

## CHAPTER 76

AN ACT concerning the preservation of lands for certain public purposes, and amending and supplementing P.L.1999, c.152.

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

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

C.13:8C-2 Findings, declarations relative to open space, farmland, and historic preservation.

2. The Legislature finds and declares that enhancing the quality of life of the citizens of New Jersey is a paramount policy of the State; that the acquisition and preservation of open space, farmland, and historic properties in New Jersey protects and enhances the character and beauty of the State and provides its citizens with greater opportunities for recreation, relaxation, and education; that the lands and resources now dedicated to these purposes will not be adequate to meet the needs of an expanding population in years to come; that the open space and farmland that is available and appropriate for these purposes will gradually disappear as the costs of preserving them correspondingly increase; and that it is necessary and desirable to provide funding for the development of parks and other open space for recreation and conservation purposes.

The Legislature further finds and declares that agriculture plays an integral role in the prosperity and well-being of the State as well as providing a fresh and abundant supply of food for its citizens; that much of the farmland in the State faces an imminent threat of permanent conversion to non-farm uses; and that the retention and development of an economically viable agricultural industry is of high public priority.

The Legislature further finds and declares that there is an urgent need to preserve the State's historic heritage to enable present and future generations to experience, understand, and enjoy the landmarks of New Jersey's role in the birth and development of this nation; that the restoration and preservation of properties of historic character and importance in the State is central to meeting this need; and that a significant number of these historic properties are located in urban centers, where their restoration and preservation will advance urban revitalization efforts of the State and local governments.

The Legislature further finds and declares that there is growing public recognition that the quality of life, economic prosperity, and environmental quality in New Jersey are served by the protection and timely preservation of open space and farmland and better management of the lands, resources, historic properties, and recreational facilities that are already under public ownership or protection; that the protection and preservation of New Jersey's water resources, including the quality and quantity of the State's limited water supply, is essential to the quality of life and the economic health of the citizens of the State; that the acquisition of flood-prone areas is in the best interests of the State to prevent the loss of life and property; that the preservation of the existing diversity of animal and plant species is essential to sustaining both the environment and the economy of the Garden State, and the conservation of adequate habitat for endangered, threatened, and other rare species is necessary to preserve this biodiversity; that there is a need to establish a program to serve as the successor to the programs established by the "Green Acres, Farmland and Historic Preservation, and Blue Acres Bond Act of 1995," P.L.1995, c.204, nine previous similar bond acts enacted in 1961, 1971, 1974, 1978, 1981, 1983, 1987, 1989, and 1992, and various implementing laws; and that any such successor program should support implementation of Statewide policies, goals, and strategies concerned with and emphasizing the importance of preserving open space, sensitive environmental areas, critical wildlife habitat, farmland, and historic resources.

The Legislature further finds and declares that the citizens of the State have indicated their very strong support for open space, farmland, and historic preservation efforts not only in the past approval of State Green Acres bond acts and numerous county and municipal dedicated funding sources for those purposes, but most recently in 1998 with the approval of an amendment to the New Jersey Constitution that provides for a stable and dedicated source of funding for those purposes for the next decade and beyond.

The Legislature therefore determines that it is in the public interest to preserve as much open space and farmland, and as many historic properties, as possible within the means provided by the 1998 constitutional amendment; that of the open space preserved, as much of those lands as

possible shall protect water resources and preserve adequate habitat and other environmentally sensitive areas; that, in recognition of the recommendations of the Governor's Council on New Jersey Outdoors, it is a worthy goal to preserve one million more acres of open space and farmland in the Garden State in the next decade to protect the quality of life for New Jersey residents; and that, to accomplish that goal, it is also in the public interest to create the Garden State Preservation Trust and to enable it to raise revenue for those purposes, and to delegate to it such other duties and responsibilities as shall be necessary to further the purposes of the constitutional amendment and to advance the policies and achieve the goals set forth in this preamble.

2. Section 24 of P.L.1999, c.152 (C.13:8C-24) is amended to read as follows:

C.13:8C-24 Office of Green Acres established.

