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N.J.S.A. 13:8C-46

13:8C-46. Preserve New Jersey Fund Account

There is established in the General Fund a special account to be known as the "Preserve New Jersey Fund Account."

a. The State Treasurer shall credit to this account:

(1)(a)(i) For State fiscal year 2016, an amount equal to 71 percent of the four percent of the revenue annually derived from the tax imposed pursuant to the "Corporation Business Tax Act (1945)," P.L.1945, c. 162 (C.54:10A-1 et seq.), as amended and supplemented, or any other State law of similar effect, dedicated for recreation and conservation, farmland preservation, and historic preservation purposes pursuant to subparagraph (a) of Article VIII, Section II, paragraph 6 of the State Constitution, less \$19,972,000 already appropriated and expended for parks management in P.L.2015, c. 63; and

(ii) in each State fiscal year 2017 through and including State fiscal year 2019 an amount equal to 71 percent of the four percent of the revenue annually derived from the tax imposed pursuant to the "Corporation Business Tax Act (1945)," P.L.1945, c. 162 (C.54:10A-1 et seq.), as amended and supplemented, or any other State law of similar effect, dedicated to recreation and conservation, farmland preservation, and historic preservation purposes pursuant to subparagraph (a) of Article VIII, Section II, paragraph 6 of the State Constitution; and

(b)(i) in each State fiscal year commencing in State fiscal year 2020 and annually thereafter, an amount equal to 78 percent of the six percent of the revenue annually derived from the tax imposed pursuant to the "Corporation Business Tax Act (1945)," P.L.1945, c. 162 (C.54:10A-1 et seq.), as amended and supplemented, or any other State law of similar effect, dedicated to recreation and conservation, farmland preservation, and historic preservation purposes pursuant to subparagraph (a) of Article VIII, Section II, paragraph 6 of the State Constitution; and

(ii) any amount received from a solar electric power generation facility pursuant to section 5 of P.L.2021, c. 169 (C.48:3-118); and

(2) in each State fiscal year, an amount equal to the amount dedicated pursuant to subparagraph (b) of Article VIII, Section II, paragraph 6 of the State Constitution.

b. In each State fiscal year, the amount credited to the Preserve New Jersey Fund Account shall be appropriated from time to time by the Legislature only for the applicable purposes set forth in Article VIII, Section II, paragraph 6 of the State Constitution and P.L.2016, c. 12 (C.13:8C-43 et seq.) for:

(1) providing funding, including loans or grants, for the preservation, including acquisition, development, and stewardship, of lands for recreation and conservation purposes, including lands that protect water supplies and lands that have incurred flood or storm damage or are likely to do so, or that may buffer or protect other properties from flood or storm damage;

(2) providing funding, including loans or grants, for the preservation and stewardship of land for agricultural or horticultural use and production;

(3) providing funding, including loans or grants, for historic preservation; and

(4) paying administrative costs associated with (1) through (3) of this subsection.

c. Nothing in P.L.2016, c. 12 (C.13:8C-43 et seq.) shall authorize any State entity to use constitutionally dedicated CBT moneys for the purpose of making any payments relating to any bonds, notes, or other debt obligations, other than those relating to obligations arising from land purchase agreements made with landowners.

d. In each State fiscal year after the enactment of P.L.2021, c. 169 (C.48:3-114 et al.), the State Treasurer shall notify, in writing, the chairperson of the Garden State Preservation Trust of the amount received from a solar electric power generation facility pursuant to section 5 of P.L.2021, c. 169 (C.48:3-118) and credited to the Preserve New Jersey Fund Account pursuant to subparagraph (ii) of subparagraph (b) of paragraph (1) of subsection a. of this section to be used for the purposes of subsection b. of this section.

13:8C-47. State fiscal year 2017 through and including State fiscal year 2019; deposit and use of funds credited to Preserve New Jersey Fund Account

a. In State fiscal year 2017 through and including State fiscal year 2019, of the amount credited by the State Treasurer to the Preserve New Jersey Fund Account pursuant to paragraph (1) of subsection a. of section 4 of this act:¹

(1) 60 percent shall be deposited into the Preserve New Jersey Green Acres Fund established pursuant to section 6 of this act;²

(2) 4 percent shall be deposited into the Preserve New Jersey Blue Acres Fund established pursuant to section 7 of this act;³

(3) 31 percent shall be deposited into the Preserve New Jersey Farmland Preservation Fund established pursuant to section 8 of this act;⁴ and

(4) 5 percent shall be deposited into the Preserve New Jersey Historic Preservation Fund established pursuant to section 9 of this act.⁵

b. In State fiscal year 2017 through and including State fiscal year 2019, of the amount credited by the State Treasurer to the Preserve New Jersey Fund Account pursuant to paragraph (2) of subsection a. of section 4 of this act, each State park, forest, or wildlife management area shall receive an amount equal to the amount of revenue annually derived from leases or conveyances of lands at that State park, forest, or wildlife management area, as appropriate, to be used for recreation and conservation purposes at that State park, forest, or wildlife management area.

