

4:1C-24

LEGISLATIVE HISTORY CHECKLIST  
Compiled by the NJ State Law Library

NJSA: 4:1C-24

(Agriculture  
development  
easements)

LAWS OF: 1989

CHAPTER: 310

Bill No: S3420

Sponsor(s): Zimmer

Date Introduced: April 17, 1989

Committee: Assembly: Economic Growth, Agriculture & Tourism

Senate: Natural Resources & Agriculture

Amended during passage: No

Date of Passage: Assembly: January 8, 1990

Senate: June 19, 1989

Date of Approval: January 12, 1990

Following statements are attached if available:

Sponsor statement: Yes

Committee Statement: Assembly: Yes

Senate: Yes

Fiscal Note: No

Veto Message: No

Message on signing: No

Following were printed:

Reports: No

Hearings: No

KGB/SLJ

1 AN ACT concerning the conveyance of development easements  
2 on certain lands and amending P.L.1983, c.32 and P.L.1989,  
3 c.28.

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

7 1. Section 17 of P.L.1983, c.32 (C.4:1C-24) is amended to read  
8 as follows:

9 17. a. (1) Landowners within a municipally approved program  
10 or other farmland preservation program shall enter into an  
11 agreement with the board, and the municipal governing body, if  
12 appropriate, to retain the land in agricultural production for a  
13 minimum period of eight years.

14 (2) Any landowner whose land is within a municipally approved  
15 program or other farmland preservation program or any  
16 landowner whose land qualifies for differential property tax  
17 assessment pursuant to the "Farmland Assessment Act of 1964,"  
18 P.L.1964, c.48 (C.54:4-23.1 et seq.), and which is included in an  
19 agricultural development area, may enter into an agreement to  
20 convey a development easement on the land to the board. The  
21 development easement may be permanent or for a term of 20  
22 years.

23 (3) [The] Any agreement entered into pursuant to paragraph (1)  
24 of this subsection shall constitute a restrictive covenant and shall  
25 be filed with the municipal tax assessor and recorded with the  
26 county clerk in the same manner as a deed. Any development  
27 easement conveyed pursuant to paragraph (2) of this subsection  
28 shall be filed with the municipal tax assessor and recorded with  
29 the county clerk in the same manner as a deed. The recording of  
30 [this] any such agreement or development easement of limited  
31 term shall include notification that the committee may exercise

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

Matter underlined thus is new matter.

1 the first right and option [of first refusal on proposed sales of] to  
2 purchase a fee simple absolute interest in the land [in a farmland  
3 preservation program] pursuant to [section 2 of] P.L.1989, c.28  
4 [(C.4:1C-39)] (C.4:1C-38 et al.).

5 b. [The] A landowner, or a farm operator as an agent for the  
6 landowner, whose land is within a municipally approved program  
7 or other farmland preservation program, or is subject to a  
8 development easement conveyed pursuant to subsection a. of this  
9 section, shall be eligible to, and may, apply to the local soil  
10 conservation district and the board for a grant for a soil and  
11 water conservation project approved by the State Soil  
12 Conservation Committee [and to the board to sell a development  
13 easement on the land], subject to the provisions of [this act]  
14 P.L.1983, c.32 (C.4:1C-11 et al.).

15 c. [The landowner or farm operator as an agent for the  
16 landowner may apply to the local soil conservation district and  
17 the board for a grant for a soil and water conservation project  
18 approved by the State Soil Conservation Committee on land  
19 included within a municipally approved program or other  
20 farmland preservation program and restricted by an agreement  
21 entered into pursuant to subsection a. of this section.] (Deleted  
22 by amendment, P.L. , c. (now before the Legislature as this  
23 bill))

24 d. Approval by the local soil conservation district and the  
25 board for grants for soil and water conservation projects shall be  
26 contingent upon a written agreement by the person who would  
27 receive funds that the project shall be maintained for a specified  
28 period of not less than three years, and shall be a component of a  
29 farm conservation plan approved by the local soil conservation  
30 district.

