

# SENATE, No. 826

## STATE OF NEW JERSEY 215th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2012 SESSION

**Sponsored by:**

**Senator BOB SMITH**

**District 17 (Middlesex and Somerset)**

**Senator GERALD CARDINALE**

**District 39 (Bergen and Passaic)**

**Co-Sponsored by:**

**Senator Greenstein**

**SYNOPSIS**

Concerns calculation of value for conveyance of certain State-owned lands

**CURRENT VERSION OF TEXT**

As reported by the Senate Environment and Energy Committee with technical review.



1 AN ACT concerning the valuation of conveyances for certain State-  
2 owned lands, and amending P.L.1993, c.38.

3

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

6

7 1. Section 1 of P.L.1993, c.38 (C.13:1D-51) is amended to read  
8 as follows:

9 1. As used in [sections 1 through 7 of this amendatory and  
10 supplementary act] P.L.1993, c.38 (C.13:1D-51 et seq.) :

11 "Commissioner" means the Commissioner of the Department of  
12 Environmental Protection.

13 "Convey" means to sell, exchange, lease for a term of [25] five  
14 years or more, grant, or agree to sell, exchange, lease for a term of  
15 [25] five years or more, or grant, in an amount greater than one  
16 acre.

17 "Department" means the Department of Environmental  
18 Protection, or any agency, division, or office thereof.

19 "Green Acres funds" means any funds made available for the  
20 acquisition or development of lands by the State for recreation and  
21 conservation purposes pursuant to: P.L.1961, c.46; P.L.1971,  
22 c.165; P.L.1974, c.102; P.L.1978, c.118; P.L.1983, c.354; P.L.1987,  
23 c.265; [and] P.L.1989, c.183; P.L.1992, c.88; P.L.1995, c.204;  
24 P.L.2007, c.119; P.L.2009, c.117; or any similar act for such  
25 purposes that may be enacted, or any such funds administered  
26 pursuant to P.L.1961, c.45 (C.13:8A-1 et seq.), P.L.1971, c.419  
27 (C.13:8A-19 et seq.), [and] P.L.1975, c.155 (C.13:8A-35 et seq.),  
28 and P.L.1999, c.152 (C.13:8C-1 et seq.), or any similar act for such  
29 purposes that may be enacted.

30 "Land" or "lands" means real property, including improvements  
31 thereof or thereon, rights-of-way, water, riparian and other rights,  
32 easements, and privileges, and all other rights or interests of any  
33 kind or description in, relating to, or connected with real property.

34 "Minor conveyance" means a conveyance or proposed  
35 conveyance of lands acquired or developed by the State with Green  
36 Acres funds, or acquired or developed by the State in any other  
37 manner and administered by the department, which lands shall be  
38 greater than one acre but less than five acres in size and valued at  
39 less than \$50,000, and which conveyance or proposed conveyance  
40 under law requires the approval of the State House Commission  
41 established pursuant to R.S.52:20-1 et seq.

42 (cf: P.L.1993, c.38, s.1)

**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       2. Section 6 of P.L.1993, c.38 (C.13:1D-56) is amended to read  
2 as follows:

3       6. a. 【For】(1) Except as provided otherwise pursuant to  
4 paragraph (2) of this subsection, for the purpose of determining the  
5 amount of consideration to be paid or transferred to the State in  
6 exchange for conveying lands acquired or developed by the State  
7 with Green Acres funds, or acquired or developed by the State in  
8 any other manner and administered by the department, the value of  
9 such lands shall be based upon their intended use upon conveyance  
10 or upon their highest and best use, whichever shall provide to the  
11 State the greatest value in return. When determining the value of  
12 such lands based upon their intended use upon conveyance, the  
13 revenue generation potential of the land shall be taken into  
14 consideration and calculated as part of the value of the land, and  
15 this amount shall be the minimum value that may be accepted by  
16 the State in exchange for the conveyance of the lands.

17       (2) For any lands acquired or developed by the State with Green  
18 Acres funds or acquired or developed by the State in any other  
19 manner and administered by the department, which are to be  
20 conveyed by the State to a nonprofit organization whose purpose  
21 includes environmental protection or open space, farmland, or  
22 historic preservation, the value of the lands shall be based only  
23 upon fair market value or upon a value less than fair market value  
24 as may be determined by the State for good cause in furtherance of  
25 the public interest.