Footnotes

1 N.J.S.A. § 13:8C-46.

2 N.J.S.A. § 13:8C-48.

3 N.J.S.A. § 13:8C-49.

4 N.J.S.A. § 13:8C-50.

5 N.J.S.A. § 13:8C-51.

13:8C-48. Preserve New Jersey Green Acres Fund

a. The State Treasurer shall establish a fund to be known as the “Preserve New Jersey Green Acres Fund” and shall deposit into the fund all moneys received pursuant to paragraph (1) of subsection a. of section 5 of P.L.2016, c. 12 (C.13:8C-47), paragraph (1) of subsection a. of section 1 of P.L.2019, c. 136 (C.13:8C-47.1), and any other moneys appropriated by law for deposit into the fund.

Moneys in the fund shall be invested in permitted investments or shall be held in interest-bearing accounts in those depositories as the State Treasurer may select, and may be invested and reinvested in permitted investments or as other trust funds in the custody of the State Treasurer in the manner provided by law. All interest or other income or earnings derived from the investment or reinvestment of moneys in the fund shall be credited to the fund. Moneys derived from the payment of principal and interest on the loans to local government units authorized by P.L.2016, c. 12 (C.13:8C-43 et seq.) shall also be held in the fund.

b. Of the amount deposited in State fiscal year 2017 through and including State fiscal year 2019 into the Preserve New Jersey Green Acres Fund pursuant to paragraph (1) of subsection a. of section 5 of P.L.2016, c. 12 (C.13:8C-47):

(1) 55 percent shall be allocated for the purpose of paying the cost of acquisition and development of lands by the State for recreation and conservation purposes, and the amount provided pursuant to this paragraph shall be allocated as follows:

(a) 50 percent shall be allocated for the purpose of paying the cost of acquisition of lands by the State for recreation and conservation purposes; and

(b) 50 percent shall be allocated for the purpose of paying the cost of development of lands by the State for recreation and conservation purposes, and of the amount provided pursuant to this subparagraph:

(i) up to 22 percent shall be allocated for the purpose of paying the cost for stewardship activities undertaken on lands administered by the Division of Fish and Wildlife in the department; and

(ii) up to 22 percent shall be allocated for the purpose of paying the cost for stewardship activities undertaken on lands administered by the Division of Parks and Forestry in the department;

(2) 38 percent shall be allocated for the purposes of providing grants and loans to assist local government units to pay the cost of acquisition and development of lands for recreation and conservation purposes, and of this amount, up to two percent shall be allocated for stewardship activities undertaken by local government units; and

(3) seven percent shall be allocated for the purposes of providing grants to assist qualifying tax exempt nonprofit organizations to pay the cost of acquisition and development of lands for recreation and conservation purposes, and of this amount, 11 percent shall be allocated for stewardship activities undertaken by qualifying tax exempt nonprofit organizations.

c. Any repayments of the principal and interest on loans issued to local government units for the acquisition or development of lands for recreation and conservation purposes using constitutionally dedicated CBT moneys shall be deposited into the Preserve New Jersey Green Acres Fund, and shall be specifically dedicated for the issuance of additional grants and loans in the same manner as provided in subsections a. and b. of section 27 of P.L.1999, c. 152 (C.13:8C-27) and this section.

d. (1) The moneys in the fund are specifically dedicated and shall be used for the same purposes and according to the same criteria and provisions as those set forth in section 26 of P.L.1999, c. 152 (C.13:8C-26), and as provided pursuant to P.L.2016, c. 12 (C.13:8C-43 et seq.) and this section.

(2) Grants and loans issued to local government units and grants issued to qualifying tax exempt nonprofit organizations using constitutionally dedicated CBT moneys for the acquisition and development of lands for recreation and conservation purposes shall be subject to the same provisions as those prescribed in section 27 of P.L.1999, c. 152 (C.13:8C-27), except as otherwise provided in section 10 of P.L.2016, c. 12 (C.13:8C-52).

