

ASSEMBLY, No. 2007

STATE OF NEW JERSEY
219th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2020 SESSION

Sponsored by:

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District 21 (Morris, Somerset and Union)

SYNOPSIS

Requires DEP to establish “private wildlife habitat certification program”; creates affirmative defense against municipal nuisance ordinances for properties certified under the program.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



1 **AN ACT** concerning the creation of private wildlife habitat and
2 municipal nuisance ordinances and supplementing Title 13 of the
3 Revised Statutes.

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

7
8 1. As used in this act:

9 “Certifying entity” means a nonprofit conservation organization,
10 a for-profit landscaping company, or any other private entity,
11 provided that the commissioner has determined that the entity
12 possesses the appropriate expertise, qualifications, and resources to
13 assess whether a property satisfies the standards and criteria
14 established for purposes of certifying a property as a “certified
15 private wildlife habitat” pursuant to section 2 of this act.

16 “Commissioner” means the Commissioner of Environmental
17 Protection.

18
19 2. a. The Commissioner of Environmental Protection shall
20 establish a private wildlife habitat certification program. In
21 establishing the program, the commissioner may consider any
22 standards used by recognized conservation organizations for
23 purposes of certifying properties as suitable wildlife habitat.

24 b. The commissioner shall adopt, pursuant to the
25 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
26 seq.), rules and regulations necessary to implement the program,
27 including but not limited to, rules and regulations that:

28 (1) establish standards and procedures for the physical
29 inspection and certification of a property as "certified private
30 wildlife habitat";

31 (2) identify one or more certifying entities which shall be
32 authorized to physically inspect and certify that a property is a
33 “certified private wildlife habitat,” and provide that the certifying
34 entities may charge fees to cover reasonable costs associated with
35 the inspection and certification process; and

36 (3) promote the substantial use of native plants.

37 c. The commissioner shall maintain a list of all certifying
38 entities identified pursuant to paragraph (2) of subsection b. of this
39 section and shall publish the list on the department's Internet
40 website.

41
42 3. A certifying entity shall issue to the owner of each property
43 that applies and qualifies for certification as a "certified private
44 wildlife habitat” a certificate of registration to be filed by the
45 property owner with the municipality in which the property is
46 located pursuant to the provisions of section 4 of this act, and a sign
47 designating the property as a “certified private wildlife habitat,”
48 which may be posted on the property by the owner.

1 authorized to consider any standards used by recognized
2 conservation organizations for purposes of certifying properties as
3 suitable wildlife habitat. A person who registers a property that has
4 been certified under the program, as outlined below, would be
5 entitled to an affirmative defense against any liability for a violation
6 of a municipal ordinance under which the “certified private wildlife
7 habitat,” or any component thereof, is deemed, or would be deemed,
8 a nuisance or an otherwise unlawful condition.

9 In establishing a private wildlife habitat certification program,
10 the commissioner would be required to adopt regulations to
11 implement the program. The regulations would establish standards
12 and procedures for the physical inspection of a property and,
13 thereafter, its certification as “certified private wildlife
14 habitat.” The regulations would also identify one or more private
15 certifying entities to implement the physical inspection and
16 certification.

17 The certifying entities identified in the regulations could include
18 nonprofit conservation organizations, for-profit landscaping
19 companies, or any other private entities, provided that the
20 commissioner has determined that any such entity possesses the
21 appropriate expertise, qualifications, and resources to assess
22 whether a property satisfies the standards and criteria established
23 for purposes of certifying a property as a “certified private wildlife
24 habitat.” The certifying entities would be authorized to charge fees
25 to cover reasonable costs associated with the inspection and
26 certification process.

27 The bill would also require that the regulations promote the use
28 of native plants. In addition, certifying entities would be required
29 to issue to the owner of each certified property a certificate of
30 registration to be filed with the municipality in which the property
31 is located, and a sign for purposes of designating the property as a
32 “certified private wildlife habitat.”

33 Under the bill, prior to altering a property for purposes of
34 establishing a “certified private wildlife habitat,” the owner of the
35 property would be required to obtain from a certifying entity a
36 certificate of registration and file it with the municipal clerk of the
37 municipality in which the property is located. The municipal clerk
38 would be authorized to charge a fee not to exceed \$25 for each
39 certificate of registration filed.

40 A certificate of registration would expire two years after the
41 issue date; however, the bill provides that the property owner could
42 renew a certificate of registration for an additional two years by
43 submitting a written and signed certification affirming that the
44 property continues to comply with all applicable standards and
45 criteria for certified private wildlife habitats and remains
46 substantially unaltered, or has been improved, since the time the
47 initial certificate of registration was issued. The bill would allow
48 for only one such renewal. Upon the expiration of a certificate of

1 registration, a person could apply for a new certificate of
2 registration, which would be issued subject to all the
3 aforementioned standards, procedures, and requirements, including
4 a new physical inspection and new certification of the property by a
5 certifying entity.

6 A person who provides a notice of intent to alter a property for
7 purposes of establishing a “certified private wildlife habitat,” and
8 thereafter timely registers the property and maintains an unexpired
9 certificate of registration with a municipality, would be entitled to
10 an affirmative defense against any liability for a violation of a
11 municipal ordinance under which the “certified private wildlife
12 habitat,” or any component thereof, is deemed, or would be deemed,
13 a nuisance or an otherwise unlawful condition. The person would
14 be entitled to this affirmative defense from the time of filing the
15 notice of intent, provided that a certificate of registration is indeed
16 obtained and filed within 60 days after the notice of intent.