

40A:12-13  
AND 13.2

LEGISLATIVE HISTORY CHECKLIST

NJSA 40A:12-13 and 40A:12-13.2

Laws of 1975 Chapter 73

Bill No. A1282

Sponsor(s) Van Wagner & others

Date Introduced March 18, 1974

Committee: Assembly Municipal Gov't.

Senate County & Municipal Gov't.

Amended during passage Yes  Amendments during passage denoted by asterisks

Date of passage: Assembly May 9, 1974

Senate Dec. 19, 1974

Date of approval May 1, 1975

Following statements are attached if available:

Sponsor statement Yes

Committee Statement: Assembly  No

Senate Yes

Fiscal Note  No

Veto message  No

Message on signing  No

Following were printed:

Reports  No

Hearings  No

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CHAPTER 73 LAWS OF N. J. 1975  
APPROVED 5-1-75

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**ASSEMBLY, No. 1282**

**STATE OF NEW JERSEY**

INTRODUCED MARCH 18, 1974

By Assemblymen VAN WAGNER, FLORIO, OWENS, KARCHER,  
FLYNN, NEWMAN and SALKIND

Referred to Committee on Municipal Government

AN ACT to amend and supplement the "Local Lands and Buildings  
Law," approved June 9, 1971 (P. L. 1971, c. 199).

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

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

3 13. Sales of real property, capital improvements or personal  
4 property; exceptions; procedure. Any county or municipality  
5 may sell any real property, capital improvements or personal prop-  
6 erty, or interests therein, not needed for public use, as set forth in  
7 the resolution or ordinance authorizing the sale, other than county  
8 or municipal lands, real property otherwise dedicated or restricted  
9 pursuant to law, and, except as otherwise provided by law, all such  
10 sales shall be made by one of the following methods:

11 (a) By public sale to the highest bidder after advertisement  
12 thereof in a newspaper circulating in the municipality or munici-  
13 palities in which the lands are situated by two insertions at least  
14 once a week during 2 consecutive weeks, the last publication to be  
15 not earlier than 7 days prior to such sale. In the case of public  
16 sales, the governing body may by resolution fix a minimum price,  
17 or prices, with or without the reservation of the right, to reject  
18 all bids where the highest bid is not accepted. Notice of such  
19 reservation shall be included in the advertisement of the sale  
20 and public notice thereof shall be given at the time of sale. Such  
21 resolution may provide, without fixing a minimum price, that upon

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

22 the completion of the bidding, the highest bid may be accepted or  
23 all the bids may be rejected. The invitation to bid may also  
24 impose restrictions on the use to be made of such real property,  
25 capital improvement or personal property and any conditions of  
26 sale as to buildings or structures, or as to the type, size, or other  
27 specifications of buildings or structures to be constructed thereon,  
28 or as to demolition, repair, or reconstruction of buildings or struc-  
29 tures, and the time within which such conditions shall be operative,  
30 or any other conditions of sale in like manner and to the same extent  
31 as by any other vendor. Such conditions shall be included in the  
32 advertisement, as well as the nature of the interest retained by the  
33 county or municipality. Such restrictions or conditions shall be  
34 related to a lawful public purpose and encourage and promote fair  
35 and competitive bidding of the county or municipality and shall  
36 not, in the case of a municipality, be inconsistent with or impose  
37 a special or higher standard than any zoning ordinance or building,  
38 plumbing, electrical, or similar code or ordinance then in effect in  
39 the municipality.

40 In any case in which a county or municipality intends to retain  
41 an estate or interest in any real property, capital improvement or  
42 personal property, in the nature of an easement, contingent or  
43 reversionary, the invitation to bid and the advertisements required  
44 herein shall require each bidder to submit one bid under each Op-  
45 tion A and Option B below.

46 (1) Option A shall be for the real property, capital im-  
47 provement or personal property subject to the conditions or  
48 restrictions imposed, or interest or estate retained, which the  
49 county or municipality proposes to retain or impose.

50 (2) Option B shall be for the real property, capital im-  
51 provement or personal property to be sold free of all such  
52 restrictions, conditions, interests or estates on the part of the  
53 county or municipality.

54 The county or the municipality may elect or reject either or both  
55 options and the highest bid for each. Such acceptance or rejec-  
56 tion shall be made not later than at the second regular meeting  
57 of the governing body following the sale, and, if the governing  
58 body shall not so accept such highest bid, or reject all bids, said  
59 bids shall be deemed to have been rejected. Any such sale may be  
60 adjourned at the time advertised for not more than 1 week with-  
61 out readvertising.

62 (b) At private sale when authorized by resolution, in the case  
63 of a county, or by ordinance, in the case of a municipality, in the  
64 following cases:

65 (1) A sale to any political subdivision, agency, department,  
66 commission, board or body corporate and politic of the State of  
67 New Jersey or to an interstate agency or body of which the  
68 State of New Jersey is a member or to the United States of  
69 America or any department or agency thereof.

70 (2) A sale to a person submitting a bid pursuant to subsection  
71 (a) of this section where all bids have been rejected,  
72 provided that the terms and price agreed to shall in no event  
73 be less than the highest bid rejected and provided further that  
74 the terms and conditions of sale shall remain identical.