(3) Notwithstanding any provision of P.L.2016, c. 12 (C.13:8C-43 et seq.) or P.L.1999, c. 152 (C.13:8C-1 et seq.) to the contrary, projects of the Palisades Interstate Park Commission established pursuant to P.L.1980, c. 104 (C.32:14-1.1 et seq.) for the acquisition or development of land for recreation and conservation purposes in New Jersey shall be considered State projects for the purposes of eligibility for funding pursuant to the provisions of P.L.2016, c. 12 (C.13:8C-43 et seq.).

e. Moneys in the fund shall not be expended except in accordance with appropriations from the fund made by law. Any act appropriating moneys from the Preserve New Jersey Green Acres Fund shall identify any particular project or projects to be funded by the moneys, and any expenditure for a project for which the location is not identified by municipality and county in the appropriation shall require the approval of the Joint Budget Oversight Committee, or its successor, except as permitted otherwise in accordance with the same exceptions as those specified in paragraph (2) of subsection a. of section 23 of P.L.1999, c. 152 (C.13:8C-23).

f. Unexpended moneys due to project withdrawals, cancellations, or cost savings shall be returned to the

fund.

g. Of the amount authorized pursuant to this section, not more than five percent shall be utilized for organizational, administrative and other work and services, including salaries, equipment and materials necessary to administer the applicable provisions of P.L.2016, c. 12 (C.13:8C-43 et seq.).

h. To the end that municipalities may not suffer a loss of taxes by reason of the acquisition and ownership by the State of lands in fee simple for recreation and conservation purposes, or the acquisition and ownership by qualifying tax exempt nonprofit organizations of lands in fee simple for recreation and conservation purposes that become certified as exempt from property taxes pursuant to P.L.1974, c. 167 (C.54:4-3.63 et seq.) or similar laws, the State shall make payments annually in the same manner as payments are made pursuant to section 29 of P.L.1999, c. 152 (C.13:8C-29).

i. The State shall not use the power of eminent domain in any manner for the acquisition of lands by the State for recreation and conservation purposes using constitutionally dedicated CBT moneys in whole or in part unless a concurrent resolution approving that use is approved by both Houses of the Legislature; except that, without the need for such a concurrent resolution, the State may use the power of eminent domain to the extent necessary to establish a value for lands to be acquired from a willing seller by the State for recreation and conservation purposes using constitutionally dedicated CBT moneys in whole or in part.

j. Of the amount deposited in each State fiscal year commencing in State fiscal year 2020 and annually thereafter into the Preserve New Jersey Green Acres Fund pursuant to paragraph (1) of subsection a. of section 1 of P.L.2019, c. 136 (C.13:8C-47.1):

(1) 60 percent shall be allocated for the purpose of paying the cost of acquisition and development of lands by the State for recreation and conservation purposes, and the amount provided pursuant to this paragraph shall be allocated as follows:

(a) 45 percent shall be allocated for the purpose of paying the cost of acquisition of lands by the State for recreation and conservation purposes, and of this amount, a minimum of 10 percent shall be allocated for Blue Acres projects; and

(b) 55 percent shall be allocated for the purpose of paying the cost of development of lands by the State for recreation and conservation purposes, and of the amount provided pursuant to this subparagraph:

(i) up to 22 percent shall be allocated for the purpose of paying the cost for stewardship activities undertaken on lands administered by the Division of Fish and Wildlife in the department; and

(ii) up to 22 percent shall be allocated for the purpose of paying the cost for stewardship activities undertaken on lands administered by the Division of Parks and Forestry in the department;

(2) 30 percent shall be allocated for the purposes of providing grants and loans to assist local government units to pay the cost of acquisition and development of lands for recreation and conservation purposes, including Blue Acres projects, and of this amount, up to 10 percent shall be allocated for stewardship activities undertaken by local government units; and

(3) 10 percent shall be allocated for the purposes of providing grants to assist qualifying tax exempt nonprofit organizations to pay the cost of acquisition and development of lands for recreation and conservation purposes, including Blue Acres projects, and of this amount, 11 percent shall be allocated for stewardship activities undertaken by qualifying tax exempt nonprofit organizations.

k. (1) In addition to the purposes set forth in subsection d. of this section, moneys in the Preserve New Jersey Green Acres Fund may be applied for the purposes of providing moneys to:

(a) meet the Blue Acres costs to the State for the acquisition of lands for a Blue Acres project; or

(b) provide grants, pursuant to the provisions of paragraph (2) of this subsection, to assist a qualifying tax exempt nonprofit organization in meeting the Blue Acres costs for the acquisition of lands for a Blue Acres project.