31 e. If the landowner applying for funds for a soil and water  
32 conservation project pursuant to this section provides 50% of  
33 those funds without assistance from the county, the local soil  
34 conservation district shall review, approve, conditionally approve  
35 or disapprove the application. The committee shall certify that  
36 the land on which the soil and water conservation project is to be  
37 conducted has had a development easement conveyed from it  
38 pursuant to subsection a. of this section or is part of a  
39 municipally approved program or other farmland preservation

1 program [and restricted by an agreement entered into pursuant to  
2 the provisions of this section].

3 (cf: P.L.1989, c.28, s.7)

4 2. Section 18 of P.L.1983, c.32 (C.4:1C-25) is amended to read  
5 as follows:

6 18. The provisions of any law to the contrary notwithstanding,  
7 no public body shall exercise the power of eminent domain for the  
8 acquisition of land in a municipally approved program or from  
9 which a development easement has been conveyed pursuant to  
10 section 17 of P.L.1983, c.32 (C.4:1C-24), nor shall any public  
11 body advance a grant, loan, interest subsidy or other funds within  
12 a municipally approved program, or with regard to land from  
13 which a development easement has been conveyed pursuant to  
14 section 17 of P.L.1983, c.32 (C.4:1C-24), for the construction of  
15 dwellings, commercial facilities, transportation facilities, or  
16 water or sewer facilities to serve nonfarm structures unless the  
17 Governor declares that the action is necessary for the public  
18 health, safety and welfare and that there is no immediately  
19 apparent feasible alternative. If the Governor so declares, the  
20 provisions of section 12 of [this act] P.L.1983, c.32 (C.4:1C-19)  
21 shall apply.

22 (cf: P.L.1983, c.32, s.18)

23 3. Section 19 of P.L.1983, c.32 (C.4:1C-26) is amended to read  
24 as follows:

25 19. a. In all relevant actions filed subsequent to the effective  
26 date of [this act] P.L.1983, c.32 (C.4:1C-11 et al.), there shall  
27 exist an irrebuttable presumption that no agricultural operation,  
28 activity or structure which is conducted or located within a  
29 municipally approved program, or on land from which a  
30 development easement has been conveyed pursuant to section 17  
31 of P.L.1983, c.32 (C.4:1C-24), and which conforms to agricultural  
32 management practices approved by the committee, and all  
33 relevant federal or State statutes or rules and regulations  
34 adopted pursuant thereto and which does not pose a direct threat  
35 to public health and safety shall constitute a public or private  
36 nuisance, nor shall any such operation, activity or structure be  
37 deemed to otherwise invade or interfere with the use and  
38 enjoyment of any other land or property.

39 b. In the event that any person wishes to file a complaint to

1 modify or enjoin an agricultural operation or activity under the  
2 belief that the operation or activity violates the provisions of  
3 subsection a. of this section, that person shall, 30 days prior to  
4 instituting any action in a court of competent jurisdiction,  
5 petition the board to act as an informal mediator.

6 c. The board shall, in the course of its regular or special  
7 meetings but within 30 days of receipt of the petition, seek to  
8 facilitate the resolution of any dispute. No statement or  
9 expression of opinion made in the course of a meeting concerning  
10 the dispute shall be deemed admissible in any subsequent judicial  
11 proceeding thereon.

12 (cf: P.L.1983, c.32, s.19)

13 4. Section 20 of P.L.1983, c.32 (C.4:1C-27) is amended to read  
14 as follows:

15 20. The provisions of any law, rule, regulation or ordinance to  
16 the contrary notwithstanding, agricultural activities on land in a  
17 municipally approved program, or on land from which a  
18 development easement has been conveyed pursuant to section 17  
19 of P.L.1983, c.32 (C.4:1C-24), shall be exempt from any  
20 emergency restrictions instituted on the use of water and energy  
21 supplies unless the Governor declares that the public safety and  
22 welfare require otherwise.

23 (cf: P.L.1983, c.32, s.20)

24 5. Section 21 of P.L.1983, c.32 (C.4:1C-28) is amended to read  
25 as follows:

26 21. a. The provisions of any law, rule, regulation or ordinance  
27 to the contrary notwithstanding, any criteria developed by a land  
28 grant college or a recognized organization of agricultural  
29 engineers and approved by the committee for farm structure  
30 design shall be the acceptable minimum construction standard for  
31 a farm structure located in a municipally approved program or  
32 other farmland preservation program or on land from which a  
33 development easement has been conveyed pursuant to section 17  
34 of P.L.1983, c.32 (C.4:1C-24).

