

SENATE, No. 376

STATE OF NEW JERSEY
221st LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2024 SESSION

Sponsored by:

Senator JOSEPH PENNACCHIO

District 26 (Morris and Passaic)

SYNOPSIS

Establishes home elevation fund and dedicates up to \$5 million of realty transfer fee revenue annually for this purpose.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



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2

1 AN ACT concerning home elevations, dedicating a portion of the
2 realty transfer fee revenue for this purpose, and amending and
3 supplementing various parts of the statutory law.
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5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:
7

8 1. (New section) a. There is created in the Department of
9 Environmental Protection a special non-lapsing fund to be known as
10 the “Flood Protection and Home Elevation Fund.” The money in
11 this fund is to be dedicated and shall be used only to carry out the
12 purpose specified in subsection b. of this section. The fund shall be
13 credited with all revenues collected and deposited in the fund
14 pursuant to section 4 of P.L.1968, c.49 (C.46:15-8), all interest and
15 other income received from the investment of money in the fund,
16 and any money which, from time to time, may otherwise become
17 available for the purposes of the fund. Pending the use thereof
18 pursuant to the provisions of subsection b. of this section, the
19 money deposited in the fund shall be held in interest-bearing
20 accounts in public depositories, as defined pursuant to section 1 of
21 P.L.1970, c.236 (C.17:9-41), and may be invested or reinvested in
22 such securities as are approved by the State Treasurer. Interest or
23 other income earned on monies deposited into the fund shall be
24 credited to the fund for use as set forth in subsection b. of this
25 section for other money in the fund.

26 b. Monies deposited in the “Flood Protection and Home
27 Elevation Fund” shall be used to reimburse a homeowner who
28 undertakes a home elevation project subsequent to the effective date
29 of this act in an amount equal to 25 percent of the annual interest
30 payment made by the homeowner on any loans taken to finance the
31 home elevation project, or \$750, whichever is less; provided,
32 however, that the county in which the home elevation project takes
33 place provides matching funds to the homeowner in the same
34 amount.

35 c. In order to qualify for reimbursement pursuant to subsection
36 b. of this section, a homeowner shall first obtain all necessary State
37 and local zoning and land use approvals for the home elevation
38 project, and approval from the financing institution for any loan
39 taken to finance the home elevation project. The homeowner shall
40 then apply to the department and to the county on a form and in a
41 manner established by the department. No payment shall be made
42 by the State to the homeowner until the home elevation is complete,
43 and proof thereof to the satisfaction of the department has been
44 provided to the department. A qualifying homeowner shall be
45 eligible to reapply to the State and county for reimbursement each

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.

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1 year the homeowner continues to pay interest on a loan taken to
2 finance the home elevation project.

3 d. Before a county provides matching funds to homeowners
4 pursuant to subsection b. of this section, the governing body of the
5 county shall establish, by ordinance or resolution, as appropriate, a
6 source of funding for the matching funds, which may include, but
7 need not be limited to, the county portion of the basic fee collected
8 pursuant to paragraph (1) of subsection a. of section 3 of
9 P.L.1968, c.49 (C.46:15-7) or county open space trust funds as
10 specified in paragraph (1) of subsection a. of section 2
11 of P.L.1997, c.24 (C.40:12-15.2).

12 e. As used in this section:

13 "Department" means the Department of Environmental
14 Protection.

15 "Home elevation project" means a project to elevate or raise a
16 single family or two-family house that is the primary residence of
17 the owner to eliminate or significantly mitigate the threat of
18 flooding and its attendant damage and destruction to the property,
19 whether the single family or two-family house is intact or is being
20 restored and reconstructed at its original location to a higher
21 elevation.

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23 2. Section 1 of P.L.1997, c.24 (C.40:12-15.1) is amended to
24 read as follows:

25 1. As used in P.L.1997, c.24 (C.40:12-15.1 et seq.):

26 "Acquisition" or "acquire" means the securing of a fee simple or
27 a lesser interest in land, including but not limited to an easement
28 restricting development, by gift, purchase, installment purchase
29 agreement, devise, or condemnation.