(2) A grant by the State for lands to be acquired by a qualifying tax exempt nonprofit organization for a Blue Acres project may include up to 50 percent of the Blue Acres cost of acquisition of the lands by the qualifying tax exempt nonprofit organization.

(a) A qualifying tax exempt nonprofit organization shall not use as its matching share of the Blue Acres cost of acquisition of lands for a Blue Acres project any constitutionally dedicated moneys, as defined pursuant to section 3 of P.L.1999, c. 152 (C.13:8C-3), or any grant moneys obtained from a Green Acres bond act.

(b) To qualify to receive a grant from the Preserve New Jersey Blue Acres Fund, the board of directors or governing body of the applying tax exempt nonprofit organization shall:

(i) demonstrate to the commissioner that the organization qualifies as a charitable conservancy for the purposes of P.L.1979, c. 378 (C.13:8B-1 et seq.);

(ii) demonstrate that the organization has the resources to match the grant requested;

(iii) agree to make and keep the lands accessible to the public, unless the commissioner determines that public accessibility would be detrimental to the lands or any natural resources associated therewith;

(iv) agree not to convey the lands except to the federal government, the State, a local government unit, or another qualifying tax exempt nonprofit organization, for recreation and conservation purposes; and

(v) agree to execute and donate to the State at no charge a conservation restriction pursuant to P.L.1979, c. 378 (C.13:8B-1 et seq.) on the lands to be acquired with the grant.

l. In addition to any other reporting requirements required by law, the department shall annually send a written report to the Chairperson of the Senate Environment and Energy Committee, the Assembly Agriculture and Natural Resources Committee, and the Assembly Environment and Solid Waste Committee, or their successors, identifying the projects funded with moneys pursuant to subparagraph (b) of paragraph (1) of subsection j. of this section. This report shall: (1) identify the project type, location, and cost for each development project; and (2) identify the stewardship activities, including the location and cost for each stewardship activity, undertaken on lands administered by the Division of Fish and Wildlife and Division of Parks and Forestry pursuant to subparagraph (b) of paragraph (1) of subsection j. of this section.

13:8C-48.1. Allocation of repayments of principal and interest on loans issued to local government units for the acquisition or development of lands for recreation and conservation purposes

Notwithstanding the provisions of paragraph (2) of subsection b. of section 18 of P.L.1999, c. 152 (C.13:8C-18) or any Green Acres bond act to the contrary, any repayments of the principal and interest on loans issued to local government units for the acquisition or development of lands for recreation and conservation purposes pursuant to subsection b. of section 27 of P.L.1999, c. 152 (C.13:8C-27) or any Green Acres bond act, as applicable, shall be allocated only for the issuance of additional grants or loans to local government units for the acquisition or development of lands for recreation and conservation purposes.

13:8C-49. Preserve New Jersey Blue Acres Fund

a. The State Treasurer shall establish a fund to be known as the “Preserve New Jersey Blue Acres Fund” and shall deposit into the fund all moneys received pursuant to paragraph (2) of subsection a. of section 5 of this act¹ and any other moneys appropriated by law for deposit into the fund.

Moneys in the fund shall be invested in permitted investments or shall be held in interest-bearing accounts in those depositories as the State Treasurer may select, and may be invested and reinvested in permitted investments or as other trust funds in the custody of the State Treasurer in the manner provided by law. All interest or other income or earnings derived from the investment or reinvestment of moneys in the fund shall be credited to the fund.

b. The moneys in the Preserve New Jersey Blue Acres Fund are specifically dedicated and shall be applied for the purposes of providing moneys to:

(1) meet the Blue Acres costs to the State for the acquisition of lands for a Blue Acres project; or

(2) provide grants, pursuant to the provisions of subsection c. of this section, to assist a qualifying tax exempt nonprofit organization in meeting the Blue Acres costs for the acquisition of lands for a Blue Acres project.

c. (1) A grant by the State for lands to be acquired by a qualifying tax exempt nonprofit organization for a Blue Acres project may include up to 50 percent of the Blue Acres cost of acquisition of the lands by the qualifying tax exempt nonprofit organization.