35 b. The use by a farm owner or operator of a farm structure  
36 design approved pursuant to subsection a. of this section shall,  
37 the provisions of any law, rule, regulation or ordinance to the  
38 contrary notwithstanding, be exempt from any requirement  
39 concerning the seal of approval or fee of an architect or

1 professional engineer.

2 (cf: P.L.1983, c.32 s.21)

3 6. Section 1 of P.L.1989, c.28 (C.4:1C-38) is amended to read  
4 as follows:

5 1. In addition to those powers and duties provided for by  
6 section 5 of P.L.1983, c.31 (C.4:1C-6) and by sections 5 and 6 of  
7 P.L.1983, c.32 (C.4:1C-5 and C.4:1C-7), the State Agriculture  
8 Development Committee also shall have the power to purchase  
9 and acquire, in the name of the State, fee simple absolute [title]  
10 interest [to farmland] in land in accordance with section [3] 2 of  
11 [this act] P.L.1989, c.28 (C.4:1C-39).

12 (cf: P.L.1989, c.28, s.1)

13 7. Section 2 of P.L.1989, c.28 (C.4:1C-39) is amended to read  
14 as follows:

15 2. a. A landowner who wishes to sell a fee simple absolute  
16 interest in land that becomes enrolled after the effective date of  
17 P.L.1989, c.28 (C.4:1C-38 et al.) in a municipally approved  
18 program or other farmland preservation program [or a  
19 municipally approved farmland preservation program after this  
20 bill's effective date and] established pursuant to sections [13] 14  
21 and [14] 13 of P.L.1983, c.32 [(C.4:1C-20 and C.4:1C-21)]  
22 (C.4:1C-21 and 4:1C-20), respectively, shall give to the  
23 committee [no less than 60 days prior] written notice, by  
24 certified mail, [of the terms and conditions of the proposed sale]  
25 that a contract of sale has been executed for the property. The  
26 notice shall set forth the terms and conditions of the executed  
27 contract of sale and shall have attached a copy of that contract.  
28 [A copy of the proposed offer indicating the price which the  
29 proposed purchaser has agreed to pay for the land shall be  
30 attached to the notice of proposed sale.] The notice of [proposed  
31 sale] executed contract of sale shall also include any other  
32 information [which] that the committee may reasonably require  
33 by regulation. The committee shall have the first right and  
34 option to purchase the land upon substantially similar terms and  
35 conditions, which right and option shall be exercisable as provided  
36 by this section. If the committee chooses to exercise the first  
37 right and option, the committee shall give notice of [such] that  
38 intent to the landowner within a period of 30 days following the  
39 date of receipt of the notice of [proposed sale] executed contract

1 of sale. The committee shall submit its offer to match the terms  
2 and conditions of the [proposed sale] executed contract of sale to  
3 the landowner within the 60 days following the expiration of the  
4 30-day period. If no notice is given within the 30-day period that  
5 the committee intends to exercise the first right and option, or if  
6 no offer is submitted to the landowner within the 60-day period  
7 following the 30-day period, the owner may at the expiration of  
8 the 30-day period or the 60-day period, as the case may be,  
9 [contract to sell] convey the land to the proposed purchaser  
10 named in the [notice of proposed] executed contract of sale upon  
11 the terms and conditions specified therein, or to the proposed  
12 purchaser's assignee as provided in that executed contract of  
13 sale. If the owner fails to [close upon the proposed sale  
14 transaction] convey the land to the named proposed purchaser or  
15 an assignee thereof pursuant to the executed contract of sale, the  
16 land shall again become subject to the committee's first right [of  
17 first refusal] and option to purchase as provided by this section.  
18 A landowner may elect to convey the land to the committee upon  
19 the exercise of the committee's first right and option to  
20 purchase without breaching the original contract of sale,  
21 notwithstanding that the committee's offer is different than, or  
22 provides for lower consideration than, that in the original  
23 executed contract of sale.