75 (3) A sale by any county or municipality when it has or  
76 shall have conveyed its right, title and interest in any real prop-  
77 erty, capital improvement or personal property not needed for  
78 public use, and it was assumed and intended that there should  
79 be conveyed a good and sufficient title in fee simple to said real  
80 property, capital improvement or personal property, free of  
81 all encumbrances and the full consideration has been paid  
82 therefor, and it shall thereafter appear that the title conveyed  
83 was insufficient or that said county or municipality at the time  
84 of said conveyance was not the owner of some estate or interest  
85 in said real property, capital improvement or personal property  
86 or of some encumbrances thereon and the county or municipal-  
87 ity shall thereafter acquire a good and sufficient title in fee  
88 simple, free of all encumbrances of said real property, capital  
89 improvement or personal property or shall acquire such out-  
90 standing estate or interest thereon or outstanding encumbrance  
91 thereon and said county or municipality, by resolution of the  
92 governing body and without the payment of any additional  
93 consideration, has deemed to convey or otherwise transfer to  
94 said purchaser, his heirs or assigns, such after-acquired title,  
95 or estate or interest in, or encumbrance upon, such real prop-  
96 erty, capital improvement or personal property to perfect the  
97 title or interest previously conveyed.

98 (4) A sale of an easement upon any real property previously  
99 conveyed by any county or municipality may be made when the  
100 governing body of any county by resolution, or any municipi-  
101 ality, by ordinance, has elected to release the public rights in  
102 the nature of easements, in, on, over or under any real prop-  
103 erty within the county or the municipality, as the case may be,  
104 upon such terms as shall be agreed upon with the owner of such  
105 lands, if the use of such rights is no longer desirable, necessary  
106 or required for public purposes.

107           (5) A sale to the owner of the real property **\*\*[adjacent]\*\***  
108           **\*\*contiguous\*\*** to the real property being sold provided that  
109           the property being sold is less than the minimum size required  
110           for development under the municipal zoning ordinance\* **\*\*and**  
110A           is without any capital improvement thereon**\*\***; except that  
110B           when there is more than one owner with real property conti-  
110C           guous thereto, said property shall be sold to the highest bidder  
110D           from among all such owners\*. **\*\*Any such sale shall be for not**  
110E           less than the fair market value of said real property.**\*\***

111           In the case of any sale of real property hereafter made pur-  
112           suant to subsection (b) of this section, in no event shall the  
113           price agreed upon with the owner be less than the difference  
114           between the highest bid accepted for the real property subject  
115           to easements (Option A) and the highest bid rejected for the  
116           real property not subject to easements (Option B). After the  
117           adoption of the resolution or ordinance, and compliance by the  
118           owner of said real property with the terms thereof, said real  
119           property shall be free, and entirely discharged of and from  
120           such rights of the public and of the county or municipality,  
121           as the case may be, but no such release shall affect the right  
122           of lawful occupancy or use of any such real property by any  
123           municipal or private utility to occupy or use any such real  
124           property lawfully occupied or used by it.

125           A list of the property so authorized to be sold, pursuant to  
126           subsection (b) of this section, together with the minimum prices  
127           respectively, as determined by the governing body, shall be included  
128           in the resolution or ordinance authorizing the sale, and said list  
129           shall be posted on the bulletin board or other conspicuous space in  
130           the building which the governing body usually holds its regular  
131           meetings, and advertisement thereof made in a newspaper circu-  
132           lating in the municipality or municipalities in which the real  
133           property, capital improvement or personal property is situated  
134           within 5 days following enactment of said resolution or ordinance.  
135           Offers for any or all properties so listed may thereafter be made to  
136           the governing body or its designee for a period of 20 days following  
137           the advertisement herein required, at not less than said minimum  
138           prices, by any prospective purchaser, real estate broker, or other  
139           authorized representative. In any such case, the governing body  
140           may reconsider its resolution or ordinance, not later than 30 days  
141           after its enactment, and advertise the real property, capital im-  
142           provement, or personal property in question for public sale pur-  
143           suant to subsection (a) of this section.

144 Any county or municipality selling any real property, capital  
145 improvement or personal property pursuant to subsection (b) of  
146 this section shall file with the Director of the Division of Local  
147 **[Finance]** *Government Services* in the Department of Community  
148 Affairs, sworn affidavits verifying the publication of advertise-  
149 ments as required by this subsection.

150 All sales either public or private may be made for cash or upon  
151 credit. A deposit not exceeding **\*\*[1%]\*\*** **\*\*10%\*\*** of the mini-  
152 mum price or value of the property to be sold may be required of  
153 all bidders. When made upon credit, the county or municipality  
154 may accept a purchase-money mortgage, upon terms and conditions  
155 which shall be fixed by the resolution of the governing body; pro-  
156 vided, however, that when such mortgage shall be fully payable  
157 within 5 years from the date of the sale and shall bear interest at a  
158 rate equal to that authorized under Title 31 of the Revised Statutes,  
159 as amended and supplemented, and the regulations issued pursuant  
160 thereto, or the rate last paid by the county or municipality upon  
161 any issue of notes pursuant to the Local Bond Law (chapter 2 of  
162 Title 40A of the New Jersey Statutes), whichever is highest. The  
163 governing body may, by resolution, fix the time for closing of title  
164 and payment of the consideration.