(2) A qualifying tax exempt nonprofit organization shall not use as its matching share of the Blue Acres cost of acquisition of lands for a Blue Acres project any constitutionally dedicated moneys, as defined pursuant to section 3 of P.L.1999, c. 152 (C.13:8C-3), or any grant moneys obtained from a Green Acres bond act.

(3) To qualify to receive a grant from the Preserve New Jersey Blue Acres Fund, the board of directors or governing body of the applying tax exempt nonprofit organization shall:

(a) demonstrate to the commissioner that the organization qualifies as a charitable conservancy for the purposes of P.L.1979, c. 378 (C.13:8B-1 et seq.);

(b) demonstrate that the organization has the resources to match the grant requested;

(c) agree to make and keep the lands accessible to the public, unless the commissioner determines that public accessibility would be detrimental to the lands or any natural resources associated therewith;

(d) agree not to convey the lands except to the federal government, the State, a local government unit, or another qualifying tax exempt nonprofit organization, for recreation and conservation purposes; and

(e) agree to execute and donate to the State at no charge a conservation restriction pursuant to P.L.1979, c. 378 (C.13:8B-1 et seq.) on the lands to be acquired with the grant.

d. The State shall not use the power of eminent domain in any manner for the acquisition of lands by the State for Blue Acres projects using constitutionally dedicated CBT moneys in whole or in part unless a concurrent resolution approving that use is approved by both Houses of the Legislature; except that, without the need for such a concurrent resolution, the State may use the power of eminent domain to the extent necessary to establish a value for lands to be acquired from a willing seller by the State for recreation and conservation purposes, as part of a Blue Acres project, using constitutionally dedicated CBT moneys in whole or in part.

e. Moneys in the fund shall not be expended except in accordance with appropriations from the fund made by law. Any act appropriating moneys from the Preserve New Jersey Blue Acres Fund shall identify the particular project or projects to be funded by the moneys, and any expenditure for a project for which the location is not identified by municipality and county in the appropriation shall require the approval of the Joint Budget Oversight Committee, or its successor.

f. Unexpended moneys due to project withdrawals, cancellations, or cost savings shall be returned to the fund to be used for the purposes of the fund.

g. Of the amount authorized pursuant to this section, not more than five percent shall be utilized for organizational, administrative and other work and services, including salaries, equipment and materials necessary to administer the applicable provisions of this act.

Footnotes

13:8C-50. Preserve New Jersey Farmland Preservation Fund

a. The State Treasurer shall establish a fund to be known as the “Preserve New Jersey Farmland Preservation Fund” and shall deposit all moneys received pursuant to paragraph (3) of subsection a. of section 5 of P.L.2016, c. 12 (C.13:8C-47), paragraph (2) of subsection a. of section 1 of P.L.2019, c. 136 (C.13:8C-47.1), and any other moneys appropriated by law for deposit into the fund.

Moneys in the fund shall be invested in permitted investments or shall be held in interest-bearing accounts in those depositories as the State Treasurer may select, and may be invested and reinvested in permitted investments or as other trust funds in the custody of the State Treasurer in the manner provided by law. All interest or other income or earnings derived from the investment or reinvestment of moneys in the fund shall be credited to the fund.

b. (1) The moneys in the fund are specifically dedicated and shall be used for the same purposes as those set forth in section 37 of P.L.1999, c. 152 (C.13:8C-37) and as provided in paragraph (2) of this subsection.

(2) Of the moneys deposited into the Preserve New Jersey Farmland Preservation Fund: (a) in State fiscal year 2017 through and including State fiscal year 2019, up to three percent shall be allocated by the committee on an annual basis for stewardship activities; and (b) commencing in State fiscal year 2020 and annually thereafter, up to four percent shall be allocated by the committee on an annual basis for stewardship activities.