24 b. The provisions of this section shall apply to [sales] any sale  
25 of a fee simple absolute interest in land that becomes enrolled in  
26 a municipally approved program or other farmland preservation  
27 program [or a municipally approved farmland preservation  
28 program] subsequent to the effective date of [this act] P.L.1989,  
29 c.28 (C.4:1C-38 et al.), except that any person enrolled in a  
30 municipally approved program or other farmland preservation  
31 program prior to the effective date of [this act] P.L.1989, c.28  
32 (C.4:1C-38 et al.) may agree to provide this first right [of first  
33 refusal] and option to purchase in a manner consistent with this  
34 section.

35 c. The provisions of subsection a. of this section shall apply to  
36 the sale of a fee simple absolute interest in land from which a  
37 development easement of limited term has been conveyed  
38 pursuant to paragraph (2) of subsection a. of section 17 of  
39 P.L.1983, c.32 (C.4:1C-24) during the term of that development

1 easement and for one year thereafter.

(cf: P.L.1989, c.28, s.2)

3 8. Section 3 of P.L.1989, c.28 (C.4:1C-40) is amended to read  
as follows:

5 3. A certificate executed and acknowledged by the committee  
stating that the provisions of section 2 of [this act] P.L.1989, c.28  
7 (C.4:1C-39) have been met by the [owner] landowner, and that  
the first right [of first refusal] and option to purchase of the  
9 committee has terminated, shall be conclusive upon the  
committee and the owner in favor of all persons who rely thereon  
11 in good faith, and this certificate shall be furnished to any  
[owner] landowner who has complied with the provisions of  
13 section 2 of [this act] P.L.1989, c.28 (C.4:1C-39).

(cf: P.L.1989, c.28, s.3)

15 9. Section 5 of P.L.1989, c.28 (C.4:1C-42) is amended to read  
as follows:

17 5. Any land acquired by the committee pursuant to the terms  
of [this act] P.L.1989, c.28 (C.4:1C-38 et al.) shall be held of  
19 record in the name of the State and shall be offered for sale by  
the committee with a deed restriction permanently prohibiting  
21 nonagricultural development [by the State without complying  
with the provisions of this act relating to the committee's right  
23 of first refusal]. Land sold with a deed restriction permanently  
prohibiting nonagricultural development pursuant to this section  
25 is exempt from the provisions of section 2 of P.L.1989, c.28  
(C.4:1C-39).

27 (cf: P.L.1989, c.28, s.5)

10. This act shall take effect immediately.

29

#### STATEMENT

31

This bill would uncouple the sale of development easements on  
33 farmland from enrollment in farmland preservation programs, and  
would authorize the purchase of limited term development  
35 easements on farmland. The bill would also amend P.L.1989, c.28  
(C.4:1C-38 et al.) to clarify the procedure to be followed with  
37 regard to the State Agriculture Development Committee's first  
right and option to purchase certain farmland that is being sold,  
39 and expand that right to any farmland that is subject to a limited  
term development easement.

1 Under present law only those landowners whose lands are  
enrolled in a municipally approved or other farmland preservation  
3 program, which programs last for at least eight years, are eligible  
to sell development easements pursuant to the "Agriculture  
5 Retention and Development Act." Many landowners are  
interested in selling only their easements and want the assurance  
7 of that sale before committing to an eight-year program. In  
order to purchase the development rights from these landowners,  
9 the State Agriculture Development Committee has developed an  
"option" approach, whereby the landowner simultaneously applies  
11 for both eight-year program enrollment and the development  
easement sale program. This option agreement adds layers of red  
13 tape at the county level and often results in unrealistic deadlines  
for decision-making by the State Agriculture Development  
15 Committee and the appropriate County Agriculture Development  
Board. It is also very difficult to explain the simultaneous  
17 applications to landowners and municipal officials. The confusion  
created tends to add resistance to landowner sign-up and  
19 municipal approvals.

In order to avoid these problems, the Farmland Preservation  
21 Review Committee of the State Agriculture Development  
Committee has recommended that the sale of development  
23 easements be separated from the eight-year programs.