165 In all sales made pursuant to this section, the governing body of  
166 any county or municipality may provide for the payment of a com-  
167 mission to any real estate broker, or authorized representative  
168 other than the purchaser actually consummating such sale, but said  
169 commissions shall not exceed, in the aggregate, 5% of the sale price,  
170 and be paid, where there has been a public sale, only in the event  
171 that the sum of the commission and the highest bid price does not  
172 exceed the next highest bid price (exclusive of any realtor's  
173 commission).

1 2. Notwithstanding any provision of law to the contrary, when-  
2 ever any municipality intends to sell real property which is less  
3 than the minimum size required for development under the munic-  
4 pal zoning ordinance **\*\*and is without any capital improvements**  
5 **thereon\*\***, it shall accord the owner **\*\*or owners\*\*** of **\*\*[the]\*\***  
6 **\*\*any\*\*** real property **\*\*[adjoining]\*\*** **\*\*contiguous to\*\*** such real  
7 property the right to prior refusal to purchase such land.

1 3. This act shall take effect immediately.

ASSEMBLY, No. 1282

STATE OF NEW JERSEY

INTRODUCED MARCH 18, 1974

By Assemblymen VAN WAGNER, FLORIO, OWENS, KARCHER,  
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7 the resolution or ordinance authorizing the sale, other than county  
8 or municipal lands, real property otherwise dedicated or restricted  
9 pursuant to law, and, except as otherwise provided by law, all such  
10 sales shall be made by one of the following methods:

11 (a) By public sale to the highest bidder after advertisement  
12 thereof in a newspaper circulating in the municipality or munici-  
13 palities in which the lands are situated by two insertions at least  
14 once a week during 2 consecutive weeks, the last publication to be  
15 not earlier than 7 days prior to such sale. In the case of public  
16 sales, the governing body may by resolution fix a minimum price,  
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18 all bids where the highest bid is not accepted. Notice of such  
19 reservation shall be included in the advertisement of the sale  
20 and public notice thereof shall be given at the time of sale. Such  
21 resolution may provide, without fixing a minimum price, that upon  
22 the completion of the bidding, the highest bid may be accepted or  
23 all the bids may be rejected. The invitation to bid may also  
24 impose restrictions on the use to be made of such real property,

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is not enacted and is intended to be omitted in the law.

25 capital improvement or personal property and any conditions of  
26 sale as to buildings or structures, or as to the type, size, or other  
27 specifications of buildings or structures to be constructed thereon,  
28 or as to demolition, repair, or reconstruction of buildings or struc-  
29 tures, and the time within which such conditions shall be operative,  
30 or any other conditions of sale in like manner and to the same extent  
31 as by any other vendor. Such conditions shall be included in the  
32 advertisement, as well as the nature of the interest retained by the  
33 county or municipality. Such restrictions or conditions shall be  
34 related to a lawful public purpose and encourage and promote fair  
35 and competitive bidding of the county or municipality and shall  
36 not, in the case of a municipality, be inconsistent with or impose  
37 a special or higher standard than any zoning ordinance or building,  
38 plumbing, electrical, or similar code or ordinance then in effect in  
39 the municipality.

40 In any case in which a county or municipality intends to retain  
41 an estate or interest in any real property, capital improvement or  
42 personal property, in the nature of an easement, contingent or  
43 reversionary, the invitation to bid and the advertisements required  
44 herein shall require each bidder to submit one bid under each Op-  
45 tion A and Option B below.

46 (1) Option A shall be for the real property, capital im-  
47 provement or personal property subject to the conditions or  
48 restrictions imposed, or interest or estate retained, which the  
49 county or municipality proposes to retain or impose.

50 (2) Option B shall be for the real property, capital im-  
51 provement or personal property to be sold free of all such  
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63 of a county, or by ordinance, in the case of a municipality, in the  
64 following cases:

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66 commission, board or body corporate and politic of the State of



67 New Jersey or to an interstate agency or body of which the  
68 State of New Jersey is a member or to the United States of  
69 America or any department or agency thereof.

70 (2) A sale to a person submitting a bid pursuant to subsec-  
71 tion (a) of this section where all bids have been rejected,  
72 provided that the terms and price agreed to shall in no event  
73 be less than the highest bid rejected and provided further that  
74 the terms and conditions of sale shall remain identical.

75 (3) A sale by any county or municipality when it has or  
76 shall have conveyed its right, title and interest in any real prop-  
77 erty, capital improvement or personal property not needed for  
78 public use, and it was assumed and intended that there should  
79 be conveyed a good and sufficient title in fee simple to said real  
80 property, capital improvement or personal property, free of  
81 all encumbrances and the full consideration has been paid  
82 therefor, and it shall thereafter appear that the title conveyed  
83 was insufficient or that said county or municipality at the time  
84 of said conveyance was not the owner of some estate or interest  
85 in said real property, capital improvement or personal property  
86 or of some encumbrances thereon and the county or municipali-  
87 ty shall thereafter acquire a good and sufficient title in fee  
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90 standing estate or interest thereon or outstanding encumbrance  
91 thereon and said county or municipality, by resolution of the  
92 governing body and without the payment of any additional  
93 consideration, has deemed to convey or otherwise transfer to  
94 said purchaser, his heirs or assigns, such after-acquired title,  
95 or estate or interest in, or encumbrance upon, such real prop-  
96 erty, capital improvement or personal property to perfect the  
97 title or interest previously conveyed.