(3) Notwithstanding any provision of P.L.2016, c. 12 (C.13:8C-43 et seq.) to the contrary, stewardship activities undertaken on farmland on which (a) the pinelands development credits have been acquired pursuant to P.L.1979, c. 111 (C.13:18A-1 et seq.), and the pinelands comprehensive management plan adopted pursuant thereto, or the development rights have been acquired pursuant to a transfer of development rights program for the Highlands Region established pursuant to section 13 of P.L.2004, c. 120 (C.13:20-13), and (b) there is deed restriction approved by the committee, shall be eligible for funding pursuant to paragraph (2) of this subsection.

c. Moneys in the fund shall not be expended except in accordance with appropriations from the fund made by law. Any act appropriating moneys from the Preserve New Jersey Farmland Preservation Fund shall identify any particular project or projects to be funded by the moneys, and any expenditure for a project for which the location is not identified by municipality and county in the appropriation shall require the approval of the Joint Budget Oversight Committee, or its successor, except as permitted otherwise in accordance with the same exceptions as those specified in paragraph (2) of subsection b. of section 23 of P.L.1999, c. 152 (C.13:8C-23).

d. Unexpended moneys due to project withdrawals, cancellations, or cost savings shall be returned to the

fund.

e. Notwithstanding the provisions of section 24 of P.L.1983, c. 32 (C.4:1C-31) or section 38 of P.L.1999, c. 152 (C.13:8C-38), or any rule or regulation adopted pursuant thereto, to the contrary, when the committee, a local government unit, or a qualifying tax exempt nonprofit organization seeks to acquire a development easement on, or fee simple title to, farmland using, in whole or in part, monies deposited into the Preserve New Jersey Farmland Preservation Fund, the Garden State Farmland Preservation Trust Fund established pursuant to section 20 of P.L.1999, c. 152 (C.13:8C-20), or any other State monies provided for farmland preservation purposes, the value of the development easement, or fee simple title, as applicable, shall be determined by the following:

(1) the procedure set forth in section 24 of P.L.1983, c. 32 (C.4:1C-31);

(2) a value determined in accordance with a formula, to be known as the "Statewide Farmland Preservation Formula," which formula is established by rule or regulation adopted by the committee, pursuant to subsection f. of this section, and includes:

(a) conducting or analyzing a sufficient number of fair market value appraisals of agricultural lands within the municipality in which the land is located, or the surrounding market area, or both, as the committee deems appropriate to determine the value of the land for farmland preservation;

(b) considering farmland and development easement values in counties and municipalities reasonably contiguous to, but outside of, the municipality in which the land to be acquired is located, which in the sole opinion of the committee constitute reasonable farmland and development easement values for the purposes of this subsection;

(c) considering the importance of preserving agricultural lands in the municipality and county in which the land is located;

(d) considering the status and value of natural resources in the municipality and county in which the land is located, and in counties and municipalities that are reasonably contiguous to, but outside of, the municipality and county in which the land is located;

(e) considering such other relevant factors as may be necessary to increase participation in the farmland preservation program by owners of agricultural lands located in the municipality and county in which the land is located, including, but not limited to, the rate of inflation, the quality of the agricultural soils, the size of the agricultural lands to be acquired, and the risk of conversion of the land from productive agriculture to nonagricultural use; and

(f) providing additional value for the proximity of agricultural lands located adjacent to preserved agricultural lands, lands preserved for recreation and conservation purposes, aquifer recharge areas, lands subject to development or conservation easements, and lands whose conversion to nonagricultural use would lead to conflicting land uses, including, but not limited to, utility and roadway rights-of-way, military bases, and airports and associated airspace; and, if applicable,

(3)(a) in the case of property located in the pinelands area, whenever the value of a development easement on farmland to be acquired is determined based upon the value of any pinelands development credits allocated to the parcel pursuant to P.L.1979, c. 111 (C.13:18A-1 et seq.) and the pinelands comprehensive management plan adopted pursuant thereto, the value determined by the committee pursuant to subsection e. of section 38 of P.L.1999, c. 152 (C.13:8C-38); or

(b) in the case of property located in the Highlands Region, the value determined pursuant to subsection j. of section 38 of P.L.1999, c. 152 (C.13:8C-38).

The landowner shall be provided with the values determined pursuant to paragraphs (1) and (2) of this subsection, and if applicable, the value determined pursuant to paragraph (3) of this subsection. The higher of the values shall be utilized by the committee, a local government unit, or a qualifying tax exempt nonprofit organization as the basis for negotiation with the landowner with respect to the acquisition price. A landowner may waive any of the requirements of this subsection and may agree to sell the lands for less than the values determined pursuant to this subsection.

f. Notwithstanding the provisions of the “Administrative Procedure Act,” P.L.1968, c. 410 (C.52:14B-1 et seq.) to the contrary, the committee shall, immediately upon filing proper notice with the Office of Administrative Law, adopt rules and regulations to establish the “Statewide Farmland Preservation Formula” required pursuant to paragraph (2) of subsection e. of this section. The rules and regulations adopted pursuant to this subsection shall be in effect for a period not to exceed three years after the date of the filing. These rules and regulations shall thereafter be adopted, amended, or readopted by the committee in accordance with the requirements of the “Administrative Procedure Act,” P.L.1968, c. 410 (C.52:14B-1 et seq.).

