
27 and the State House Commission and following a public hearing by the
28 local unit at least 1 month prior to any such approvals.

29 (2) (a) Except as provided pursuant to subparagraph (b) of this
30 paragraph, paragraph (1) of this subsection shall not apply to lands
31 included in a redevelopment plan adopted pursuant to section 7 of
32 P.L.1992, c.79 (C.40A:12A-7) that are being, or which have been,
33 used for recreation and conservation purposes pending implementation
34 of the redevelopment plan and use of those lands for other purposes
35 in accordance with the redevelopment plan. Such lands, because of
36 their use for recreation and conservation purposes, shall not be
37 deemed to be part of any inventory of lands prepared for the purposes
38 of administering or enforcing this section.

39 (b) A municipality may adopt an ordinance specifically including
40 the lands described in subparagraph (a) of this paragraph as part of any
41 inventory of lands prepared for the purposes of administering or
42 enforcing this section, in which case paragraph (1) of this subsection
43 shall apply to those lands thereby included in the inventory. Any such

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Matter underlined thus is new matter.

1 ordinance shall cite to this subparagraph as authority for the
2 ordinance.

3 (c) This paragraph shall apply only to redevelopment plans adopted
4 pursuant to section 7 of P.L.1992, c.79 (C.40A:12A-7) prior to July
5 18, 2002.

6 (cf: P.L.1975, c.155, s.13)

7

8 2. Section 32 of P.L.1999, c.152 (C.13:8C-32) is amended to read
9 as follows:

10 32. a. Lands acquired or developed by a local government unit or
11 a qualifying tax exempt nonprofit organization for recreation and
12 conservation purposes using constitutionally dedicated moneys in
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15 approval of the commissioner and the State House Commission and
16 following a public hearing held at least one month prior to those
17 approvals. Approval of the commissioner and the State House
18 Commission shall not be given unless the local government unit or
19 qualifying tax exempt nonprofit organization agrees to (1) replace the
20 lands with lands of equal or greater fair market value and of
21 reasonably equivalent size, quality, location, and usefulness for
22 recreation and conservation purposes, as approved by the
23 commissioner, or (2) pay an amount equal to or greater than the fair
24 market value of the lands, as determined by the commission, into the
25 Garden State Green Acres Preservation Trust Fund. Moneys so
26 returned to that fund shall be deemed wholly a part of the portion of
27 that fund available for grants or loans to local government units or
28 grants to qualifying tax exempt nonprofit organizations for the
29 acquisition of lands for recreation and conservation purposes as
30 provided pursuant to this act.

31 b. (1) A local government unit that receives a grant or loan for
32 recreation and conservation purposes pursuant to this act shall not
33 convey, dispose of, or divert to a use for other than recreation and
34 conservation purposes any lands held by the local government unit for
35 those purposes at the time of receipt of the grant or loan without the
36 approval of the commissioner and the State House Commission and
37 following a public hearing held by the local government unit at least
38 one month prior to those approvals. Approval of the commissioner
39 and the State House Commission shall not be given unless the local
40 government unit agrees to (a) replace the lands with lands of equal or
41 greater fair market value and of reasonably equivalent size, quality,
42 location, and usefulness for recreation and conservation purposes, as
43 approved by the commissioner, or (b) pay an amount equal to or
44 greater than the fair market value of the lands, as determined by the
45 commission, into the Garden State Green Acres Preservation Trust
46 Fund. Moneys so returned to that fund shall be deemed wholly a part

1 of the portion of that fund available for grants or loans to local
2 government units for the acquisition of lands for recreation and
3 conservation purposes as provided pursuant to this act.

4 (2) (a) Except as provided pursuant to subparagraph (b) of this
5 paragraph, paragraph (1) of this subsection shall not apply to lands
6 included in a redevelopment plan adopted pursuant to section 7 of
7 P.L.1992, c.79 (C.40A:12A-7) that are being, or which have been,
8 used for recreation and conservation purposes pending implementation
9 of the redevelopment plan and use of those lands for other purposes
10 in accordance with the redevelopment plan. Such lands, because of
11 their use for recreation and conservation purposes, shall not be
12 deemed to be part of any inventory of lands prepared for the purposes
13 of administering or enforcing this section.

14 (b) A municipality may adopt an ordinance specifically including
15 the lands described in subparagraph (a) of this paragraph as part of any
16 inventory of lands prepared for the purposes of administering or
17 enforcing this section, in which case paragraph (1) of this subsection
18 shall apply to those lands thereby included in the inventory. Any such
19 ordinance shall cite to this subparagraph as authority for the
20 ordinance.

