

40A:12-13

LEGISLATIVE HISTORY CHECKLIST

NJSA 40A:12-13 (Sale of land-- technical amendment)

Laws of 1976 Chapter 137

Bill No. A1974

Sponsor(s) Markert

Date Introduced May 20, 1976

Committee: Assembly -

Senate County & Municipal Gov't.

Amended during passage Yes No

Date of passage: Assembly May 27

Senate Dec. 14

Date of approval December 28, 1976

Following statements are attached if available:

Sponsor statement Yes No

Committee Statement: Assembly Yes No

Senate Yes No

Fiscal Note Yes No

Veto message Yes No

Message on signing Yes No

Following were printed:

Reports Yes No

Hearings Yes No

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CHAPTER 137 LAWS OF N. J. 1976
APPROVED 12-28-76

ASSEMBLY, No. 1974

STATE OF NEW JERSEY

INTRODUCED MAY 20, 1976

By Assemblyman MARKERT

(Without Reference)

AN ACT to amend 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 may
5 sell any real property, capital improvements or personal property,
6 or interests therein, not needed for public use, as set forth in the
7 resolution or ordinance authorizing the sale, other than county or
8 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
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
36A a special or higher standard than any zoning ordinance or building,
37 plumbing , electrical, or similar code or ordinance then in effect in
37A the municipality.

38 In any case in which a county or municipality intends to retain
38A an estate or interest in any real property, capital improvement or
38B personal property, in the nature of an easement, contingent or
38C reversionary, the invitation to bid and the advertisement required
38D herein shall require each bidder to submit one bid under each
38E Option A and Option B below.

39 (1) Option A shall be for the real property, capital improve-
39A ment or personal property subject to the conditions or re-
39B strictions imposed, or interest or estate retained, which the
39C county or municipality proposes to retain or impose.

40 (2) Option B shall be for the real property, capital improve-
41 ment or personal property to be sold free of all such restric-
42 tions, conditions, interests or estates on the part of the county
43 or municipality.

44 The county or the municipality may elect or reject either or both
45 options and the highest bid for each. Such acceptance or rejection
46 shall be made not later than at the second regular meeting of the
47 governing body following the sale, and, if the governing body shall
48 not so accept such highest bid, or reject all bids, said bids shall be
49 deemed to have been rejected. Any such sale may be adjourned
50 at the time advertised for not more than 1 week without readver-
51 tising.

52 (b) At private sale when authorized by resolution, in the case
53 of a county, or by ordinance, in the case of a municipality, in the
54 following cases:

55 (1) A sale to any political subdivision, agency, department,
56 commission, board or body corporate and politic of the State of
57 New Jersey or to an intestate agency or body of which the

58 State of New Jersey is a member or to the United States of
59 America or any department or agency thereof.

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

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

88 (4) A sale of an easement upon any real property previously
89 conveyed by any county or municipality may be made when the
90 governing body of any county by resolution, or any munici-
91 pality, by ordinance, has elected to release the public rights in
92 the nature of easements, in, on, over or under any real property
93 within the county or the municipality, as the case may be, upon
94 such terms as shall be agreed upon with the owner of such
95 lands, if the use of such rights is no longer desirable, necessary
96 or required for public purposes.

97 (5) *A sale to the owner of the real property contiguous to*
98 *the real property being sold provided that the property being*
99 *sold is less than the minimum size required for development*

100 *under the municipal zoning ordinance and is without any capi-*
101 *tal improvement thereon; except that when there is more than*
102 *one owner with real property contiguous thereto, said prop-*
103 *erty shall be sold to the highest bidder from among all such*
104 *owners. Any such sale shall be for not less than the fair market*
105 *value of said real property.*

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

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

138 Any county or municipality selling any real property, capital
139 improvement or personal property pursuant to subsection (b) of
140 this section shall file with the Director of the Division of Local
141 Government Services in the Department of Community Affairs,

142 sworn affidavits verifying the publication of advertisements as
143 required by this subsection.