30 "Blue Acres project" means any project to acquire, for recreation
31 and conservation purposes, lands that have been damaged by, or
32 may be prone to incurring damage caused by, storms or storm-
33 related flooding, or that may buffer or protect other lands from such
34 damage, and includes the demolition of structures on, the removal
35 of debris from, and the restoration of those lands to a natural state
36 or to a state useful for recreation and conservation purposes.

37 "Charitable conservancy" means a corporation or trust exempt
38 from federal income taxation under paragraph (3) of subsection (c)
39 of section 501 of the federal Internal Revenue Code of 1986 (26
40 U.S.C. s.501(c)(3)), whose purposes include (1) acquisition and
41 preservation of lands in a natural, scenic, or open condition, or (2)
42 historic preservation of historic properties, structures, facilities,
43 sites, areas, or objects, or the acquisition of such properties,
44 structures, facilities, sites, areas, or objects for historic preservation
45 purposes.

46 "County trust fund" means a "County Open Space, Recreation,
47 Floodplain Protection, and Farmland and Historic Preservation

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1 Trust Fund" created pursuant to subsection c. of section 2 of
2 P.L.1997, c.24 (C.40:12-15.2).

3 "Development" means any improvement to land acquired for
4 recreation and conservation purposes designed to expand and
5 enhance its utilization for those purposes.

6 "Farmland" means land actively devoted to agricultural or
7 horticultural use that is valued, assessed, and taxed pursuant to the
8 "Farmland Assessment Act of 1964," P.L.1964, c.48 (C.54:4-
9 23.1 et seq.).

10 "Farmland preservation purposes" means the long-term
11 preservation of farmland for agricultural or horticultural use.

12 "Historic preservation" means the performance of any work
13 relating to the stabilization, repair, rehabilitation, renovation,
14 restoration, improvement, protection, or preservation of an historic
15 property, structure, facility, site, area, or object.

16 "Historic property, structure, facility, site, area, or object" means
17 any property, structure, facility, site, area, or object approved for
18 inclusion, or which meets the criteria for inclusion, in the New
19 Jersey Register of Historic Places pursuant to P.L.1970, c.268
20 (C.13:1B-15.128 et seq.).

21 "Home elevation project" means a project to elevate or raise a
22 single family or two-family house that is the primary residence of
23 the owner to eliminate or significantly mitigate the threat of
24 flooding and its attendant damage and destruction to the property,
25 whether the single family or two-family house is intact or is being
26 restored and reconstructed at its original location to a higher
27 elevation.

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

32 "Municipal trust fund" means a "Municipal Open Space,
33 Recreation, Floodplain Protection, and Farmland and Historic
34 Preservation Trust Fund" created pursuant to subsection c. of
35 section 7 of P.L.1997, c.24 (C.40:12-15.7).

36 "Public indoor recreation" means public recreation in enclosed
37 structures or facilities, and includes but is not limited to swimming
38 pools, basketball courts, and ice skating rinks open for public use.

39 "Recreation and conservation purposes" means the use of lands
40 for parks, open space, natural areas, ecological and biological study,
41 forests, water reserves, wildlife preserves, fishing, hunting,
42 camping, boating, winter sports, or similar uses for either public
43 outdoor recreation or conservation of natural resources, or both, or
44 the use of lands for public indoor recreation.

45 (cf: P.L.2011, c.173, s.1)

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1 3. Section 2 of P.L.1997, c.24 (C.40:12-15.2) is amended to
2 read as follows:

3 2. a. (1) The governing body of any county may submit to
4 the voters of the county in a general or special election a
5 proposition authorizing imposition of an annual levy for an amount
6 or at a rate deemed appropriate for any or all of the following
7 purposes, or any combination thereof, as determined by the
8 governing body:

9 (a) acquisition of lands for recreation and conservation
10 purposes;

11 (b) development of lands acquired for recreation and
12 conservation purposes;

13 (c) maintenance of lands acquired for recreation and
14 conservation purposes;

15 (d) acquisition of farmland for farmland preservation purposes;

16 (e) historic preservation of historic properties, structures,
17 facilities, sites, areas, or objects, and the acquisition of such
18 properties, structures, facilities, sites, areas, or objects for historic
19 preservation purposes;

20 (f) payment of debt service on indebtedness issued or incurred
21 by a county for any of the purposes set forth in subparagraph (a),
22 (b), (d), (e) or (g) of this paragraph; **[or]**

23 (g) Blue Acres projects; or

24 (h) Home elevation projects pursuant to section 1 of
25 P.L. , c. (C.) (pending before the Legislature as this bill) .

