ASSEMBLY COMMITTEE SUBSTITUTE FOR

ASSEMBLY, No. 2297



STATE OF NEW JERSEY

216th LEGISLATURE

 ADOPTED FEBRUARY 12, 2015

Sponsored by:

Assemblywoman ANNETTE QUIJANO

District 20 (Union)

Assemblyman JAY WEBBER

District 26 (Essex, Morris and Passaic)

Assemblyman CRAIG J. COUGHLIN

District 19 (Middlesex)

SYNOPSIS

 Authorizes lease of DEP and locally owned historic buildings and structures and public-private partnerships to facilitate their maintenance and use.

CURRENT VERSION OF TEXT

 Substitute as adopted by the Assembly Agriculture and Natural Resources Committee.

An Act concerning certain historic buildings and structures, and supplementing Title 13 of the Revised Statutes.

 Be It Enacted by the Senate and General Assembly of the State of New Jersey:

 1. As used in this act:

 “Constitutionally dedicated moneys” means the same as that term is defined in section 3 of P.L.1999, c.152 (C.13:8C-3). “Department” means the Department of Environmental Protection.

 “Green Acres bond act” means P.L.1961, c.46; P.L.1971, c.165; P.L.1974, c.102; P.L.1978, c.118; P.L.1983, c.354; P.L.1987, c.265; P.L.1989, c.183; P.L.1992, c.88; P.L.1995, c.204; P.L.2007, c.119; P.L.2009, c.117; and any State general obligation bond act that may be approved after the date of enactment of this act for the purpose of providing funding for the acquisition or development of lands for recreation and conservation purposes or for farmland preservation purposes.

 “Green Acres funds” means constitutionally dedicated moneys, moneys dedicated pursuant to Article VIII, Section II, paragraph 6 of the State Constitution, Green Acres bond act moneys, or other State moneys, appropriated to acquire lands for recreation and conservation purposes.

 “Historic building or structure” means any building or structure approved for inclusion, determined to be potentially eligible for inclusion, or which meets the criteria for inclusion, in the New Jersey Register of Historic Places pursuant to P.L.1970, c.268 (C.13:1B-15.128 et seq.).

 “Historic preservation” means the same as that term is defined in section 3 of P.L.1999, c.152 (C.13:8C-3).

 “Maintenance work” means the repair, restoration, or rehabilitation of a historic building or structure, and provided that the size of the structure is not increased.

 “Public-private partnership agreement” or “agreement” means an agreement entered into by a county, a municipality, or the State and a private entity pursuant to this act for the purposes of historic preservation of a historic building or structure.

 “Recreation and conservation purposes” means the same as that term is defined in section 3 of P.L.1999, c.152 (C.13:8C-3).

 “Tax exempt nonprofit organization” means a nonprofit organization that is exempt from federal taxation pursuant to section 501 (c)(3) of the federal Internal Revenue Code, 26 U.S.C. s.501 (c)(3).

 2. a. The Department of Environmental Protection or any county or municipality that owns or administers lands preserved for recreation and conservation purposes, including lands preserved in whole or in part using Green Acres funds, may offer for lease any historic building or structure located on the land or enter into a contract, to be known as a public-private partnership agreement, with a private entity wishing to use a historic building or structure located on the land, provided that:

 (1) the land shall continue to be preserved and used for recreation and conservation purposes;

 (2) any restrictions on the land concerning recreation and conservation purposes or historic preservation purposes shall be continued and complied with;

 (3) any maintenance work or historic preservation executed as part of the lease or public-private partnership agreement shall not limit public access to the land for recreation and conservation purposes;

 (4) any maintenance work or historic preservation undertaken is (i) approved by the department, including but not limited to the State Historic Preservation Office, prior to commencement of the work, and (ii) completed in substantial compliance with the requirements of the United States Secretary of the Interior's Standards for Rehabilitation pursuant to section 67.7 of title 36, Code of Federal Regulations;

 (5) at least one public hearing on the proposed lease or public-private partnership agreement is held by the department, county, or municipality, as the case may be, at least 30 days prior to final approval thereof by the department; and

 (6) in the case of a public-private partnership agreement, the term shall not be more than 39 years.

 b. (1) Any lease or public-private partnership agreement entered into by a county or municipality pursuant to this act shall be subject to review and approval or disapproval by the Department of Environmental Protection. The Commissioner of Environmental Protection shall review and approve, request revisions to, or disapprove any lease or public-private partnership agreement within 30 days after its submittal to the department for review. If the commissioner does not take action within 30 days after its submittal, the lease or agreement shall be deemed approved by the department.