24. a. (1) There is established in the Department of Environmental Protection the Office of Green Acres. The commissioner may appoint an administrator or director who shall supervise the office, and the department may employ such other personnel and staff as may be required to carry out the duties and responsibilities of the department and the office pursuant to this act, all without regard to the provisions of Title 11A, Civil Service, of the New Jersey Statutes. Persons appointed or employed as provided pursuant to this subsection shall be compensated in a manner similar to other employees in the Executive Branch, and their compensation shall be determined by the Commissioner of Personnel.

(2) The Green Acres Program in the Department of Environmental Protection, together with all of its functions, powers and duties, are continued and transferred to and constituted as the Office of Green Acres in the Department of Environmental Protection. Whenever, in any law, rule, regulation, order, contract, document, judicial or administrative proceeding or otherwise, reference is made to the Green Acres Program, the same shall mean and refer to the Office of Green Acres in the Department of Environmental Protection. This transfer shall be subject to the provisions of the "State Agency Transfer Act," P.L.1971, c.375 (C.52:14D-1 et seq.).

b. The duties and responsibilities of the office shall be as follows:

(1) Administer all provisions of this act pertaining to funding the acquisition and development of lands for recreation and conservation purposes as authorized pursuant to Article VIII, Section II, paragraph 7 of the State Constitution;

(2) Continue to administer all grant and loan programs for the acquisition and development of lands for recreation and conservation purposes, including the Green Trust, established or funded for those purposes pursuant to: P.L.1961, c.45 (C.13:8A-1 et seq.); P.L.1971, c.419 (C.13:8A-19 et seq.); P.L.1975, c.155 (C.13:8A-35 et seq.); or any Green Acres bond act; and

(3) Adopt, with the approval of the commissioner and pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), rules and regulations:

(a) establishing application procedures for grants and loans for the acquisition and development of lands for recreation and conservation purposes, criteria and policies for the evaluation and priority ranking of projects for eligibility to receive funding for recreation and conservation purposes using constitutionally dedicated moneys, any conditions that may be placed on the award of a grant or loan for recreation and conservation purposes pursuant to this act, and any restrictions that may be placed on the use of lands acquired or developed with a grant or loan for recreation and conservation purposes pursuant to this act. The criteria and policies established pursuant to this subparagraph for the evaluation and priority ranking of projects for eligibility to receive funding for recreation and conservation purposes using constitutionally dedicated moneys may be based upon, but need not be limited to, such factors as: protection of the environment, natural resources, water resources, watersheds, aquifers, wetlands, floodplains and flood-prone areas, stream corridors, beaches and coastal resources, forests and grasslands, scenic views, biodiversity, habitat for wildlife, rare, threatened, or endangered species, and plants; degree of likelihood of development; promotion of greenways; provision for recreational access and use; protection of geologic, historic, archaeological, and

cultural resources; relative cost; parcel size; and degree of public support; and

(b) addressing any other matters deemed necessary to implement and carry out the goals and objectives of Article VIII, Section II, paragraph 7 of the State Constitution and this act with respect to the acquisition and development of lands for recreation and conservation purposes; and

(4) Establishing criteria and policies for the evaluation and priority ranking of State projects to acquire and develop lands for recreation and conservation purposes using constitutionally dedicated moneys, which criteria and policies may be based upon, but need not be limited to, such factors as: protection of the environment, natural resources, water resources, watersheds, aquifers, wetlands, floodplains and flood-prone areas, stream corridors, beaches and coastal resources, forests and grasslands, scenic views, biodiversity, habitat for wildlife, rare, threatened, or endangered species, and plants; degree of likelihood of development; promotion of greenways; provision for recreational access and use; protection of geologic, historic, archaeological, and cultural resources; relative cost; parcel size; and degree of public support.

3. Section 25 of P.L.1999, c.152 (C.13:8C-25) is amended to read as follows:

C.13:8C-25 Biennial progress report to Governor, Legislature by the trust.