98 (4) A sale of an easement upon any real property previously  
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103 erty within the county or the municipality, as the case may be,  
104 upon such terms as shall be agreed upon with the owner of such  
105 lands, if the use of such rights is no longer desirable, necessary  
106 or required for public purposes.

107 (5) *A sale to the owner of the real property adjacent to the*  
108 *real property being sold provided that the property being sold*

109 *is less than the minimum size required for development under*  
110 *the municipal zoning ordinance.*

111 In the case of any sale of real property hereafter made pur-  
112 suant to subsection (b) of this section, in no event shall the  
113 price agreed upon with the owner be less than the difference  
114 between the highest bid accepted for the real property subject  
115 to easements (Option A) and the highest bid rejected for the  
116 real property not subject to easements (Option B). After the  
117 adoption of the resolution or ordinance, and compliance by the  
118 owner of said real property with the terms thereof, said real  
119 property shall be free, and entirely discharged of and from  
120 such rights of the public and of the county or municipality,  
121 as the case may be, but no such release shall affect the right  
122 of lawful occupancy or use of any such real property by any  
123 municipal or private utility to occupy or use any such real  
124 property lawfully occupied or used by it.

125 A list of the property so authorized to be sold, pursuant to  
126 subsection (b) of this section, together with the minimum prices  
127 respectively, as determined by the governing body, shall be included  
128 in the resolution or ordinance authorizing the sale, and said list  
129 shall be posted on the bulletin board or other conspicuous space in  
130 the building which the governing body usually holds its regular  
131 meetings, and advertisement thereof made in a newspaper circu-  
132 lating in the municipality or municipalities in which the real  
133 property, capital improvement or personal property is situated  
134 within 5 days following enactment of said resolution or ordinance.  
135 Offers for any or all properties so listed may thereafter be made to  
136 the governing body or its designee for a period of 20 days following  
137 the advertisement herein required, at not less than said minimum  
138 prices, by any prospective purchaser, real estate broker, or other  
139 authorized representative. In any such case, the governing body  
140 may reconsider its resolution or ordinance, not later than 30 days  
141 after its enactment, and advertise the real property, capital im-  
142 provement, or personal property in question for public sale pur-  
143 suant to subsection (a) of this section.

144 Any county or municipality selling any real property, capital  
145 improvement or personal property pursuant to subsection (b) of  
146 this section shall file with the Director of the Division of Local  
147 **[Finance]** *Government Services* in the Department of Community  
148 Affairs, sworn affidavits verifying the publication of advertise-  
149 ments as required by this subsection.

150 All sales either public or private may be made for cash or upon

151 credit. A deposit not exceeding 1% of the minimum price or value  
152 of the property to be sold may be required of all bidders. When  
153 made upon credit, the county or municipality may accept a pur-  
154 chase-money mortgage, upon terms and conditions which shall be  
155 fixed by the resolution of the governing body; provided, however,  
156 that when such mortgage shall be fully payable within 5 years from  
157 the date of the sale and shall bear interest at a rate equal to that  
158 authorized under Title 31 of the Revised Statutes, as amended and  
159 supplemented, and the regulations issued pursuant thereto, or the  
160 rate last paid by the county or municipality upon any issue of notes  
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162 New Jersey Statutes), whichever is highest. The governing body  
163 may, by resolution, fix the time for closing of title and payment of  
164 the consideration.

165 In all sales made pursuant to this section, the governing body of  
166 any county or municipality may provide for the payment of a com-  
167 mission to any real estate broker, or authorized representative  
168 other than the purchaser actually consummating such sale, but said  
169 commissions shall not exceed, in the aggregate, 5% of the sale price,  
170 and be paid, where there has been a public sale, only in the event  
171 that the sum of the commission and the highest bid price does not  
172 exceed the next highest bid price (exclusive of any realtor's  
173 commission).

1 2. Notwithstanding any provision of law to the contrary, when-  
2 ever any municipality intends to sell real property which is less  
3 than the minimum size required for development under the municipi-  
4 pal zoning ordinance, it shall accord the owner of the real property  
5 adjoining such real property the right to prior refusal to purchase  
6 such land.

1 3. This act shall take effect immediately.

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#### STATEMENT

The purpose of this bill is to require that municipalities selling real property which is less than the minimum size required for development under the municipal zoning ordinance to allow the owner of the real property adjoining the real property for sale the opportunity to purchase such land before it is sold to anyone else. The bill would also permit such a sale at private sale in accordance with the provisions of the general law covering such sales.