This bill would allow a landowner to sell a development  
25 easement, either permanent or for a limited term, to the  
appropriate board without participating in a farmland  
27 preservation program. Upon selling the development rights, the  
landowner would receive all the privileges of a participant in a  
29 municipally approved program without having to reapply every  
eight years. Only those landowners with land that qualifies for  
31 differential tax assessment pursuant to the "Farmland  
Assessment Act of 1964" and that is included within an  
33 agricultural development area would be permitted to sell  
development easements pursuant to the act.

35 The Farmland Preservation Review Committee has also found  
that while many landowners support the farmland preservation  
37 program and the development easement sale concept, they are  
reluctant to permanently deed-restrict their land at the outset.  
39 The committee has recommended that the purchase of limited

1 term development easements be authorized in order to meet the  
needs of these landowners.

3 This bill would allow a board to purchase limited term  
easements of 20 years. Only an owner of land that qualifies for  
5 differential property tax assessment under the "Farmland  
Assessment Act of 1964" and that is included within an  
7 agricultural development area would be eligible to convey such an  
easement under the act.

9 The bill would also give the State Agriculture Development  
Committee the first right and option to purchase land subject to  
11 a limited term development easement for the term of the  
easement and for one year thereafter.

13 Finally, the bill would also amend P.L.1989, c.28 (C.4:1C-38 et  
al.) to clarify the procedure to be followed with regard to the  
15 State Agriculture Development Committee's first right and  
option to purchase certain farmland that is being sold.

17

19

AGRICULTURE  
Natural Resources

21

23 Uncouples sale of agriculture development easements from the  
eight-year programs and authorizes purchase of limited term  
agriculture development easements.

1 easement and for one year thereafter.

(cf: P.L.1989, c.28, s.2)

3 8. Section 3 of P.L.1989, c.28 (C.4:1C-40) is amended to read  
as follows:

5 3. A certificate executed and acknowledged by the committee  
stating that the provisions of section 2 of [this act] P.L.1989, c.28  
7 (C.4:1C-39) have been met by the [owner] landowner, and that  
the first right [of first refusal] and option to purchase of the  
9 committee has terminated, shall be conclusive upon the  
committee and the owner in favor of all persons who rely thereon  
11 in good faith, and this certificate shall be furnished to any  
[owner] landowner who has complied with the provisions of  
13 section 2 of [this act] P.L.1989, c.28 (C.4:1C-39).

(cf: P.L.1989, c.28, s.3)

15 9. Section 5 of P.L.1989, c.28 (C.4:1C-42) is amended to read  
as follows:

17 5. Any land acquired by the committee pursuant to the terms  
of [this act] P.L.1989, c.28 (C.4:1C-38 et al.) shall be held of  
19 record in the name of the State and shall be offered for sale by  
the committee with a deed restriction permanently prohibiting  
21 nonagricultural development [by the State without complying  
with the provisions of this act relating to the committee's right  
23 of first refusal]. Land sold with a deed restriction permanently  
prohibiting nonagricultural development pursuant to this section  
25 is exempt from the provisions of section 2 of P.L.1989, c.28  
(C.4:1C-39).

27 (cf: P.L.1989, c.28, s.5)

29 10. This act shall take effect immediately.

#### STATEMENT

31  
33 This bill would uncouple the sale of development easements on  
farmland from enrollment in farmland preservation programs, and  
would authorize the purchase of limited term development  
35 easements on farmland. The bill would also amend P.L.1989, c.28  
(C.4:1C-38 et al.) to clarify the procedure to be followed with  
37 regard to the State Agriculture Development Committee's first  
right and option to purchase certain farmland that is being sold,  
39 and expand that right to any farmland that is subject to a limited  
term development easement.

1 Under present law only those landowners whose lands are  
2 enrolled in a municipally approved or other farmland preservation  
3 program, which programs last for at least eight years, are eligible  
4 to sell development easements pursuant to the "Agriculture  
5 Retention and Development Act." Many landowners are  
6 interested in selling only their easements and want the assurance  
7 of that sale before committing to an eight-year program. In  
8 order to purchase the development rights from these landowners,  
9 the State Agriculture Development Committee has developed an  
10 "option" approach, whereby the landowner simultaneously applies  
11 for both eight-year program enrollment and the development  
12 easement sale program. This option agreement adds layers of red  
13 tape at the county level and often results in unrealistic deadlines  
14 for decision-making by the State Agriculture Development  
15 Committee and the appropriate County Agriculture Development  
16 Board. It is also very difficult to explain the simultaneous  
17 applications to landowners and municipal officials. The confusion  
18 created tends to add resistance to landowner sign-up and  
19 municipal approvals.