25. Within one year after the date of enactment of this act, and biennially thereafter until and including 2008, the Garden State Preservation Trust, after consultation with the Department of Environmental Protection, the State Agriculture Development Committee, the New Jersey Historic Trust, the Pinelands Commission, and the Office of State Planning in the Department of Community Affairs, shall prepare and submit to the Governor and the Legislature a written report, which shall:

a. Describe the progress being made on achieving the goals and objectives of Article VIII, Section II, paragraph 7 of the State Constitution and this act with respect to the acquisition and development of lands for recreation and conservation purposes, the preservation of farmland, and the preservation of historic properties, and provide recommendations with respect to any legislative, administrative, or local action that may be required to ensure that those goals and objectives may be met in the future;

b. Tabulate, both for the reporting period and cumulatively, the total acreage for the entire State, and the acreage in each county and municipality, of lands acquired for recreation and conservation purposes and of farmland preserved for farmland preservation purposes that have been applied toward meeting the goals and objectives of Article VIII, Section II, paragraph 7 of the State Constitution and this act with respect to the acquisition of lands for recreation and conservation purposes and the preservation of farmland;

c. Tabulate, both for the reporting period and cumulatively, the total acreage for the entire State, and the acreage in each county and municipality, of any donations of land that have been applied toward meeting the goals and objectives of Article VIII, Section II, paragraph 7 of the State Constitution and this act with respect to the acquisition of lands for recreation and conservation purposes and the preservation of farmland;

d. List, both for the reporting period and cumulatively, and by project name, project sponsor, and location by county and municipality, all historic preservation projects funded with constitutionally dedicated moneys in whole or in part;

e. Indicate those areas of the State where, as designated by the Department of Environmental Protection in the Open Space Master Plan prepared pursuant to section 5 of P.L.2002, c.76 (C.13:8C-25.1), the acquisition and development of lands by the State for recreation and conservation purposes is planned or is most likely to occur, and those areas of the State where there is a need to protect water resources, including the identification of lands where protection is needed to assure adequate quality and quantity of drinking water supplies in times of drought, indicate those areas of the State where the allocation of constitutionally dedicated moneys for farmland preservation purposes is planned or is most likely to occur, and provide a proposed schedule and expenditure plan for those acquisitions, developments, and allocations, for the next reporting period, which shall include an explanation of how those acquisitions, developments, and allocations will be distributed throughout all geographic regions

of the State to the maximum extent practicable and feasible;

f. List any surplus real property owned by the State or an independent authority of the State that may be utilizable for recreation and conservation purposes or farmland preservation purposes, and indicate what action has been or must be taken to effect a conveyance of those lands to the department, the committee, local government units, qualifying tax exempt nonprofit organizations, or other entities or persons so that the lands may be preserved and used for those purposes;

g. List, for the reporting period, all projects for which applications for funding under the Green Acres, farmland preservation, and historic preservation programs were received but not funded with constitutionally dedicated moneys during the reporting period, and the reason or reasons why those projects were not funded;

h. Provide, for the reporting period, a comparison of the amount of constitutionally dedicated moneys annually appropriated for local government unit projects for recreation and conservation purposes in municipalities eligible to receive State aid pursuant to P.L.1978, c.14 (C.52:27D-178 et seq.) to the average amount of Green Acres bond act moneys annually appropriated for such projects in the years 1984 through 1998; and

i. Tabulate, both for the reporting period and cumulatively, the total acreage for the entire State, and the acreage in each county and municipality, of lands acquired for recreation and conservation purposes that protect water resources and that protect flood-prone areas.

4. Section 26 of P.L.1999, c.152 (C.13:8C-26) is amended to read as follows:

C.13:8C-26 Allocation of funds appropriated; conditions.