13:8C-50.1. Farmland stewardship wildlife fencing grant; application; eligibility; amount

a. Notwithstanding any rule or regulation adopted pursuant to P.L.2016, c. 12 (C.13:8C-43 et seq.) to the contrary, a person who is the owner, operator, or lessee of permanently preserved farmland and who regularly engages in the operation and management of the farming operation on the preserved farmland shall be eligible to apply to the committee for a farmland stewardship wildlife fencing grant for the preserved farmland made available with funding allocated by the committee for stewardship activities

pursuant to paragraph (2) of subsection b. of section 8 of P.L.2016, c. 12 (C.13:8C-50), provided that an applicant who is an operator or lessee has written approval to install wildlife fencing on the land from the owner of the land on which the wildlife fencing is to be installed.

b. Notwithstanding any other provision of P.L.2016, c. 12 (C.13:8C-43 et seq.), any rule or regulation adopted pursuant thereto, the provisions of N.J.A.C.2:76-20.4, or any other rule, regulation, or requirement established by the committee concerning grant programs for stewardship activities on land acquired for farmland preservation purposes, grant amounts available to applicants for wildlife fencing farmland stewardship activities may be up to 50 percent of eligible costs, not to exceed \$50,000 per application.

13:8C-51. Preserve New Jersey Historic Preservation Fund

a. The State Treasurer shall establish a fund to be known as the “Preserve New Jersey Historic Preservation Fund” and shall deposit all moneys received pursuant to paragraph (4) of subsection a. of section 5 of P.L.2016, c. 12 (C.13:8C-47), paragraph (3) of subsection a. of section 1 of P.L.2019, c. 136 (C.13:8C-47.1), and any other moneys appropriated by law for deposit into the fund.

Moneys in the fund shall be invested in permitted investments or shall be held in interest-bearing accounts in those depositories as the State Treasurer may select, and may be invested and reinvested in permitted investments or as other trust funds in the custody of the State Treasurer in the manner provided by law. All interest or other income or earnings derived from the investment or reinvestment of moneys in the fund shall be credited to the fund.

b. (1) The moneys in the fund are specifically dedicated and shall be used for:

(a) the same purposes as those set forth in section 41 of P.L.1999, c. 152 (C.13:8C-41);

(b) emergency intervention and the acquisition of historic preservation easements;

(c) matching grants to the Department of Environmental Protection to meet the cost of preservation of State-owned historic properties; and

(d) the purposes as provided in paragraphs (2) and (3) of this subsection.

(2) Notwithstanding any provision of P.L.2016, c. 12 (C.13:8C-43 et seq.) or P.L.1999, c. 152 (C.13:8C-1 et seq.) to the contrary, the Palisades Interstate Park Commission established pursuant to P.L.1980, c. 104 (C.32:14-1.1 et seq.) shall be eligible for grants pursuant to the provisions of section 41 of P.L.1999, c. 152 (C.13:8C-41) for projects located in New Jersey. A project by the Palisades Interstate Park Commission for historic preservation purposes shall be subject to the same criteria and conditions set forth in section 41 of P.L.1999, c. 152 (C.13:8C-41) applicable to a project by a local government unit.

(3) Notwithstanding any provision of P.L.2016, c. 12 (C.13:8C-43 et seq.) or P.L.1999, c. 152 (C.13:8C-1 et seq.) to the contrary, an amount not to exceed \$500,000 may be appropriated from the Preserve New Jersey Historic Preservation Fund to the New Jersey Historic Trust for the purposes of establishing an electronic database to track projects that receive funding for historic preservation purposes.

c. Moneys in the fund shall not be expended except in accordance with appropriations from the fund made by law. Any act appropriating moneys from the Preserve New Jersey Historic Preservation Fund shall identify any particular project or projects to be funded by the moneys, and any expenditure for a project for which the location is not identified by municipality and county in the appropriation shall require the approval of the Joint Budget Oversight Committee, or its successor.

d. Unexpended moneys due to project withdrawals, cancellations, or cost savings shall be returned to the fund.