26 (2) The amount or rate of the annual levy may be subdivided in
27 the proposition to reflect the relative portions thereof to be allocated
28 to any of the respective purposes specified in paragraph (1) of this
29 subsection or may be depicted as a total amount or rate, to be
30 subdivided in a manner determined previously, or to be determined
31 at a later date, by the governing body of the county after conducting
32 at least one public hearing thereon.

33 b. Upon approval of the proposition by a majority of the votes
34 cast by the voters of the county, the governing body of the county
35 may annually raise by taxation a sum not to exceed the amount or
36 rate set forth in the proposition approved by the voters for the
37 purposes specified therein. If the amount or rate set forth in the
38 proposition was not subdivided among the various purposes, the
39 governing body of the county may determine the appropriate
40 amount or rate to be allocated to each purpose after conducting at
41 least one public hearing thereon.

42 c. Amounts raised by the levy imposed pursuant to this section
43 shall be deposited into a "County Open Space, Recreation,
44 Floodplain Protection, and Farmland and Historic Preservation
45 Trust Fund" to be created by the county, and shall be used
46 exclusively for the purposes authorized by the voters of the county.
47 Any interest or other income earned on monies deposited into the
48 county trust fund shall be credited to the fund to be used for the

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1 same purposes as the principal. Separate accounts may be created
2 within the county trust fund for the deposit of revenue to be
3 expended for each of the purposes specified in the proposition
4 approved by the voters of the county. A county may deposit other
5 funds into the County Open Space, Recreation, Floodplain
6 Protection, and Farmland and Historic Preservation Trust Fund, as it
7 may, from time to time, deem appropriate.

8 d. (1) (a) Selection of lands for acquisition for recreation and
9 conservation purposes shall be in accordance with an open space
10 and recreation plan prepared and adopted by the county.

11 (b) Selection of projects to develop or maintain lands acquired
12 for recreation and conservation purposes shall be in accordance
13 with an open space and recreation development and maintenance
14 plan prepared and adopted by the county.

15 (c) Selection of farmland for acquisition for farmland
16 preservation purposes shall be in accordance with a farmland
17 preservation plan prepared and adopted by the county or pursuant to
18 the provisions of the "Agriculture Retention and Development Act,"
19 P.L.1983, c.32 (C.4:1C-11 et al.) or any other law enacted for the
20 purpose of preserving farmland, or any rules or regulations adopted
21 pursuant thereto.

22 (d) Selection of historic preservation projects shall be in
23 accordance with a historic preservation plan prepared and adopted
24 by the county.

25 (2) Monies in the county trust fund may be used to pay the cost
26 of preparing and adopting the plans required by this subsection.

27 e. The governing body of a county may submit to the voters of
28 the county in a general or special election a proposition amending
29 or supplementing a proposition previously submitted, approved, and
30 implemented as provided pursuant to this section either (1)
31 changing the amount or rate of the annual levy, or (2) adding or
32 removing purposes authorized pursuant to this section for which the
33 levy may be expended. Upon approval of the amendatory or
34 supplementary proposition by a majority of the votes cast by the
35 voters of the county, the governing body of the county shall
36 implement it in the same manner as set forth in P.L.1997, c.24
37 (C.40:12-15.1 et seq.) for implementation of the original
38 proposition.

39 f. Upon petition to the governing body of a county signed by
40 the voters of the county equal in number to at least 15% of the votes
41 cast therein at the last preceding general election, filed with the
42 governing body at least 90 days before a general or special election,
43 the governing body of the county shall submit to the voters of the
44 county in the general or special election the proposition otherwise
45 authorized pursuant to subsection a. or subsection e. of this section,
46 as the case may be.

47 (cf: P.L.2011, c.173, s.2)

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1 4. Section 4 of P.L.1968, c.49 (C.46:15-8) is amended to read
2 as follows:

3 4. a. The proceeds of the fees collected by the county
4 recording officer, as authorized by P.L.1968, c.49
5 (C.46:15-5 et seq.), shall be accounted for and remitted to the
6 county treasurer.