ASSEMBLY COMMITTEE AMENDMENT TO  
**ASSEMBLY, No. 1282**

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**STATE OF NEW JERSEY**

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ADOPTED APRIL 22, 1974

Amend page 4, section 1, line 110, after "ordinance", insert "; except that when there is more than one owner with real property contiguous thereto, said property shall be sold to the highest bidder from among all such owners".

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

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26 sale as to buildings or structures, or as to the type, size, or other  
27 specifications of buildings or structures to be constructed thereon,  
28 or as to demolition, repair, or reconstruction of buildings or struc-  
29 tures, and the time within which such conditions shall be operative,  
30 or any other conditions of sale in like manner and to the same extent  
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32 advertisement, as well as the nature of the interest retained by the  
33 county or municipality. Such restrictions or conditions shall be  
34 related to a lawful public purpose and encourage and promote fair  
35 and competitive bidding of the county or municipality and shall  
36 not, in the case of a municipality, be inconsistent with or impose  
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42 personal property, in the nature of an easement, contingent or  
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64 following cases:

65 (1) A sale to any political subdivision, agency, department,  
66 commission, board or body corporate and politic of the State of

67 New Jersey or to an interstate agency or body of which the  
68 State of New Jersey is a member or to the United States of  
69 America or any department or agency thereof.

70 (2) A sale to a person submitting a bid pursuant to subsec-  
71 tion (a) of this section where all bids have been rejected,  
72 provided that the terms and price agreed to shall in no event  
73 be less than the highest bid rejected and provided further that  
74 the terms and conditions of sale shall remain identical.

75 (3) A sale by any county or municipality when it has or  
76 shall have conveyed its right, title and interest in any real prop-  
77 erty, capital improvement or personal property not needed for  
78 public use, and it was assumed and intended that there should  
79 be conveyed a good and sufficient title in fee simple to said real  
80 property, capital improvement or personal property, free of  
81 all encumbrances and the full consideration has been paid  
82 therefor, and it shall thereafter appear that the title conveyed  
83 was insufficient or that said county or municipality at the time  
84 of said conveyance was not the owner of some estate or interest  
85 in said real property, capital improvement or personal property  
86 or of some encumbrances thereon and the county or municipal-  
87 ity shall thereafter acquire a good and sufficient title in fee  
88 simple, free of all encumbrances of said real property, capital  
89 improvement or personal property or shall acquire such out-  
90 standing estate or interest thereon or outstanding encumbrance  
91 thereon and said county or municipality, by resolution of the  
92 governing body and without the payment of any additional  
93 consideration, has deemed to convey or otherwise transfer to  
94 said purchaser, his heirs or assigns, such after-acquired title,  
95 or estate or interest in, or encumbrance upon, such real prop-  
96 erty, capital improvement or personal property to perfect the  
97 title or interest previously conveyed.

98 (4) A sale of an easement upon any real property previously  
99 conveyed by any county or municipality may be made when the  
100 governing body of any county by resolution, or any municipi-  
101 pality, by ordinance, has elected to release the public rights in  
102 the nature of easements, in, on, over or under any real prop-  
103 erty within the county or the municipality, as the case may be,  
104 upon such terms as shall be agreed upon with the owner of such  
105 lands, if the use of such rights is no longer desirable, necessary  
106 or required for public purposes.

107 (5) *A sale to the owner of the real property adjacent to the*  
108 *real property being sold provided that the property being sold*

109 *is less than the minimum size required for development under*  
110 *the municipal zoning ordinance\**; *except that when there is*  
110A *more than one owner with real property contiguous thereto,*  
110B *said property shall be sold to the highest bidder from among*  
110C *all such owners\*.*

111 In the case of any sale of real property hereafter made pur-  
112 suant to subsection (b) of this section, in no event shall the  
113 price agreed upon with the owner be less than the difference  
114 between the highest bid accepted for the real property subject  
115 to easements (Option A) and the highest bid rejected for the  
116 real property not subject to easements (Option B). After the  
117 adoption of the resolution or ordinance, and compliance by the  
118 owner of said real property with the terms thereof, said real  
119 property shall be free, and entirely discharged of and from  
120 such rights of the public and of the county or municipality,  
121 as the case may be, but no such release shall affect the right  
122 of lawful occupancy or use of any such real property by any  
123 municipal or private utility to occupy or use any such real  
124 property lawfully occupied or used by it.

125 A list of the property so authorized to be sold, pursuant to  
126 subsection (b) of this section, together with the minimum prices  
127 respectively, as determined by the governing body, shall be included  
128 in the resolution or ordinance authorizing the sale, and said list  
129 shall be posted on the bulletin board or other conspicuous space in  
130 the building which the governing body usually holds its regular  
131 meetings, and advertisement thereof made in a newspaper circu-  
132 lating in the municipality or municipalities in which the real  
133 property, capital improvement or personal property is situated  
134 within 5 days following enactment of said resolution or ordinance.  
135 Offers for any or all properties so listed may thereafter be made to  
136 the governing body or its designee for a period of 20 days following  
137 the advertisement herein required, at not less than said minimum  
138 prices, by any prospective purchaser, real estate broker, or other  
139 authorized representative. In any such case, the governing body  
140 may reconsider its resolution or ordinance, not later than 30 days  
141 after its enactment, and advertise the real property, capital im-  
142 provement, or personal property in question for public sale pur-  
143 suant to subsection (a) of this section.

