

SENATE, No. 2149

STATE OF NEW JERSEY 219th LEGISLATURE

INTRODUCED MARCH 16, 2020

Sponsored by:

Senator JOSEPH F. VITALE

District 19 (Middlesex)

SYNOPSIS

Requires DEP to offer to purchase and demolish certain contaminated residential property.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT concerning the purchase of contaminated residential
2 property, and amending and supplementing P.L.1976, c.141.

3
4 **BE IT ENACTED** *by the Senate and General Assembly of the State*
5 *of New Jersey:*

6
7 1. (New Section) a. For any single family or two-family
8 residential property that is constructed upon a contaminated site,
9 and upon request of the owner thereof, the Department of
10 Environmental Protection shall offer to purchase the property from
11 the owner at fair market value without allowing for any diminution
12 in value caused by the contamination, provided:

13 (1) the indoor air in the residence exceeded residential indoor
14 air screening levels for volatile organic compounds adopted by the
15 department, and the levels require remedial action to reduce the
16 concentrations to prevent chronic exposure in order to protect the
17 health of the residents;

18 (2) soil contaminated with volatile organic compounds existed
19 on the property above the residential soil remediation standards;
20 and

21 (3) the owner of the property had no notice that the property was
22 contaminated at the time of purchase by the owner.

23 b. The provisions of this section shall apply no matter when the
24 discharge that caused the contamination occurred.

25 c. The department shall use moneys from the New Jersey Spill
26 Compensation Fund to purchase properties pursuant to this section.

27 d. Notwithstanding the provisions of section 12 of P.L.1976,
28 c.141 (C.58:10-23.11k), the owner of any single family or two-
29 family residential property whose property meets the criteria
30 established in this section may request of the Department of
31 Environmental Protection to make an offer to purchase the property
32 within one year after the date of enactment of P.L. ,
33 c. (C.) (pending before the Legislature as this bill), or within one
34 year after the date of discovery of the damage, whichever is later,
35 and the department shall make that offer within 60 days of the
36 request.

37 e. Any residential property purchased pursuant to this section
38 shall be demolished by the State and the site shall be remediated for
39 use as open space.

40
41 2. Section 16 of P.L.1976, c.141 (C.58:10-23.11o) is amended
42 to read as follows:

43 16. a. Moneys in the New Jersey Spill Compensation Fund shall
44 be disbursed by the administrator for the following purposes and no
45 others:

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 (1) Costs incurred under section 7 of P.L.1976, c.141 (C.58:10-
2 23.11f);

3 (2) Damages as defined in section 8 of P.L.1976,
4 c.141 (C.58:10-23.11g);

5 (3) Such sums as may be necessary for research on the
6 prevention and the effects of discharges of hazardous substances on
7 the environment and public health, on methods of pollution
8 prevention and recycling of hazardous substances, and on the
9 development of improved cleanup, removal, and disposal operations
10 as may be appropriated by the Legislature; provided, however, that
11 such sums, together with sums appropriated pursuant to paragraph
12 (5) of this subsection, shall not exceed, in any fiscal year, an
13 amount equal to the amount of interest credited to the fund during
14 the most recent State fiscal year for which the total amount of such
15 interest income is known;

16 (4) Such sums as may be necessary for the boards, general
17 administration of the fund, equipment and personnel costs of the
18 department and any other State agency related to the enforcement of
19 P.L.1976, c.141, including any costs incurred by the department
20 pursuant to P.L.1990, c.78 or pursuant to any other law designed to
21 prevent the discharge of a hazardous substance, as may be
22 appropriated by the Legislature;

23 (5) Such sums as may be appropriated by the Legislature for
24 research and demonstration programs concerning the causes and
25 abatement of ocean pollution; provided, however, that such sums,
26 together with sums appropriated pursuant to paragraph (3) of this
27 subsection, shall not exceed, in any fiscal year, an amount equal to
28 the amount of interest credited to the fund during the most recent
29 State fiscal year for which the total amount of such interest income
30 is known;

31 (6) Such sums as may be requested by the commissioner, up to a
32 limit of \$400,000 per year, to cover the costs associated with the
33 administration of the "Environmental Cleanup Responsibility Act,"
34 P.L.1983, c.330 (C.13:1K-6 et seq.);

35 (7) Costs attributable to the State's obligation to defend and
36 indemnify a contractor pursuant to sections 1 through 11 of
37 P.L.1991, c.373 (C.58:10-23.11f8 et seq.);

38 (8) Administrative costs incurred by the department to
39 implement the provisions of P.L.1977, c.74 (C.58:10A-1 et seq.), as
40 amended and supplemented by P.L.1990, c.28, on a timely basis,
41 except that the amounts used for this purpose shall not exceed
42 \$2,000,000. Any moneys disbursed by the department from the fund
43 for this purpose shall be repaid to the fund in equal amounts from
44 the penalties collected by the department pursuant to P.L.1977,
45 c.74 and P.L.1990, c.28, in annual installments beginning July 1,
46 1991 and annually thereafter until the full amount is repaid
47 according to a schedule of repayments determined by the State
48 Treasurer; **[and]**

1 (9) Such sums as may be necessary to reimburse a local unit for
2 costs incurred in an emergency response action taken to prevent,
3 contain, mitigate, clean up or remove a discharge of a hazardous
4 substance; and

5 (10) Such sums as may be necessary to purchase residential
6 property pursuant to section 1 of P.L. , c. (C.) (pending before
7 the Legislature as this bill).

8 b. The Treasurer may invest and reinvest any moneys in said
9 fund in legal obligations of the United States, this State or any of its
10 political subdivisions. Any income or interest derived from such
11 investment shall be included in the fund.

12 (cf: P.L.1992, c.85, s.1)

13
14 3. This act shall take effect immediately.

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17 STATEMENT

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19 This bill would require the Department of Environmental
20 Protection to make an offer to purchase a single family or two-
21 family residential property that was constructed on a contaminated
22 site from the owner at fair market value without allowing for any
23 diminution in value caused by the contamination, provided the
24 indoor air in the residence exceeded residential indoor air screening
25 levels for volatile organic compounds adopted by the department,
26 and the levels require remedial action to reduce the concentrations
27 to prevent chronic exposure in order to protect the health of the
28 residents, soil contaminated with volatile organic compounds
29 existed on the property above the residential soil remediation
30 standards, and the owner had no notice that the property was
31 contaminated at the time of purchase by the owner.

32 The bill also would require that the structure be demolished and
33 the property be remediated for use as open space. The bill would
34 make moneys available for the purpose from the New Jersey Spill
35 Compensation Fund. Finally, the bill would allow a property owner
36 whose property meets the criteria in the bill to request of the
37 department to make an offer to purchase the property within one
38 year after the date of enactment of the bill into law, or within one
39 year after the date of discovery of the damage, whichever is later
40 and the department is to make that offer within 60 days.