26       (3) A conveyance that is a lease of land from the State to a  
27 nonprofit organization, pursuant to paragraph (2) of this subsection,  
28 shall include a requirement that any sublease receive prior approval  
29 from the department.

30       b. If lands acquired or developed by the State with Green Acres  
31 funds, or acquired or developed by the State in any other manner  
32 and administered by the department, are conveyed, and within 25  
33 years after the date of the conveyance the governing body of the  
34 municipality wherein the lands are located proposes to amend or  
35 revise for any reason the zoning ordinance as it pertains to those  
36 lands, or the zoning board of adjustment or planning board of the  
37 municipality receives an application for a variance from the zoning  
38 regulations or requirements pertaining to those lands, the governing  
39 body, zoning board of adjustment, or planning board, as the case  
40 may be, shall notify the commissioner in writing at least 30 days  
41 prior to taking action on the proposed amendment or revision to the  
42 zoning ordinance or variance application, as the case may be,  
43 according to procedures to be developed therefor by the department  
44 pursuant to the "Administrative Procedure Act," P.L.1968, c.410  
45 (C.52:14B-1 et seq.).

46       c. (1) If the governing body of the municipality wherein the  
47 lands are located amends or revises for any reason the zoning

1 ordinance as it pertains to those lands, or the zoning board of  
2 adjustment or planning board of the municipality grants a variance  
3 from the zoning regulations or requirements pertaining to those  
4 lands, as the case may be, within 25 years after the date of  
5 conveyance of the lands by the State, and that amendment or  
6 revision of the zoning ordinance or grant of a variance results in an  
7 increase in the value of the lands, an amount of money equal to that  
8 increase in value measured as of the effective date of the  
9 amendment or revision of the zoning ordinance or grant of a  
10 variance, as the case may be, shall be paid to the department by the  
11 then current owner of the lands within 60 days after the date of the  
12 last public hearing required pursuant to paragraph (3) of this  
13 subsection, or if a court determination of the value is required  
14 pursuant to paragraph (2) of this subsection, within 60 days after the  
15 date of the court's judgment, for deposit and use by the department  
16 pursuant to section 7 of **[this amendatory and supplementary act]**  
17 P.L.1993, c.38 (C.13:1D-57) . In addition, the current owner of the  
18 lands on the effective date of the first amendment or revision of the  
19 zoning ordinance or first grant of a variance pertaining to those  
20 lands, as the case may be, shall dedicate 20% of the lands for use as  
21 public open space.

22 (2) If the department and the then current owner are unable to  
23 agree on the amount of the increased value resulting from an  
24 amendment or revision of the zoning ordinance or grant of a  
25 variance pertaining to the lands, as the case may be, the value shall  
26 be decided in a summary proceeding before the Superior Court.

27 (3) The department shall not agree to any determination of the  
28 amount of money equal to an increased value unless it has first  
29 conducted two additional public hearings and given appropriate  
30 notice of its intentions according to the procedures set forth in  
31 sections 2, 3, and 4 of **[this amendatory and supplementary act]**  
32 P.L.1993, c.38 (C.13:1D-52 through C.13:1D-54) .

33 (4) If the current owner of the lands on the effective date of any  
34 amendment or revision of the zoning ordinance or grant of a  
35 variance pertaining to those lands, as the case may be, is unable to  
36 pay an amount of money equal to the increase in value required  
37 pursuant to this subsection, the lands shall revert to the State and  
38 shall be managed by the department for the same purposes as they  
39 were immediately prior to the original conveyance by the State.

40 d. The department may accept land of equivalent or greater  
41 value in lieu of any payment required pursuant to subsection c. of  
42 this section, but prior to doing so, the department shall comply with  
43 the requirements of paragraph (3) of that subsection.

44 e. The terms of subsections b., c., and d. of this section shall be  
45 incorporated into any contract of sale, lease, or other similar  
46 instrument, as well as any deed or other instrument of conveyance,

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- 1 involving the lands, and shall run with the land.
- 2 (cf: P.L.1993, c.38, s.6)
- 3
- 4 3. This act shall take effect immediately.