144 Any county or municipality selling any real property, capital  
145 improvement or personal property pursuant to subsection (b) of  
146 this section shall file with the Director of the Division of Local  
147 **[Finance]** *Government Services* in the Department of Community



148 Affairs, sworn affidavits verifying the publication of advertise-  
149 ments as required by this subsection.

150 All sales either public or private may be made for cash or upon  
151 credit. A deposit not exceeding 1% of the minimum price or value  
152 of the property to be sold may be required of all bidders. When  
153 made upon credit, the county or municipality may accept a pur-  
154 chase-money mortgage, upon terms and conditions which shall be  
155 fixed by the resolution of the governing body; provided, however,  
156 that when such mortgage shall be fully payable within 5 years from  
157 the date of the sale and shall bear interest at a rate equal to that  
158 authorized under Title 31 of the Revised Statutes, as amended and  
159 supplemented, and the regulations issued pursuant thereto, or the  
160 rate last paid by the county or municipality upon any issue of notes  
161 pursuant to the Local Bond Law (chapter 2 of Title 40A of the  
162 New Jersey Statutes), whichever is highest. The governing body  
163 may, by resolution, fix the time for closing of title and payment of  
164 the consideration.

165 In all sales made pursuant to this section, the governing body of  
166 any county or municipality may provide for the payment of a com-  
167 mission to any real estate broker, or authorized representative  
168 other than the purchaser actually consummating such sale, but said  
169 commissions shall not exceed, in the aggregate, 5% of the sale price,  
170 and be paid, where there has been a public sale, only in the event  
171 that the sum of the commission and the highest bid price does not  
172 exceed the next highest bid price (exclusive of any realtor's  
173 commission).

1 2. Notwithstanding any provision of law to the contrary, when-  
2 ever any municipality intends to sell real property which is less  
3 than the minimum size required for development under the munic-  
4 pal zoning ordinance, it shall accord the owner of the real property  
5 adjoining such real property the right to prior refusal to purchase  
6 such land.

1 3. This act shall take effect immediately.

SENATE COUNTY AND MUNICIPAL  
GOVERNMENT COMMITTEE

STATEMENT TO  
**ASSEMBLY, No. 1282**

[OFFICIAL COPY REPRINT]

with Senate committee amendments

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**STATE OF NEW JERSEY**

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DATED: DECEMBER 10, 1974

Assembly Bill No. 1282 (official copy reprint) concerns the private sale of certain public property under the Local Lands and Buildings Law.

Section 1 of the bill authorizes any local unit of government to sell at a private sale any real property owned by such body, when such property is less than the minimum size required for development under the municipality's zoning ordinances. Such private sale shall be to the owner or owners of the property or properties contiguous to said undersized or substandard plot, and such owner or owners shall have the right of first refusal to purchase said property (see section 2).

If there is more than one separate plot contiguous to the substandard plot, the sale of such plot shall be to the highest bidder from among the owners of the several plots.

There are several provisions in the Local Lands and Buildings Law which already allow for the private sale of property owned by public bodies. All of such private sales are, however, to other public or non-profit bodies.

The Senate Committee Amendments:

(1) Limit said private sales to property without any capital improvements thereon;

(2) Require private sales made in such circumstances to be for not less than the fair market value of the real property;

(3) Raise the amount of deposit which may be required of all bidders at a public sale from 1% to 10% of the minimum price or value of the property to be sold at said sale—this amendment makes Assembly Bill No. 1282 consistent with Senate Bill No. 937 previously reported favorably by the committee; and

(4) Contain technical changes to sections 1 and 2 for greater internal consistency.

SENATE COMMITTEE AMENDMENTS TO

**ASSEMBLY, No. 1282**

[OFFICIAL COPY REPRINT]

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**STATE OF NEW JERSEY**

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ADOPTED DECEMBER 10, 1974

Amend page 3, section 1, line 107, omit "adjacent", insert "contiguous".

Amend page 4, section 1, line 110, after "ordinance", insert "and is without any capital improvement thereon".

Amend page 4, section 1, line 110c, after "owners.", insert "Any such sale shall be for not less than the fair market value of said real property.".

Amend page 5, section 1, line 151, omit "1%", insert "10%".

Amend page 5, section 2, line 4, after "ordinance", insert "and is without any capital improvements thereon"; after "owner", insert "or owners"; after "of", omit "the", insert "any".

Amend page 5, section 2, line 5, omit "adjoining", insert "contiguous to".

[SENATE REPRINT]  
**ASSEMBLY, No. 1282**

[OFFICIAL COPY REPRINT]

with Senate committee amendments adopted December 10, 1974

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**STATE OF NEW JERSEY**

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INTRODUCED MARCH 18, 1974

By Assemblymen VAN WAGNER, FLORIO, OWENS, KARCHER,  
FLYNN, NEWMAN and SALKIND

Referred to Committee on Municipal Government

AN ACT to amend and supplement the "Local Lands and Buildings  
Law," approved June 9, 1971 (P. L. 1971, c. 199).