21 (c) This paragraph shall apply only to redevelopment plans adopted
22 pursuant to section 7 of P.L.1992, c.79 (C.40A:12A-7) prior to July
23 18, 2002.

24 c. For the purposes of this section, "fair market value" shall mean
25 the fair market value at the time of the proposed conveyance, disposal,
26 or diversion.

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

28
29 3. This act shall take effect immediately.

30
31
32 STATEMENT

33
34 This bill would provide that the temporary use for recreation and
35 conservation purposes of lands included in a redevelopment plan
36 adopted prior to July 18, 2002 does not subject those lands to the
37 Green Acres diversion requirements and process when the lands are
38 eventually used for other purposes as designated in the redevelopment
39 plan.

40 This bill is necessary to clarify the interface between two laws that
41 each implement important public policy objectives. The two laws are
42 the 1992 "Local Redevelopment and Housing Law," which among
43 other things seeks to promote urban revitalization, and the Green
44 Acres law restricting diversion of open space to other uses, the
45 purpose of which is to further the permanent preservation of parks and
46 other open space. In a recent court case, the Appellate Division

1 interpreting the two laws and associated regulations in the context of
2 the facts of that case decided that the lands in question that were being
3 used for recreation and conservation purposes pending implementation
4 of a redevelopment plan became subject to the Green Acres diversion
5 requirements and process because of that use.

6 Until the court decision, municipalities adopting redevelopment
7 plans heretofore may not have realized the full implications of
8 temporarily using some of the lands included in those plans for park
9 purposes. This bill, in effect, overrules in part the court decision as it
10 may be applied to those municipalities, and reasserts the primacy of
11 the legislative objective of promoting urban revitalization in the
12 manner determined by a municipality pursuant to its redevelopment
13 plan. However, the bill applies only to redevelopment plans adopted
14 prior to July 18, 2002, the date of the court opinion. Thereafter,
15 municipalities adopting redevelopment plans would be on notice of the
16 implications of the court decision and, by way of this bill, legislative
17 agreement with the court's interpretation of the laws in question as
18 they may be applied to those municipalities operating in the future with
19 that knowledge.

20 Finally, the bill includes a provision allowing a municipality that
21 adopted a redevelopment plan prior to the date of the court opinion to
22 opt instead to include the lands in question on its open space inventory
23 and thereby subject them to the Green Acres diversion law.

ASSEMBLY HOUSING AND LOCAL GOVERNMENT
COMMITTEE

STATEMENT TO

ASSEMBLY, No. 2714

with committee amendments

STATE OF NEW JERSEY

DATED: SEPTEMBER 19, 2001

The Assembly Housing and Local Government Committee reports favorably Assembly Bill No. 2714 with committee amendments.

This bill, as amended, would provide that the temporary use for recreation and conservation purposes of lands included in a redevelopment plan adopted prior to July 18, 2002 does not subject those lands to the Green Acres diversion requirements and process when the lands are eventually used for other purposes as designated in the redevelopment plan, provided the lands were not acquired or developed with State funds for recreation or conservation purposes.

The bill clarifies the interface between two laws that each implement important public policy objectives. The two laws are the 1992 "Local Redevelopment and Housing Law," which among other things seeks to promote urban revitalization, and the Green Acres law, the purpose of which is to further the permanent preservation of parks and other open space, and therefore which restricts diversion of open space which has been listed on an inventory to other uses. In a recent court case, the Appellate Division interpreting the two laws and associated regulations in the context of the facts of that case decided that the lands in question that were being used for recreation and conservation purposes pending implementation of a redevelopment plan became subject to the Green Acres diversion requirements and process because of that use.

Until the court decision, municipalities adopting redevelopment plans heretofore may not have realized the full implications of temporarily using some of the lands included in those plans for park purposes. This bill, in effect, overrules in part the court decision as it may be applied to those municipalities, and reasserts the primacy of the legislative objective of promoting urban revitalization in the manner determined by a municipality pursuant to its redevelopment plan. However, the bill applies only to redevelopment plans adopted prior to July 18, 2002, the date of the court opinion. Thereafter, municipalities adopting redevelopment plans would be on notice of the implications of the court decision and, by way of this bill, legislative

agreement with the court's interpretation of the laws in question as they may be applied to those municipalities operating in the future with that knowledge. The bill also includes a provision allowing a municipality that adopted a redevelopment plan prior to the date of the court opinion to opt instead to include the lands in question on its open space inventory and thereby subject them to the Green Acres diversion law.

