

ASSEMBLY, No. 852

STATE OF NEW JERSEY

219th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2020 SESSION

Sponsored by:

Assemblyman NICHOLAS CHIARAVALLOTI

District 31 (Hudson)

SYNOPSIS

Requires DEP to take certain actions before sale or lease of certain State-owned lands.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



1 **AN ACT** concerning the sale or lease of certain State-owned lands,
2 amending and supplementing P.L.1993, c.38, and amending
3 P.L.1983, c.324.

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

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

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

12 "Commissioner" means the Commissioner of **the Department**
13 **of** Environmental Protection.

14 "Convey" means to sell, exchange, lease for a term of 25 years or
15 more, grant, or agree to sell, exchange, lease for a term of 25 years
16 or more, or grant, in an amount greater than one 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; and 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 P.L.1999, c.152 (C.13:8C-1 et seq.), and P.L.2016, c.12 (C.13:8C-
29 43 et seq.), or any similar act for such purposes that may be
30 enacted.

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

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

43 "Recreation and conservation purposes" means the same as that
44 term is defined in section 3 of P.L.1999, c.152 (C.13:8C-3).
45 (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. (New section) a. Notwithstanding the provisions of
2 P.L.1993, c.38 (C.13:1D-51 et seq.), and any rules and regulations
3 adopted pursuant thereto, to the contrary, whenever the department
4 intends to convey lands acquired or developed by the State with
5 Green Acres funds, or acquired or developed by the State in any
6 other manner and administered by the Department of Environmental
7 Protection, or any agency of the department, prior to obtaining State
8 House Commission approval pursuant to the provisions of
9 P.L.1993, c.38 (C.13:1D-51 et seq.), the department shall first offer
10 the municipality in which the lands are located the right of first
11 refusal to acquire the lands for recreation and conservation
12 purposes. If the governing body of the municipality in which the
13 lands are located elects not to exercise the right to acquire the lands,
14 the department shall offer the county in which the lands are located
15 the right to acquire the lands for recreation and conservation
16 purposes.

17 b. The State House Commission shall not approve a
18 conveyance pursuant to the provisions of P.L.1993, c.38 (C.13:1D-
19 51 et seq.) to a private entity unless both the municipality and
20 county in which the lands are located have elected not to exercise
21 the right to acquire the lands pursuant to subsection a. of this
22 section, and written documentation of the municipality's and
23 county's decisions are provided by the commissioner to the State
24 House Commission.

25 c. Any lands acquired by a municipality or county pursuant to
26 subsection a. of this section shall not be conveyed, disposed of, or
27 diverted to use for any purpose other than recreation and
28 conservation purposes without the approval of the commissioner
29 and the State House Commission, in accordance with the
30 requirements of P.L.1993, c.38 (C.13:1D-51 et seq.) and any other
31 applicable law.

32

33 3. Section 6 of P.L.1983, c.324 (C.13:1L-6) is amended to read
34 as follows:

35 6. a. Notwithstanding any other law, rule, or regulation to the
36 contrary, the department shall have the authority to grant such
37 rights or privileges to individuals or corporations for the
38 construction, operation, and maintenance for private profit of any
39 facility, utility, or device upon the State parks and forests, lands,
40 and waters as the department shall find necessary and proper for the
41 use and enjoyment of the lands by the public, provided however,
42 the department shall obtain the approval of the governing body in
43 which the lands are located before granting any rights or privileges
44 to an individual or corporation pursuant to this subsection for the
45 construction, operation, and maintenance for private profit of any
46 facility, utility, or device not in existence on the date of enactment
47 of P.L. , c. (pending before the Legislature as this bill) . Such
48 rights and privileges shall include, but not be limited to,

1 concessions, franchises, licenses, permits , and other rights and
2 privileges deemed by the department to be appropriate in the
3 utilization of the lands for the public benefit. The grant or award of
4 such rights or privileges shall be made in the name of the State of
5 New Jersey and executed by the department, at such price and upon
6 such terms and conditions as shall be fixed by the department.