7 b. (1) The county portion of the basic fee collected pursuant to
8 paragraph (1) of subsection a. of section 3 of P.L.1968, c.49
9 (C.46:15-7) shall be retained by the county treasurer for the use of
10 the county. The county may use all or a portion of this money to
11 provide matching funds for home elevation projects pursuant to
12 section 1 of P.L. , c. (C.) (pending before the Legislature
13 as this bill).

14 (2) The State portion of the basic fee, the additional fee, and the
15 general purpose fee shall be paid to the State Treasurer for the use
16 of the State. Payments shall be made to the State Treasurer on the
17 tenth day of each month following the month of collection.

18 c. (1) Amounts, not in excess of \$25,000,000, paid during the
19 State fiscal year to the State Treasurer from the payment of the
20 State portion of the basic fee shall be credited to the "Shore
21 Protection Fund" created pursuant to section 1 of P.L.1992, c.148
22 (C.13:19-16.1), in the manner established under that section.

23 (2) In addition to the amounts credited to the "Shore Protection
24 Fund" pursuant to paragraph (1) of this subsection, amounts equal
25 to \$12,000,000 in each of the first 10 years after the date of
26 enactment of the "Highlands Water Protection and Planning Act,"
27 P.L.2004, c.120 (C.13:20-1 et al.) and to \$5,000,000 in each year
28 thereafter, paid during the State fiscal year to the State Treasurer
29 from the payment of fees collected by the county recording officer
30 other than the additional fee of \$0.75 for each \$500.00 of
31 consideration or fractional part thereof recited in the deed in excess
32 of \$150,000.00 shall be credited to the "Highlands Protection Fund"
33 created pursuant to section 21 of P.L.2004, c.120 (C.13:20-19), in
34 the manner established under that section. No monies shall be
35 credited to the "Highlands Protection Fund" pursuant to this
36 paragraph until and unless the full amount of \$25,000,000 has first
37 been credited to the "Shore Protection Fund" pursuant to paragraph
38 (1) of this subsection.

39 (3) In addition to the amounts credited to the "Shore Protection
40 Fund" pursuant to paragraph (1) of this subsection and the
41 "Highlands Protection Fund" pursuant to paragraph (2) of this
42 subsection, amounts of up to \$5,000,000, as determined by the
43 department, paid during the State fiscal year to the State Treasurer
44 from the payment of the State portion of the basic fee shall be
45 credited to the "Flood Protection and Home Elevation Fund,"
46 created pursuant to section 1 of P.L. , c. (C.) (pending
47 before the Legislature as this bill). No monies shall be credited to
48 the "Flood Protection and Home Elevation Fund" pursuant to this

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1 paragraph unless the full amount of \$25,000,000 has been credited
2 to the "Shore Protection Fund" pursuant to paragraph (1) of this
3 subsection and the full amount of \$5,000,000 has been credited to
4 the "Highlands Protection Fund" pursuant to paragraph (2) of this
5 subsection.

6 d. All amounts paid to the State Treasurer from the payment of
7 the additional fee shall be credited to the Neighborhood
8 Preservation Nonlapsing Revolving Fund established pursuant to
9 P.L.1985, c.222 (C.52:27D-301 et al.), in the manner established
10 under section 20 thereof (C.52:27D-320).

11 (cf: P.L.2004, c.120, s.61)

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13 5. Section 2 of P.L.1992, c.148 (C.46:15-10.2) is amended to
14 read as follows:

15 2. a. The annual appropriations act for each State fiscal year
16 shall, without other conditions, limitations or restrictions on the
17 following:

18 (1) credit amounts paid to the State Treasurer, if any, in
19 payment of fees collected pursuant to paragraph (1) or paragraph
20 (2) of subsection a. of section 3 of P.L.1968, c.49 (C.46:15-7) to the
21 "Shore Protection Fund" created pursuant to section 1 of
22 P.L.1992, c.148 (C.13:19-16.1), the Neighborhood Preservation
23 Nonlapsing Revolving Fund established pursuant to section 20 of
24 P.L.1985, c.222 (C.52:27D-320), and the "Highlands Protection
25 Fund" created pursuant to section 21 of P.L.2004, c.120
26 (C.13:20-19), pursuant to the requirements of section 4 of P.L.1968,
27 c.49 (C.46:15-8);