Committee Amendments

The committee amended the bill to clarify that the exception provided in the bill for lands which were temporarily used for recreation or conservation purposes does not apply to lands which were acquired or developed with State funds for recreation or conservation purposes.

ASSEMBLY ENVIRONMENT AND SOLID WASTE
COMMITTEE

STATEMENT TO

[First Reprint]

ASSEMBLY, No. 2714

with committee amendments

STATE OF NEW JERSEY

DATED: OCTOBER 24, 2002

The Assembly Environment and Solid Waste Committee reports favorably and with committee amendments Assembly Bill No. 2714 (1R).

As amended by the committee, this bill would provide that the temporary use for recreation and conservation purposes of lands included in a redevelopment plan adopted prior to July 18, 2002 does not subject those lands to the Green Acres diversion requirements and process when the lands are eventually used for other purposes as designated in the redevelopment plan. This exception does not apply to lands acquired or developed for recreation or conservation purposes with financial assistance in whole or in part provided by the State, the federal Land and Water Conservation Fund, the federal "Urban Park and Recreation Recovery Act of 1978," or a county or local open space trust fund.

The bill clarifies the interface between two laws that each implement important public policy objectives. The two laws are the 1992 "Local Redevelopment and Housing Law," which among other things seeks to promote urban revitalization, and the Green Acres law, the purpose of which is to further the permanent preservation of parks and other open space, and therefore which restricts diversion of open space which has been listed on an inventory to other uses. In a recent court case, the Appellate Division interpreting the two laws and associated regulations in the context of the facts of that case decided that the lands in question that were being used for recreation and conservation purposes pending implementation of a redevelopment plan became subject to the Green Acres diversion requirements and process because of that use.

Until the court decision, municipalities adopting redevelopment plans heretofore may not have realized the full implications of temporarily using some of the lands included in those plans for park purposes. This bill, in effect, overrules in part the court decision as it may be applied to those municipalities, and reasserts the primacy of

the legislative objective of promoting urban revitalization in the manner determined by a municipality pursuant to its redevelopment plan. However, the bill applies only to redevelopment plans adopted prior to July 18, 2002, the date of the court opinion. Thereafter, municipalities adopting redevelopment plans would be on notice of the implications of the court decision and, by way of this bill, legislative agreement with the court's interpretation of the laws in question as they may be applied to those municipalities operating in the future with that knowledge. The bill also includes a provision allowing a municipality that adopted a redevelopment plan prior to the date of the court opinion to opt instead to include the lands in question on its open space inventory and thereby subject them to the Green Acres diversion law.

COMMITTEE AMENDMENTS:

The committee amendments to the bill specify that the exception provided by the bill does not apply to lands acquired or developed for recreation or conservation purposes with financial assistance in whole or in part provided by the State, the federal Land and Water Conservation Fund, 16 U.S.C. s.4601-4 et al., the federal Urban Park and Recreation Recovery Act, 16 U.S.C. s.2501 et seq., or a county or local open space trust fund created pursuant to P.L.1997, c.24 (C.40:12-15.1 et seq.).

SENATE, No. 1939

STATE OF NEW JERSEY 210th LEGISLATURE

INTRODUCED OCTOBER 7, 2002

Sponsored by:

Senator JOSEPH SULIGA

District 22 (Middlesex, Somerset and Union)

SYNOPSIS

Provides that use for recreation and conservation purposes of lands included in certain adopted redevelopment plans does not subject those lands to Green Acres diversion requirements and process when they are eventually used for other purposes as designated in those plans.

CURRENT VERSION OF TEXT

As introduced.



S1939 SULIGA

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2 of lands included in certain redevelopment plans, and amending
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5 **BE IT ENACTED** by the Senate and General Assembly of the State
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8 1. Section 13 of P.L.1975, c.155 (C.13:8A-47) is amended to read
9 as follows:

10 13. a. Lands acquired or developed by a local unit with the aid of
11 a grant under this act shall not be disposed of or diverted to a use for
12 other than recreation and conservation purposes without the approval
13 of the commissioner and the State House Commission and following
14 a public hearing at least 1 month prior to any such approvals. Such
15 approval of the State House Commission shall not be given unless the
16 local unit shall agree to pay an amount equal to 50% of the current
17 value of such land, as determined by the commission, into the State
18 Recreation and Conservation Land Acquisition and Development Fund
19 if the original grant shall have been made from that fund, or, if not,
20 then into the State Treasury. Money so returned to said fund shall be
21 deemed wholly a part of the portion of that fund available for grants
22 to local units under this act.