26. a. Moneys appropriated from the Garden State Green Acres Preservation Trust Fund to the Department of Environmental Protection shall be used by the department to:

(1) Pay the cost of acquisition and development of lands by the State for recreation and conservation purposes;

(2) Provide grants and loans to assist local government units to pay the cost of acquisition and development of lands for recreation and conservation purposes; and

(3) Provide grants to assist qualifying tax exempt nonprofit organizations to pay the cost of acquisition and development of lands for recreation and conservation purposes.

b. The expenditure and allocation of constitutionally dedicated moneys for recreation and conservation purposes shall reflect the geographic diversity of the State to the maximum extent practicable and feasible.

c. (1) Notwithstanding the provisions of section 5 of P.L.1985, c.310 (C.13:18A-34) or this act, or any rule or regulation adopted pursuant thereto, to the contrary, the value of a pinelands development credit, allocated to a parcel pursuant to P.L.1979, c.111 (C.13:18A-1 et seq.) and the pinelands comprehensive management plan adopted pursuant thereto, shall be made utilizing a value to be determined by either appraisal, regional averaging based upon appraisal data, or a formula supported by appraisal data. The appraisal and appraisal data shall consider as appropriate: land values in the pinelands regional growth areas; land values in counties, municipalities, and other areas reasonably contiguous to, but outside of, the pinelands area; and other relevant factors as may be necessary to maintain the environmental, ecological, and agricultural qualities of the pinelands area.

(2) No pinelands development credit allocated to a parcel of land pursuant to P.L.1979, c.111 (C.13:18A-1 et seq.) and the pinelands comprehensive management plan adopted pursuant thereto that is acquired or obtained in connection with the acquisition of the parcel for recreation and conservation purposes by the State, a local government unit, or a qualifying tax exempt nonprofit organization using constitutionally dedicated moneys in whole or in part may be conveyed in any manner. All such pinelands development credits shall be retired permanently.

d. (1) (a) For State fiscal years 2000 through 2004 only, when the department, a local government unit, or a qualifying tax exempt nonprofit organization seeks to acquire lands for recreation and conservation purposes using constitutionally dedicated moneys in whole or in part or Green Acres bond act moneys in whole or in part, it shall conduct or cause to be conducted

an appraisal or appraisals of the value of the lands that shall be made using the land use zoning of the lands (I) in effect at the time of proposed acquisition, and (ii) in effect on November 3, 1998 as if that land use zoning is still in effect at the time of proposed acquisition. The higher of those two values shall be utilized by the department, a local government unit, or a qualifying tax exempt nonprofit organization as the basis for negotiation with the landowner with respect to the acquisition price for the lands. The landowner shall be provided with both values determined pursuant to this subparagraph.

A landowner may waive any of the requirements of this paragraph and may agree to sell the lands for less than the values determined pursuant to this paragraph.

(b) After the date of enactment of P.L.2001, c.315 and through June 30, 2004, in determining the two values required pursuant to subparagraph (a) of this paragraph, the appraisal shall be made using not only the land use zoning but also the Department of Environmental Protection wastewater, water quality and watershed management rules and regulations and associated requirements and standards applicable to the lands subject to the appraisal (I) in effect at the time of proposed acquisition, and (ii) in effect on November 3, 1998 as if those rules and regulations and associated requirements and standards are still in effect at the time of proposed acquisition.

(2) The requirements of this subsection shall be in addition to any other requirements of law, rule, or regulation not inconsistent therewith.

(3) This subsection shall not:

(a) apply if the land use zoning of the lands at the time of proposed acquisition, and the Department of Environmental Protection wastewater, water quality and watershed management rules and regulations and associated requirements and standards applicable to the lands at the time of proposed acquisition, have not changed since November 3, 1998;

(b) apply in the case of lands to be acquired with federal moneys in whole or in part;

(c) apply in the case of lands to be acquired in accordance with subsection c. of this section;

(d) apply to projects funded using constitutionally dedicated moneys appropriated pursuant to the annual appropriations act for State fiscal year 2000 (P.L.1999, c.138); or

(e) alter any requirements to disclose information to a landowner pursuant to the "Eminent Domain Act of 1971," P.L.1971, c.361 (C.20:3-1 et seq.).

e. Moneys appropriated from the fund may be used to match grants, contributions, donations, or reimbursements from federal aid programs or from other public or private sources established for the same or similar purposes as the fund.

f. Moneys appropriated from the fund shall not be used by local government units or qualifying tax exempt nonprofit organizations to acquire lands that are already permanently preserved for recreation and conservation purposes, as determined by the department.