20 In order to avoid these problems, the Farmland Preservation  
21 Review Committee of the State Agriculture Development  
22 Committee has recommended that the sale of development  
23 easements be separated from the eight-year programs.

24 This bill would allow a landowner to sell a development  
25 easement, either permanent or for a limited term, to the  
26 appropriate board without participating in a farmland  
27 preservation program. Upon selling the development rights, the  
28 landowner would receive all the privileges of a participant in a  
29 municipally approved program without having to reapply every  
30 eight years. Only those landowners with land that qualifies for  
31 differential tax assessment pursuant to the "Farmland  
32 Assessment Act of 1964" and that is included within an  
33 agricultural development area would be permitted to sell  
34 development easements pursuant to the act.

35 The Farmland Preservation Review Committee has also found  
36 that while many landowners support the farmland preservation  
37 program and the development easement sale concept, they are  
38 reluctant to permanently deed-restrict their land at the outset.  
39 The committee has recommended that the purchase of limited

1 term development easements be authorized in order to meet the  
needs of these landowners.

3 This bill would allow a board to purchase limited term  
easements of 20 years. Only an owner of land that qualifies for  
5 differential property tax assessment under the "Farmland  
Assessment Act of 1964" and that is included within an  
7 agricultural development area would be eligible to convey such an  
easement under the act.

9 The bill would also give the State Agriculture Development  
Committee the first right and option to purchase land subject to  
11 a limited term development easement for the term of the  
easement and for one year thereafter.

13 Finally, the bill would also amend P.L.1989, c.28 (C.4:1C-38 et  
al.) to clarify the procedure to be followed with regard to the  
15 State Agriculture Development Committee's first right and  
option to purchase certain farmland that is being sold.

17

19

#### AGRICULTURE Natural Resources

21

23 **Uncouples sale of agriculture development easements from the  
eight-year programs and authorizes purchase of limited term  
agriculture development easements.**

ASSEMBLY ECONOMIC GROWTH, AGRICULTURE AND  
TOURISM COMMITTEE

STATEMENT TO

SENATE, No. 3420

STATE OF NEW JERSEY

DATED: DECEMBER 11, 1989

The Assembly Economic Growth, Agriculture and Tourism Committee reports favorably Senate Bill No. 3420.

The bill would uncouple the sale of development easements on farmland from enrollment in farmland preservation programs, and would authorize the purchase of limited term development easements on farmland. It would also amend P.L.1989, c.28 (C.4:1C-38 et al.) to clarify the procedure to be followed with regard to the State Agriculture Development Committee's first right and option to purchase certain farmland that is being sold, and expand that right to any farmland that is subject to a limited term development easement.

Under present law only those landowners whose lands are enrolled in a municipally approved or other farmland preservation program, which programs last for at least eight years, are eligible to sell development easements pursuant to the "Agriculture Retention and Development Act." Many landowners are interested in selling only their easements and want the assurance of that sale before committing to an eight-year program. In order to purchase the development rights from these landowners, the State Agriculture Development Committee has developed an "option" approach, whereby the landowner simultaneously applies for both eight-year program enrollment and the development easement sale program. This option agreement adds layers of red tape at the county level and often results in unrealistic deadlines for decision-making by the State Agriculture Development Committee and the appropriate County Agriculture Development Board. It is also very difficult to explain the simultaneous applications to landowners and municipal officials. The confusion created tends to add resistance to landowner sign-up and municipal approvals.

In order to avoid these problems, the Farmland Preservation Review Committee of the State Agriculture Development Committee has recommended that the sale of development easements be separated from the eight-year programs.