 (2) Any private entity intending to enter into a lease or public-private partnership agreement with the department shall submit an application therefor pursuant to the procedures and requirements of subsection c. of this section. The commissioner shall act upon the application within 30 days after its submittal, or the lease or agreement shall be deemed approved by the department.

 c. The department shall establish, by rule or regulation adopted pursuant to the “Administrative Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et seq.), application procedures for potential lessees, requirements for establishing a public-private partnership agreement with the department or pursuant to section 3 of this act, and criteria for the approval of the lease or public-private partnership agreement, which may include but need not be limited to: a demonstration by the proposed lessee or participant in a public-private partnership agreement that the lessee or participant, as applicable, has the financial resources to undertake the maintenance work or historic preservation on the historic building or structure subject to the lease or private-public partnership agreement; procedures concerning rent abatements; requirements for pre-approval of any maintenance work or historic preservation; and any other criteria necessary to ensure the maintenance or historic preservation of the historic building or structure located on land administered by the department or owned by the applicable county or municipality, and preserved for recreation and conservation purposes.

 d. Any maintenance work or historic preservation performed by or for a lessee or a participant in a public-private partnership agreement on a historic building or structure pursuant to this section shall not be subject to the provisions of P.L.1963, c.150 (C.34:11-56.25 et seq.), unless public moneys are funding the maintenance work or historic preservation.

 e. The department may provide for the abatement of rent of a lessee who performs maintenance work or historic preservation on a historic building or structure pursuant to this section. A rent abatement shall take into consideration the nature and extent of the maintenance work or historic preservation in contributing to the habitability of the historic building or structure and the value of any capital improvement to the historic building or structure.

 3. a. Whenever a county or municipality intends to enter into a lease or public-private partnership agreement with a private entity pursuant to section 2 of this act, at least 30 days prior to entering into the lease or agreement, the county or municipality shall notify the Commissioner of Environmental Protection in writing of such intent, and hold at least one public hearing in the county or municipality, as applicable, to solicit public input on the proposed lease or agreement. The notice to the commissioner pursuant to this section shall include a copy of the proposed lease or agreement and notice of the date of the public hearing. Within 15 days after the public hearing, the county or municipality, as applicable, shall provide to the commissioner written notification that the required public hearing was held.

 b. The department shall issue a determination concerning the proposed lease or public-private partnership agreement in accordance with the rules and regulations adopted pursuant to subsection c. of section 2 of this act.

 c. Within 15 days after receiving the department’s determination concerning the proposed lease or public-private partnership agreement, the county or municipality, as applicable, and the private entity shall:

 (1) revise the proposed lease or agreement if necessary in accordance with the department’s determination, and provide to the commissioner written notification that the lease or agreement has been executed and a copy of the executed lease or agreement; or

 (2) notify the department in writing that the county or municipality, as applicable, and the private entity have decided not to execute the lease or agreement.

 d. A lease or public-private partnership agreement entered into pursuant to this act shall not be deemed to constitute a conveyance, disposal, or diversion pursuant to section 13 of P.L.1961, c.45 (C.13:8A-13), section 13 of P.L.1971, c.419 (C.13:8A-31), section 13 of P.L.1975, c.155 (C.13:8A-47), or section 32 or 33 of P.L.1999, c.152 (C.13:8C-32 or C.13:8C-33), as the case may be.

 4. a. A tax exempt nonprofit organization that leases land preserved for recreation and conservation purposes from the department may sublease any historic building or structure located thereon, with the prior approval of the department.

 b. A tax exempt nonprofit organization may retain all of the proceeds from a sublease allowed pursuant to subsection a. of this section, provided that the proceeds are based on fair market value and are used solely for the maintenance and historic preservation of the historic buildings or structures located on the land leased from the department.

 5. This act shall take effect immediately.