g. Whenever lands are donated to the State by a public utility, as defined pursuant to Title 48 of the Revised Statutes, for recreation and conservation purposes, the commissioner may make and keep the lands accessible to the public, unless the commissioner determines that public accessibility would be detrimental to the lands or any natural resources associated therewith.

h. Whenever the State acquires land for recreation and conservation purposes, the agency in the Department of Environmental Protection responsible for administering the land shall, within six months after the date of acquisition, inspect the land for the presence of any buildings or structures thereon which are or may be historic properties and, within 60 days after completion of the inspection, provide to the New Jersey Historic Preservation Office in the department (1) a written notice of its findings, and (2) for any buildings or structures which are or may be historic properties discovered on the land, a request for determination of potential eligibility for inclusion of the historic building or structure in the New Jersey Register of Historic Places. Whenever such a building or structure is discovered, a copy of the written notice provided to the New Jersey Historic Preservation Office shall also be sent to the New Jersey Historic Trust and to the county historical commission or advisory committee, the county historical society, the local historic preservation commission or advisory committee, and the local historical society if any of those entities exist in the county or municipality wherein the land is located.

i. (1) Commencing July 1, 2004 and until five years after the date of enactment of P.L.2001, c.315, when the department, a local government unit, or a qualifying tax exempt nonprofit

organization seeks to acquire lands for recreation and conservation purposes using constitutionally dedicated moneys in whole or in part or Green Acres bond act moneys in whole or in part, it shall conduct or cause to be conducted an appraisal or appraisals of the value of the lands that shall be made using the Department of Environmental Protection wastewater, water quality and watershed management rules and regulations and associated requirements and standards applicable to the lands subject to the appraisal (a) in effect at the time of proposed acquisition, and (b) in effect on November 3, 1998 as if those rules and regulations and associated requirements and standards are still in effect at the time of proposed acquisition. The higher of those two values shall be utilized by the department, a local government unit, or a qualifying tax exempt nonprofit organization as the basis for negotiation with the landowner with respect to the acquisition price for the lands. The landowner shall be provided with both values determined pursuant to this paragraph. A landowner may waive any of the requirements of this paragraph and may agree to sell the lands for less than the values determined pursuant to this paragraph.

(2) The requirements of this subsection shall be in addition to any other requirements of law, rule, or regulation not inconsistent therewith.

(3) This subsection shall not:

(a) apply if the Department of Environmental Protection wastewater, water quality and watershed management rules and regulations and associated requirements and standards applicable to the lands at the time of proposed acquisition have not changed since November 3, 1998;

(b) apply in the case of lands to be acquired with federal moneys in whole or in part;

(c) apply in the case of lands to be acquired in accordance with subsection c. of this section;

or

(d) alter any requirements to disclose information to a landowner pursuant to the "Eminent Domain Act of 1971," P.L.1971, c.361 (C.20:3-1 et seq.).

j. The department shall adopt guidelines for the evaluation and priority ranking process which shall be used in making decisions concerning the acquisition of lands by the State for recreation and conservation purposes using moneys from the Garden State Green Acres Preservation Trust Fund and from any other source. The guidelines, and any subsequent revisions thereto, shall be published in the New Jersey Register. The adoption of the guidelines or of the revisions thereto, shall not be subject to the requirements of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.).

k. In making decisions concerning the acquisition of lands by the State for recreation and conservation purposes using moneys from the Garden State Green Acres Preservation Trust Fund, in the evaluation and priority ranking process the department shall accord three times the weight to acquisitions of lands that would protect water resources, and two times the weight to acquisitions of lands that would protect flood-prone areas, as those criteria are compared to the other criteria in the priority ranking process.

l. The department, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), shall adopt rules and regulations that establish standards and requirements regulating any activity on lands acquired by the State for recreation and conservation purposes using constitutionally dedicated moneys to assure that the activity on those lands does not diminish the protection of surface water or groundwater resources.

Any rules and regulations adopted pursuant to this subsection shall not apply to activities on lands acquired prior to the adoption of the rules and regulations.