23 b. (1) A local unit which receives a grant under this act shall not
24 dispose of or divert to a use for other than recreation and conservation
25 purposes any lands held by such local unit for such purposes at the
26 time of receipt of said grant without the approval of the commissioner
27 and the State House Commission and following a public hearing by the
28 local unit at least 1 month prior to any such approvals.

29 (2) (a) Except as provided pursuant to subparagraph (b) of this
30 paragraph, paragraph (1) of this subsection shall not apply to lands
31 included in a redevelopment plan adopted pursuant to section 7 of
32 P.L.1992, c.79 (C.40A:12A-7) that are being, or which have been,
33 used for recreation and conservation purposes pending implementation
34 of the redevelopment plan and the eventual use of those lands for other
35 purposes in accordance with the redevelopment plan. Such lands,
36 because of their use for recreation and conservation purposes, shall
37 not be deemed to be part of any inventory of lands prepared for the
38 purposes of administering or enforcing this section. The exception
39 provided by this subparagraph shall apply only to lands not acquired
40 or developed for recreation or conservation purposes with financial
41 assistance in whole or in part provided by the State.

42 (b) A municipality may adopt an ordinance specifically including
43 the lands described in subparagraph (a) of this paragraph as part of any

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

Matter underlined thus is new matter.

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2 enforcing this section, in which case paragraph (1) of this subsection
3 shall apply to those lands thereby included in the inventory. Any such
4 ordinance shall cite to this subparagraph as authority for the
5 ordinance.

6 (c) This paragraph shall apply only to redevelopment plans adopted
7 pursuant to section 7 of P.L.1992, c.79 (C.40A:12A-7) prior to July
8 18, 2002.

9 (cf: P.L.1975, c.155, s.13)

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26 commissioner, or (2) pay an amount equal to or greater than the fair
27 market value of the lands, as determined by the commission, into the
28 Garden State Green Acres Preservation Trust Fund. Moneys so
29 returned to that fund shall be deemed wholly a part of the portion of
30 that fund available for grants or loans to local government units or
31 grants to qualifying tax exempt nonprofit organizations for the
32 acquisition of lands for recreation and conservation purposes as
33 provided pursuant to this act.

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35 recreation and conservation purposes pursuant to this act shall not
36 convey, dispose of, or divert to a use for other than recreation and
37 conservation purposes any lands held by the local government unit for
38 those purposes at the time of receipt of the grant or loan without the
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41 one month prior to those approvals. Approval of the commissioner
42 and the State House Commission shall not be given unless the local
43 government unit agrees to (a) replace the lands with lands of equal or
44 greater fair market value and of reasonably equivalent size, quality,
45 location, and usefulness for recreation and conservation purposes, as
46 approved by the commissioner, or (b) pay an amount equal to or

1 greater than the fair market value of the lands, as determined by the
2 commission, into the Garden State Green Acres Preservation Trust
3 Fund. Moneys so returned to that fund shall be deemed wholly a part
4 of the portion of that fund available for grants or loans to local
5 government units for the acquisition of lands for recreation and
6 conservation purposes as provided pursuant to this act.

7 (2) (a) Except as provided pursuant to subparagraph (b) of this
8 paragraph, paragraph (1) of this subsection shall not apply to lands
9 included in a redevelopment plan adopted pursuant to section 7 of
10 P.L.1992, c.79 (C.40A:12A-7) that are being, or which have been,
11 used for recreation and conservation purposes pending implementation
12 of the redevelopment plan and the eventual use of those lands for
13 other purposes in accordance with the redevelopment plan. Such
14 lands, because of their use for recreation and conservation purposes,
15 shall not be deemed to be part of any inventory of lands prepared for
16 the purposes of administering or enforcing this section. The exception
17 provided by this subparagraph shall apply only to lands not acquired
18 or developed for recreation or conservation purposes with financial
19 assistance in whole or in part provided by the State.

20 (b) A municipality may adopt an ordinance specifically including
21 the lands described in subparagraph (a) of this paragraph as part of any
22 inventory of lands prepared for the purposes of administering or
23 enforcing this section, in which case paragraph (1) of this subsection
24 shall apply to those lands thereby included in the inventory. Any such
25 ordinance shall cite to this subparagraph as authority for the
26 ordinance.