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

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

3 13. Sales of real property, capital improvements or personal  
4 property; exceptions; procedure. Any county or municipality  
5 may sell any real property, capital improvements or personal prop-  
6 erty, or interests therein, not needed for public use, as set forth in  
7 the resolution or ordinance authorizing the sale, other than county  
8 or municipal lands, real property otherwise dedicated or restricted  
9 pursuant to law, and, except as otherwise provided by law, all such  
10 sales shall be made by one of the following methods:

11 (a) By public sale to the highest bidder after advertisement  
12 thereof in a newspaper circulating in the municipality or munici-  
13 palities in which the lands are situated by two insertions at least  
14 once a week during 2 consecutive weeks, the last publication to be  
15 not earlier than 7 days prior to such sale. In the case of public  
16 sales, the governing body may by resolution fix a minimum price,  
17 or prices, with or without the reservation of the right, to reject  
18 all bids where the highest bid is not accepted. Notice of such  
19 reservation shall be included in the advertisement of the sale  
20 and public notice thereof shall be given at the time of sale. Such  
21 resolution may provide, without fixing a minimum price, that upon

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

22 the completion of the bidding, the highest bid may be accepted or  
23 all the bids may be rejected. The invitation to bid may also  
24 impose restrictions on the use to be made of such real property,  
25 capital improvement or personal property and any conditions of  
26 sale as to buildings or structures, or as to the type, size, or other  
27 specifications of buildings or structures to be constructed thereon,  
28 or as to demolition, repair, or reconstruction of buildings or struc-  
29 tures, and the time within which such conditions shall be operative,  
30 or any other conditions of sale in like manner and to the same extent  
31 as by any other vendor. Such conditions shall be included in the  
32 advertisement, as well as the nature of the interest retained by the  
33 county or municipality. Such restrictions or conditions shall be  
34 related to a lawful public purpose and encourage and promote fair  
35 and competitive bidding of the county or municipality and shall  
36 not, in the case of a municipality, be inconsistent with or impose  
37 a special or higher standard than any zoning ordinance or building,  
38 plumbing, electrical, or similar code or ordinance then in effect in  
39 the municipality.

40 In any case in which a county or municipality intends to retain  
41 an estate or interest in any real property, capital improvement or  
42 personal property, in the nature of an easement, contingent or  
43 reversionary, the invitation to bid and the advertisements required  
44 herein shall require each bidder to submit one bid under each Op-  
45 tion A and Option B below.

46 (1) Option A shall be for the real property, capital im-  
47 provement or personal property subject to the conditions or  
48 restrictions imposed, or interest or estate retained, which the  
49 county or municipality proposes to retain or impose.

50 (2) Option B shall be for the real property, capital im-  
51 provement or personal property to be sold free of all such  
52 restrictions, conditions, interests or estates on the part of the  
53 county or municipality.

54 The county or the municipality may elect or reject either or both  
55 options and the highest bid for each. Such acceptance or rejec-  
56 tion shall be made not later than at the second regular meeting  
57 of the governing body following the sale, and, if the governing  
58 body shall not so accept such highest bid, or reject all bids, said  
59 bids shall be deemed to have been rejected. Any such sale may be  
60 adjourned at the time advertised for not more than 1 week with-  
61 out readvertising.

62 (b) At private sale when authorized by resolution, in the case  
63 of a county, or by ordinance, in the case of a municipality, in the  
64 following cases:

65 (1) A sale to any political subdivision, agency, department,  
66 commission, board or body corporate and politic of the State of  
67 New Jersey or to an interstate agency or body of which the  
68 State of New Jersey is a member or to the United States of  
69 America or any department or agency thereof.

70 (2) A sale to a person submitting a bid pursuant to subsec-  
71 tion (a) of this section where all bids have been rejected,  
72 provided that the terms and price agreed to shall in no event  
73 be less than the highest bid rejected and provided further that  
74 the terms and conditions of sale shall remain identical.

75 (3) A sale by any county or municipality when it has or  
76 shall have conveyed its right, title and interest in any real prop-  
77 erty, capital improvement or personal property not needed for  
78 public use, and it was assumed and intended that there should  
79 be conveyed a good and sufficient title in fee simple to said real  
80 property, capital improvement or personal property, free of  
81 all encumbrances and the full consideration has been paid  
82 therefor, and it shall thereafter appear that the title conveyed  
83 was insufficient or that said county or municipality at the time  
84 of said conveyance was not the owner of some estate or interest  
85 in said real property, capital improvement or personal property  
86 or of some encumbrances thereon and the county or municipal-  
87 ity shall thereafter acquire a good and sufficient title in fee  
88 simple, free of all encumbrances of said real property, capital  
89 improvement or personal property or shall acquire such out-  
90 standing estate or interest thereon or outstanding encumbrance  
91 thereon and said county or municipality, by resolution of the  
92 governing body and without the payment of any additional  
93 consideration, has deemed to convey or otherwise transfer to  
94 said purchaser, his heirs or assigns, such after-acquired title,  
95 or estate or interest in, or encumbrance upon, such real prop-  
96 erty, capital improvement or personal property to perfect the  
97 title or interest previously conveyed.