The bill would allow a landowner to sell a development easement, either permanent or for a limited term of 20 years, to the appropriate board without participating in a farmland preservation program. Upon selling the development rights, the landowner would receive all the privileges of a participant in a municipally approved program without having to reapply every eight years. Only those landowners with land that qualifies for differential tax assessment pursuant to the "Farmland Assessment Act of 1964" and that is included within an agricultural development area would be permitted to sell development easements pursuant to the act.

The Farmland Preservation Review Committee has also found that while many landowners support the farmland preservation program and the development easement sale concept, they are reluctant to permanently deed-restrict their land at the outset. The Farmland Preservation Review Committee has recommended that the purchase of limited term development easements be authorized in order to meet the needs of these landowners.

This bill would allow a board to purchase limited term easements of 20 years. Only an owner of land that qualifies for differential property tax assessment under the "Farmland Assessment Act of 1964" and that is included within an agricultural development area would be eligible to convey such an easement under the act.

The bill would also give the State Agriculture Development Committee the first right and option to purchase land subject to a limited term development easement for the term of the easement and for one year thereafter.

Finally, the bill would also amend P.L.1989, c.28 (C.4:1C-38 et al.) to clarify the procedure to be followed with regard to the State Agriculture Development Committee's first right and option to purchase certain farmland that is being sold.

SENATE NATURAL RESOURCES  
AND AGRICULTURE COMMITTEE

STATEMENT TO

SENATE, No. 3420

STATE OF NEW JERSEY

DATED: MAY 4, 1989

The Senate Natural Resources and Agriculture Committee favorably reports Senate Bill No. 3420.

This bill would uncouple the sale of development easements on farmland from enrollment in farmland preservation programs, and would authorize the purchase of limited term development easements on farmland. The bill would also amend P.L.1989, c.28 (C.4:1C-38 et al.) to clarify the procedure to be followed with regard to the State Agriculture Development Committee's first right and option to purchase certain farmland that is being sold, and expand that right to any farmland that is subject to a limited term development easement.

Under present law only those landowners whose lands are enrolled in a municipally approved or other farmland preservation program, which programs last for at least eight years, are eligible to sell development easements pursuant to the "Agriculture Retention and Development Act." Many landowners are interested in selling only their easements and want the assurance of that sale before committing to an eight-year program. In order to purchase the development rights from these landowners, the State Agriculture Development Committee has developed an "option" approach, whereby the landowner simultaneously applies for both eight-year program enrollment and the development easement sale program. This option agreement adds layers of red tape at the county level and often results in unrealistic deadlines for decision-making by the State Agriculture Development Committee and the appropriate County Agriculture Development Board. It is also very difficult to explain the simultaneous applications to landowners and municipal officials. The confusion created tends to add resistance to landowner sign-up and municipal approvals.

In order to avoid these problems, the Farmland Preservation Review Committee of the State Agriculture Development Committee has recommended that the sale of development easements be separated from the eight-year programs.

LAW LIBRARY COPY  
DO NOT REMOVE

This bill would allow a landowner to sell a development easement, either permanent or for a limited term, to the appropriate board without participating in a farmland preservation program. Upon selling the development rights, the landowner would receive all the privileges of a participant in a municipally approved program without having to reapply every eight years. Only those landowners with land that qualifies for differential tax assessment pursuant to the "Farmland Assessment Act of 1964" and that is included within an agricultural development area would be permitted to sell development easements pursuant to the act.

The Farmland Preservation Review Committee has also found that while many landowners support the farmland preservation program and the development easement sale concept, they are reluctant to permanently deed-restrict their land at the outset. The Farmland Preservation Review Committee has recommended that the purchase of limited term development easements be authorized in order to meet the needs of these landowners.

This bill would allow a board to purchase limited term easements of 20 years. Only an owner of land that qualifies for differential property tax assessment under the "Farmland Assessment Act of 1964" and that is included within an agricultural development area would be eligible to convey such an easement under the act.

The bill would also give the State Agriculture Development Committee the first right and option to purchase land subject to a limited term development easement for the term of the easement and for one year thereafter.

Finally, the bill would also amend P.L.1989, c.28 (C.4:1C-38 et al.) to clarify the procedure to be followed with regard to the State Agriculture Development Committee's first right and option to purchase certain farmland that is being sold.