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

159 In all sales made pursuant to this section, the governing body of
160 any county or municipality may provide for the payment of a com-
161 mission to any real estate broker, or authorized representative
162 other than the purchaser actually consummating such sale; pro-
163 vided, however, that no commission shall be paid unless notice of
164 the governing body's intention to pay such a commission shall have
165 been included in the advertisement of sale and the recipient thereof
166 shall have filed an affidavit with the governing body stating that
167 said recipient is not the purchaser. Said commissions shall not
168 exceed, in the aggregate, 5% of the sale price, and be paid, where
169 there has been a public sale, only in the event that the sum of the
170 commission and the highest bid price does not exceed the next
171 highest bid price (exclusive of any realtor's commission). As used
172 in this section, "purchaser" shall mean and include any person,
173 corporation, company, association, society, firm, partnership, or
174 other business entity owning or controlling, directly or indirectly,
175 more than 10% of the purchasing entity.

1 2. This act shall take effect immediately.

STATEMENT

This bill is necessary to correct the inadvertent repeal of P. L. 1975, c. 73. The repeal was caused by the enactment of P. L. 1975, c. 339, on March 3, 1976, which failed to include the previous amendment to section 13 of P. L. 1971, c. 199 (C. 40A:12-13) enacted May 1, 1975 by P. L. 1975, c. 73 and therefore by implication repealed said law.

SENATE COUNTY AND MUNICIPAL GOVERNMENT
COMMITTEE

STATEMENT TO
ASSEMBLY, No. 1974

STATE OF NEW JERSEY

DATED: NOVEMBER 15, 1976

The statement to the bill is essentially correct, except that as the two pertinent sections are not incompatible, P. L. 1975, c. 339 is not being treated as an implicit repealer of P. L. 1975, c. 73. This bill would, of course, clear up any confusion on the matter.

The aforementioned c. 73 and c. 339, dealt with the disposition of odd size parcels owned by any county or municipality, the amount of deposit required of persons bidding on public lands, and the regulation of the payment of commissions to real estate brokers or other authorized parties.

ASSEMBLY NO. 1075

974.901
G61

FROM THE OFFICE OF THE GOVERNOR

FOR IMMEDIATE RELEASE

FOR FURTHER INFORMATION

DECEMBER 30, 1976

ANNE BURNS - 9600

Governor Brendan Byrne has signed into law the following bills:

A-880 (Esposito) allowing municipal courts to hear penalty actions for violations of State aviation laws, previously heard only by county district courts and county courts. This bill is intended to lighten the overburdened district court caseload and ease enforcement costs. The Department of Transportation estimates that this bill could provide the state with up to \$35,000 per year additional revenue from more effective enforcement of aircraft registration.

A-2132 (Martin) excepting the Westwood Regional School District from the provisions of P.L. 1976, Chapter 21 which provides for a 5-year phase-in period for the new method of apportioning local costs of a regional district among its member municipalities. This district, composed of Washington Township and Westwood Borough in Bergen County, changed from a consolidated to a regional district under P.L. 1968, Chapter 240, and was phasing in cost apportionment over a ten-year basis when Chapter 21 was enacted, increasing the cost burden of the "poor" municipality, Washington Township, rather than reducing it as had been the intent of the legislation. A special five-year phase-in schedule has been established for the district by the courts.

A-1974 (Markert) authorizing counties and municipalities to sell by private sale, undeveloped land which is less than development size under zoning ordinances to the owner of contiguous tracts, If there is more than one owner with contiguous property, the land will be sold to the highest bidder of the group. The land cannot be sold for less than fair market value. Counties and municipalities are required to offer this property at private sales to these owners before holding public sales.

OFFICE OF THE GOVERNOR
STATE OF NEW JERSEY
100 W. STATE STREET
TREASURY