98 (4) A sale of an easement upon any real property previously  
99 conveyed by any county or municipality may be made when the  
100 governing body of any county by resolution, or any municipi-  
101 ality, by ordinance, has elected to release the public rights in  
102 the nature of easements, in, on, over or under any real prop-  
103 erty within the county or the municipality, as the case may be,  
104 upon such terms as shall be agreed upon with the owner of such  
105 lands, if the use of such rights is no longer desirable, necessary  
106 or required for public purposes.

107           (5) A sale to the owner of the real property **\*\*[adjacent]\*\***  
108           **\*\*contiguous\*\*** to the real property being sold provided that  
109           the property being sold is less than the minimum size required  
110           for development under the municipal zoning ordinance\* **\*\*and**  
110A           is without any capital improvement thereon**\*\***; except that  
110B           when there is more than one owner with real property conti-  
110C           guous thereto, said property shall be sold to the highest bidder  
110D           from among all such owners\*. **\*\*Any such sale shall be for not**  
110E           less than the fair market value of said real property.**\*\***

111           In the case of any sale of real property hereafter made pur-  
112           suant to subsection (b) of this section, in no event shall the  
113           price agreed upon with the owner be less than the difference  
114           between the highest bid accepted for the real property subject  
115           to easements (Option A) and the highest bid rejected for the  
116           real property not subject to easements (Option B). After the  
117           adoption of the resolution or ordinance, and compliance by the  
118           owner of said real property with the terms thereof, said real  
119           property shall be free, and entirely discharged of and from  
120           such rights of the public and of the county or municipality,  
121           as the case may be, but no such release shall affect the right  
122           of lawful occupancy or use of any such real property by any  
123           municipal or private utility to occupy or use any such real  
124           property lawfully occupied or used by it.

125           A list of the property so authorized to be sold, pursuant to  
126           subsection (b) of this section, together with the minimum prices  
127           respectively, as determined by the governing body, shall be included  
128           in the resolution or ordinance authorizing the sale, and said list  
129           shall be posted on the bulletin board or other conspicuous space in  
130           the building which the governing body usually holds its regular  
131           meetings, and advertisement thereof made in a newspaper circu-  
132           lating in the municipality or municipalities in which the real  
133           property, capital improvement or personal property is situated  
134           within 5 days following enactment of said resolution or ordinance.  
135           Offers for any or all properties so listed may thereafter be made to  
136           the governing body or its designee for a period of 20 days following  
137           the advertisement herein required, at not less than said minimum  
138           prices, by any prospective purchaser, real estate broker, or other  
139           authorized representative. In any such case, the governing body  
140           may reconsider its resolution or ordinance, not later than 30 days  
141           after its enactment, and advertise the real property, capital im-  
142           provement, or personal property in question for public sale pur-  
143           suant to subsection (a) of this section.

144 Any county or municipality selling any real property, capital  
145 improvement or personal property pursuant to subsection (b) of  
146 this section shall file with the Director of the Division of Local  
147 **[Finance]** *Government Services* in the Department of Community  
148 Affairs, sworn affidavits verifying the publication of advertise-  
149 ments as required by this subsection.

150 All sales either public or private may be made for cash or upon  
151 credit. A deposit not exceeding **\*\*[1%]\*\*** **\*\*10%\*\*** of the mini-  
152 mum price or value of the property to be sold may be required of  
153 all bidders. When made upon credit, the county or municipality  
154 may accept a purchase-money mortgage, upon terms and conditions  
155 which shall be fixed by the resolution of the governing body; pro-  
156 vided, however, that when such mortgage shall be fully payable  
157 within 5 years from the date of the sale and shall bear interest at a  
158 rate equal to that authorized under Title 31 of the Revised Statutes,  
159 as amended and supplemented, and the regulations issued pursuant  
160 thereto, or the rate last paid by the county or municipality upon  
161 any issue of notes pursuant to the Local Bond Law (chapter 2 of  
162 Title 40A of the New Jersey Statutes), whichever is highest. The  
163 governing body may, by resolution, fix the time for closing of title  
164 and payment of the consideration.

165 In all sales made pursuant to this section, the governing body of  
166 any county or municipality may provide for the payment of a com-  
167 mission to any real estate broker, or authorized representative  
168 other than the purchaser actually consummating such sale, but said  
169 commissions shall not exceed, in the aggregate, 5% of the sale price,  
170 and be paid, where there has been a public sale, only in the event  
171 that the sum of the commission and the highest bid price does not  
172 exceed the next highest bid price (exclusive of any realtor's  
173 commission).

1 2. Notwithstanding any provision of law to the contrary, when-  
2 ever any municipality intends to sell real property which is less  
3 than the minimum size required for development under the munici-  
4 pal zoning ordinance *\*\*and is without any capital improvements*  
5 *thereon\*\**, it shall accord the owner *\*\*or owners\*\** of **\*\*[the]\*\***  
6 *\*\*any\*\** real property **\*\*[adjoining]\*\*** *\*\*contiguous to\*\** such real  
7 property the right to prior refusal to purchase such land.

1 3. This act shall take effect immediately.