#### C.13:8C-25.1 Submission of Open Space Master Plan.

5. a. Within one year after the date of enactment of P.L.2002, c.76 (C.13:8C-25.1 et al.), and annually thereafter, the Department of Environmental Protection, in consultation with the Office of State Planning in the Department of Community Affairs and the Pinelands Commission, shall prepare and submit to the Governor and the Legislature an Open Space Master Plan, which shall indicate those areas of the State where the acquisition and development of lands by the State for recreation and conservation purposes is planned or is most likely to occur, and those areas of the State where there is a need to protect water resources, including the identification of lands

where protection is needed to assure adequate quality and quantity of drinking water supplies in times of drought, and which shall provide a proposed schedule and expenditure plan for those acquisitions and developments for the next reporting period, which shall include an explanation of how those acquisitions and developments will be distributed throughout all geographic regions of the State to the maximum extent practicable and feasible.

b. The department shall provide any information the Garden State Preservation Trust deems necessary in preparing its biennial report pursuant to section 25 of P.L.1999, c.152 (C.13:8C-25).

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

C.13:8C-38 Acquisitions, grants with respect to farmland preservation.

38. a. All acquisitions or grants made pursuant to section 37 of this act shall be made with respect to farmland devoted to farmland preservation under programs established by law.

b. The expenditure and allocation of constitutionally dedicated moneys for farmland preservation purposes shall reflect the geographic diversity of the State to the maximum extent practicable and feasible.

c. The committee shall implement the provisions of section 37 of this act in accordance with the procedures and criteria established pursuant to the "Agriculture Retention and Development Act," P.L.1983, c.32 (C.4:1C-11 et seq.) except as provided otherwise by this act.

d. The committee shall adopt the same or a substantially similar method for determining, for the purposes of this act, the committee's share of the cost of a development easement on farmland to be acquired by a local government as that which is being used by the committee on the date of enactment of this act for prior farmland preservation funding programs.

e. Notwithstanding the provisions of section 24 of P.L.1983, c.32 (C.4:1C-31) or this act, or any rule or regulation adopted pursuant thereto, to the contrary, whenever the value of a development easement on farmland to be acquired using constitutionally dedicated moneys in whole or in part is determined based upon the value of any pinelands development credits allocated to the parcel pursuant to P.L.1979, c.111 (C.13:18A-1 et seq.) and the pinelands comprehensive management plan adopted pursuant thereto, the committee shall determine the value of the development easement by:

(1) conducting a sufficient number of fair market value appraisals as it deems appropriate to determine the value for farmland preservation purposes of the pinelands development credits;

(2) considering development easement values in counties, municipalities, and other areas (a) reasonably contiguous to, but outside of, the pinelands area, which in the sole opinion of the committee constitute reasonable development easement values in the pinelands area for the purposes of this subsection, and (b) in the pinelands area where pinelands development credits are or may be utilized, which in the sole opinion of the committee constitute reasonable development easement values in the pinelands area for the purposes of this subsection;

(3) considering land values in the pinelands regional growth areas;

(4) considering the importance of preserving agricultural lands in the pinelands area; and

(5) considering such other relevant factors as may be necessary to increase participation in the farmland preservation program by owners of agricultural lands located in the pinelands area.

f. No pinelands development credit that is acquired or obtained in connection with the acquisition of a development easement on farmland or fee simple title to farmland by the State, a local government unit, or a qualifying tax exempt nonprofit organization using constitutionally dedicated moneys in whole or in part may be conveyed in any manner. All such pinelands development credits shall be retired permanently.

g. (1) (a) For State fiscal years 2000 through 2004 only, when the committee, a local government unit, or a qualifying tax exempt nonprofit organization seeks to acquire a development easement on farmland or the fee simple title to farmland for farmland preservation purposes using constitutionally dedicated moneys in whole or in part, it shall conduct or cause

to be conducted an appraisal or appraisals of the value of the lands that shall be made using the land use zoning of the lands (i) in effect at the time of proposed acquisition, and (ii) in effect on November 3, 1998 as if that land use zoning is still in effect at the time of proposed acquisition. The higher of those two values shall be utilized by the committee, a local government unit, or a qualifying tax exempt nonprofit organization as the basis for negotiation with the landowner with respect to the acquisition price for the lands. The landowner shall be provided with both values determined pursuant to this subparagraph.