28 (2) appropriate the balance of the "Shore Protection Fund"
29 created pursuant to section 1 of P.L.1992, c.148 (C.13:19-16.1), for
30 the purposes of that fund;

31 (3) appropriate the balance of the Neighborhood Preservation
32 Nonlapsing Revolving Fund established pursuant to section 20 of
33 P.L.1985, c.222 (C.52:27D-320), for the purposes of that fund;

34 **[and]**

35 (4) appropriate the balance of the "Highlands Protection Fund"
36 created pursuant to section 21 of P.L.2004, c.120 (C.13:20-19), for
37 the purposes of that fund ; and

38 (5) appropriate the balance of the "Flood Protection and Home
39 Elevation Fund" created pursuant to section 1 of P.L. , c. (C.)
40 (pending before the Legislature as this bill), for the purposes of that
41 fund .

42 b. If the requirements of subsection a. of this section are not
43 met on the effective date of an annual appropriations act for the
44 State fiscal year, or if an amendment or supplement to an annual
45 appropriations act for the State fiscal year should violate any of the
46 requirements of subsection a. of this section, the Director of the
47 Division of Budget and Accounting in the Department of the
48 Treasury shall, not later than five days after the enactment of the

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1 annual appropriations act, or an amendment or supplement thereto,
2 that violates any of the requirements of subsection a. of this section,
3 certify to the Director of the Division of Taxation that the
4 requirements of subsection a. of this section have not been met.

5 (cf: P.L.2004, c.120, s.62)

6
7 6. The Commissioner of Environmental Protection shall, in
8 consultation with the State Treasurer, and in accordance with the
9 “Administrative Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et
10 seq.), adopt rules and regulations to implement P.L. , c. (C.)
11 (pending before the Legislature as this bill), including procedures
12 and standards of eligibility for reimbursement pursuant to section 1
13 of P.L. , c. (C.) (pending before the Legislature as this
14 bill).

15
16 7. This act shall take effect immediately, but sections 1 through
17 5 shall apply to the fiscal years beginning on and after July 1 next
18 following the date of its enactment.

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STATEMENT

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23 This bill would establish a special, non-lapsing fund within the
24 Department of Environmental Protection to be known as the “Flood
25 Protection and Home Elevation Fund.” Monies in the fund would
26 be used to reimburse a homeowner who undertakes a home
27 elevation project for 25 percent of the annual interest payment made
28 by the homeowner on a loan to finance the home elevation project,
29 or \$750, whichever is less. However, a homeowner will only be
30 reimbursed if the county in which the home elevation project takes
31 place agrees to provide matching funds in the same amount.

32 In order to qualify for reimbursement, a homeowner would first
33 need to obtain all necessary State and local zoning and land use
34 approvals for the home elevation project, as well as approval from
35 the financing institution for any loan taken to finance the project.
36 The homeowner would then apply to the State and county for
37 reimbursement. No payment would be made by the State to the
38 homeowner until the home elevation is complete and proof of
39 completion has been submitted to the department. A qualifying
40 homeowner would be eligible to reapply to the State and county for
41 reimbursement during each year the homeowner pays interest on a
42 loan taken to finance the home elevation project.

43 The bill would dedicate up to \$5 million of the State share of the
44 realty transfer fee annually to the “Flood Protection and Home
45 Elevation Fund.” The fund would also be credited with all interest
46 and other income received from the investment of money in the
47 fund. However, the bill provides that no money would be credited
48 to the fund unless \$25 million of the State share of the realty

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1 transfer fee has first been credited to the “Shore Protection Fund,”
2 and \$5 million of the State share of the realty transfer fee has been
3 credited to the “Highlands Protection Fund,” both of which are
4 required by current law.

5 Finally, the bill provides that, before a county can provide
6 matching funds to homeowners for home elevation projects, the
7 county must first establish a source of funding, which may include,
8 but need not be limited to, the county share of the realty transfer fee
9 or county open space trust funds. The bill would amend the county
10 open space trust fund law to explicitly allow counties to use trust
11 funds for home elevation projects pursuant to this bill.