7 b. The department shall have the authority to acquire rights and
8 privileges in lands owned by individuals or corporations where the
9 department deems it necessary or useful, for the proper
10 implementation of the provisions of this amendatory and
11 supplementary act, that an interest in such lands be acquired. Such
12 rights and privileges shall include, but not be limited to, leases,
13 licenses, concessions, franchises , and permits. Any rights or
14 privileges acquired hereunder and the considerations therefor shall
15 be subject to terms and conditions fixed by the department.

16 (cf: P.L.1983, c.324, s.6)

17
18 4. This act shall take effect immediately.
19
20

21 STATEMENT

22
23 This bill would require the Department of Environmental
24 Protection (DEP) to take certain actions before sale or lease of
25 certain State-owned lands.

26 This bill would revise the procedures, requirements, and other
27 provisions established by P.L.1993, c.38 (C.13:1D-51 et seq.)
28 (commonly referred to as the "Ogden-Rooney process") that must
29 be followed before lands, including structures thereon, acquired or
30 developed by the State with Green Acres funds, or acquired or
31 developed by the State in any other manner and administered by the
32 Department of Environmental Protection (DEP), or any agency of
33 the department, may be conveyed.

34 Under current law, the Ogden-Rooney process is required to be
35 followed all types of sales and exchanges and for leases for terms of
36 25 years or more. The Ogden-Rooney process involves, among
37 other things, the preparation and submission of a report identifying
38 the reasons for, and all advantages and disadvantages and benefits
39 and detriments of, the proposed conveyance, assessing the
40 environmental and recreational impact of that proposed conveyance,
41 and assessing the environmental and economic value of the lands
42 proposed to be conveyed under both their current and proposed
43 uses. In addition, the law requires, for the purpose of determining
44 the amount of consideration to be paid or transferred to the State in
45 exchange for conveying lands acquired or developed by the State
46 with Green Acres funds, or acquired or developed by the State in
47 any other manner and administered by the DEP, the value of the
48 lands be based upon their intended use upon conveyance or upon

1 their highest and best use, whichever would provide to the State the
2 greatest value in return.

3 Under this bill, prior to obtaining State House Commission
4 approval for a conveyance of lands pursuant to the Ogden-Rooney
5 process, the DEP would be required to give the municipality in
6 which the lands are located the right of first refusal, and if the
7 governing body of the municipality in which the lands are located
8 elects not to exercise the right to acquire the lands, the department
9 would offer the county in which the lands are located the right to
10 acquire the lands for recreation and conservation purposes. The
11 State House Commission would be prohibited from approving a
12 conveyance of land to a private entity unless both the municipality
13 and county in which the lands are located have elected not to
14 exercise the right to acquire the lands, and written documentation of
15 those decisions is provided by the DEP Commissioner to the State
16 House Commission.

17 In addition, this bill would amend the “State Park and Forestry
18 Resources Act,” P.L.1983, c.324 (C.13:1L-1 et seq.), which, in part,
19 allows the DEP to enter agreements with private entities for the
20 construction, operation, and maintenance for private profit of any
21 facility, utility, or device in State parks and forests as the DEP finds
22 proper for the use and enjoyment of the lands by the public. This
23 bill would require the DEP obtain the approval of the governing
24 body in which the lands are located before entering into any such
25 agreement with a private entity for the construction, operation, and
26 maintenance for private profit of any facility, utility, or device not
27 in existence on the date this bill is enacted into law.

28 While this bill would apply to all lands, including structures
29 thereon, acquired or developed by the State with Green Acres funds,
30 or acquired or developed by the State in any other manner and
31 administered by the DEP, this bill is of particular importance for the
32 protection of Liberty State Park. Liberty State Park is an oasis in
33 the middle of metropolitan northern New Jersey. With the
34 Manhattan skyline, the Statue of Liberty, and Ellis Island as a
35 spectacular backdrop, Liberty State Park is one of the State's most
36 dramatic parks. It encompasses 1,212 acres, of which
37 approximately 300 acres is currently open to the public.
38 Unfortunately, this urban oasis has been the subject of a number of
39 development proposals in recent years, including a Request for
40 Proposals issued by the DEP, that, if allowed, would seriously
41 jeopardize this incredible natural resource.