A landowner may waive any of the requirements of this paragraph and may agree to sell the lands for less than the values determined pursuant to this paragraph.

(b) After the date of enactment of P.L.2001, c.315 and through June 30, 2004, in determining the two values required pursuant to subparagraph (a) of this paragraph, the appraisal shall be made using not only the land use zoning but also the Department of Environmental Protection wastewater, water quality and watershed management rules and regulations and associated requirements and standards applicable to the lands subject to the appraisal (I) in effect at the time of proposed acquisition, and (ii) in effect on November 3, 1998 as if those rules and regulations and associated requirements and standards are still in effect at the time of proposed acquisition.

(2) The requirements of this subsection shall be in addition to any other requirements of law, rule, or regulation not inconsistent therewith.

(3) This subsection shall not:

(a) apply if the land use zoning of the lands at the time of proposed acquisition, and the Department of Environmental Protection wastewater, water quality and watershed management rules and regulations and associated requirements and standards applicable to the lands at the time of proposed acquisition, have not changed since November 3, 1998;

(b) apply in the case of lands to be acquired with federal moneys in whole or in part;

© apply in the case of lands to be acquired in accordance with subsection e. of this section;

(d) apply to projects funded using constitutionally dedicated moneys appropriated pursuant to the annual appropriations act for State fiscal year 2000 (P.L.1999, c.138); or

(e) alter any requirements to disclose information to a landowner pursuant to the "Eminent Domain Act of 1971," P.L.1971, c.361 (C.20:3-1 et seq.).

h. Any farmland for which a development easement or fee simple title has been acquired pursuant to section 37 of this act shall be entitled to the benefits conferred by the "Right to Farm Act," P.L.1983, c.31 (C.4:1C-1 et al.) and the "Agriculture Retention and Development Act," P.L.1983, c.32 (C.4:1C-11 et al.).

i. (1) Commencing July 1, 2004 and until five years after the date of enactment of P.L.2001, c.315, when the committee, a local government unit, or a qualifying tax exempt nonprofit organization seeks to acquire a development easement on farmland or the fee simple title to farmland for farmland preservation purposes using constitutionally dedicated moneys in whole or in part, it shall conduct or cause to be conducted an appraisal or appraisals of the value of the lands that shall be made using the Department of Environmental Protection wastewater, water quality and watershed management rules and regulations and associated requirements and standards applicable to the lands subject to the appraisal (a) in effect at the time of proposed acquisition, and (b) in effect on November 3, 1998 as if those rules and regulations and associated requirements and standards are still in effect at the time of proposed acquisition. The higher of those two values shall be utilized by the committee, a local government unit, or a qualifying tax exempt nonprofit organization as the basis for negotiation with the landowner with respect to the acquisition price for the lands. The landowner shall be provided with both values determined pursuant to this paragraph. A landowner may waive any of the requirements of this paragraph and may agree to sell the lands for less than the values determined pursuant to this paragraph.

(2) The requirements of this subsection shall be in addition to any other requirements of law, rule, or regulation not inconsistent therewith.

(3) This subsection shall not:

(a) apply if the Department of Environmental Protection wastewater, water quality and watershed management rules and regulations and associated requirements and standards applicable to the lands at the time of proposed acquisition have not changed since November 3,



1998;

(b) apply in the case of lands to be acquired with federal moneys in whole or in part;

(c) apply in the case of lands to be acquired in accordance with subsection e. of this section;

or

(d) alter any requirements to disclose information to a landowner pursuant to the "Eminent Domain Act of 1971," P.L.1971, c.361 (C.20:3-1 et seq.).

j. The committee and the Department of Environmental Protection, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), shall jointly adopt rules and regulations that establish standards and requirements regulating any improvement on lands acquired by the State for farmland preservation purposes using constitutionally dedicated moneys to assure that any improvement does not diminish the protection of surface water or groundwater resources.

Any rules and regulations adopted pursuant to this subsection shall not apply to improvements on lands acquired prior to the adoption of the rules and regulations.

7. This act shall take effect immediately.

Approved August 29, 2002.