27 (c) This paragraph shall apply only to redevelopment plans adopted
28 pursuant to section 7 of P.L.1992, c.79 (C.40A:12A-7) prior to July
29 18, 2002.

30 c. For the purposes of this section, "fair market value" shall mean
31 the fair market value at the time of the proposed conveyance, disposal,
32 or diversion.

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

34
35 3. This act shall take effect immediately.
36
37

38 STATEMENT
39

40 This bill would provide that the temporary use for recreation and
41 conservation purposes of lands included in a redevelopment plan
42 adopted prior to July 18, 2002 does not subject those lands to the
43 Green Acres diversion requirements and process when the lands are
44 eventually used for other purposes as designated in the redevelopment
45 plan, provided the lands were not acquired or developed with State
46 funds for recreation or conservation purposes.

1 The bill clarifies the interface between two laws that each
2 implement important public policy objectives. The two laws are the
3 1992 "Local Redevelopment and Housing Law," which among other
4 things seeks to promote urban revitalization, and the Green Acres law,
5 the purpose of which is to further the permanent preservation of parks
6 and other open space, and therefore which restricts diversion of open
7 space which has been listed on an inventory to other uses. In a recent
8 court case, the Appellate Division interpreting the two laws and
9 associated regulations in the context of the facts of that case decided
10 that the lands in question that were being used for recreation and
11 conservation purposes pending implementation of a redevelopment
12 plan became subject to the Green Acres diversion requirements and
13 process because of that use.

14 Until the court decision, municipalities adopting redevelopment
15 plans heretofore may not have realized the full implications of
16 temporarily using some of the lands included in those plans for park
17 purposes. This bill, in effect, overrules in part the court decision as it
18 may be applied to those municipalities, and reasserts the primacy of
19 the legislative objective of promoting urban revitalization in the
20 manner determined by a municipality pursuant to its redevelopment
21 plan. However, the bill applies only to redevelopment plans adopted
22 prior to July 18, 2002, the date of the court opinion. Thereafter,
23 municipalities adopting redevelopment plans would be on notice of the
24 implications of the court decision and, by way of this bill, legislative
25 agreement with the court's interpretation of the laws in question as
26 they may be applied to those municipalities operating in the future with
27 that knowledge. The bill also includes a provision allowing a
28 municipality that adopted a redevelopment plan prior to the date of the
29 court opinion to opt instead to include the lands in question on its
30 open space inventory and thereby subject them to the Green Acres
31 diversion law.

SENATE ENVIRONMENT COMMITTEE

STATEMENT TO

SENATE, No. 1939

STATE OF NEW JERSEY

DATED: OCTOBER 24, 2002

The Senate Environment Committee reports favorably Senate Bill No. 1939.

This bill would provide that the temporary use for recreation and conservation purposes of lands included in a redevelopment plan adopted prior to July 18, 2002 does not subject those lands to the Green Acres diversion requirements and process when the lands are eventually used for other purposes as designated in the redevelopment plan, provided the lands were not acquired or developed with State funds for recreation or conservation purposes.

In a recent court case, the Appellate Division decided that certain lands that were being used for recreation and conservation purposes pending implementation of a redevelopment plan became subject to the Green Acres diversion requirements and process because of that use. This bill, in effect, overrules in part the court decision as it may be applied to municipalities that have adopted redevelopment plans. However, the bill applies only to redevelopment plans adopted prior to July 18, 2002, the date of the court opinion. Thereafter, municipalities adopting redevelopment plans would be on notice of the implications of the court decision and, by way of this bill, legislative agreement with the court's interpretation of the laws in question as they may be applied to those municipalities operating in the future with that knowledge. The bill also includes a provision allowing a municipality that adopted a redevelopment plan prior to the date of the court opinion to opt instead to include the lands in question on its open space inventory and thereby subject them to the Green Acres diversion law.

STATEMENT TO
SENATE, No. 1939

with Senate Floor Amendments
(Proposed By Senator SULIGA)

ADOPTED: OCTOBER 31, 2002

These floor amendments specify that the exception provided by the bill does not apply to lands acquired or developed for recreation or conservation purposes with financial assistance in whole or in part provided by the State, the federal Land and Water Conservation Fund, the federal Urban Park and Recreation Recovery Act, or a county or local open space trust fund. These floor amendments make this bill identical to Assembly Bill No. 2714 (2R) as passed by the Assembly on October 28, 2002.