13:8C-52. State grant for lands acquired or developed for recreation and conservation purposes; amount; use

a. Notwithstanding the provisions of subparagraph (b) of paragraph (2) of subsection a. of section 27 of P.L.1999, c. 152 (C.13:8C-27) to the contrary, a grant by the State for lands acquired or developed for recreation and conservation purposes by a local government unit in a municipality eligible to receive State aid pursuant to P.L.1978, c. 14 (C.52:27D-178 et seq.) shall be for 75 percent of the cost of acquisition or development of the lands by the local government unit, except that the department may authorize an increase in the State's share of the cost up to 100 percent of the allowable funding cap established by the department upon a demonstration of special need or exceptional circumstances.

b. A local government unit or a qualifying tax exempt nonprofit organization may use a grant or loan received pursuant to this act for recreation and conservation purposes for the construction of a community garden, provided that public access to the lands acquired for recreation and conservation purposes is not limited by the community garden.

13:8C-53. Limitation on conveyance, disposal, or diversion to use for other than recreation and conservation purposes of certain lands

Lands acquired or developed by the State, a local government unit, or a qualifying tax exempt nonprofit organization for recreation and conservation purposes using constitutionally dedicated CBT moneys shall not be conveyed, disposed of, or diverted to a use for other than recreation and conservation purposes without complying with the provisions of sections 31 through 35 of P.L.1999, c. 152 (C.13:8C-31 through C.13:8C-35), as appropriate, and any other applicable law.

13:8C-53a. Use of well for supply of drinking water and associated treatment equipment or facilities located on local government unit land for recreation or conservation purposes; requirements

a. Notwithstanding the provisions of 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), sections 31 through 35 of P.L.1999, c. 152 (C.13:8C-31 through C.13:8C-35), section 11 of P.L.2016, c. 12 (C.13:8C-53), or any other applicable law, or any rule or regulation adopted pursuant thereto, concerning the conveyance, disposal, or diversion of lands acquired, developed, or held for recreation and conservation purposes, a municipally owned and operated water utility or authority may use a well for the supply of drinking water and associated treatment equipment or facilities located on lands acquired or developed by a local government unit for recreation or conservation purposes and this additional use of a pre-existing well utilized for drinking water shall not be deemed to constitute a disposal or diversion of those lands; provided that:

(1) the municipally owned and operated water utility or authority has a pre-existing well utilized for drinking water on the land;

(2) there is an exceedance or expected exceedance of a maximum contaminant level for, among other things, perfluorooctanoic acid, or such other contaminant established by the Department of Environmental Protection pursuant to the "Safe Drinking Water Act," P.L.1977, c. 224 (C.58:12A-1 et seq.);

(3) as a result of an exceedance or expected exceedance pursuant to paragraph (2) of this subsection, the municipally owned and operated water utility or authority shall be expressly permitted to install on such lands improvements required to address the exceedance or expected exceedance, as approved, by the Department of Environmental Protection;

(4) no other improvements shall be made to the land except as deemed reasonably necessary, and

approved by the Department of Environmental Protection, to address the exceedance of a maximum contaminant level, and any such improvements shall be sited in a manner to minimize disturbance to the environment;

(5) the additional use of the lands and any improvements made pursuant to this section shall not substantially impact the use of the lands for recreation and conservation purposes, including public access to the land; and

(6) the governing body of the municipality applies, in writing, to the commissioner setting forth and demonstrating to the Department of Environmental Protection's satisfaction that it meets the criteria set forth in this subsection.

b. Within 45 days after receipt of an application from a governing body of a municipality pursuant to paragraph (6) of subsection a. of this section, the commissioner, after the municipality holds at least one public hearing in the municipality wherein the lands are located, shall grant approval, in writing, to the municipality, if the criteria set forth in subsection a. of this section are met, specifying that this additional use shall not be deemed to constitute a disposal or diversion of the lands.

c. The commissioner may revoke any approval granted pursuant to this section if the facts or findings upon which the approval was based have changed to the extent that the requirements for approval as prescribed in this section are no longer met.

13:8C-53.1. Authorization to initiate actions for violations concerning conveyance, disposal, or diversion of lands acquired, developed, or held for recreation and conservation purposes

a. Whenever the Commissioner of Environmental Protection finds that a person has violated 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), sections 31 through 35 of P.L.1999, c. 152 (C.13:8C-31 through C.13:8C-35), or section 11 of P.L.2016, c. 12 (C.13:8C-53), or any other applicable law, or any rule or regulation adopted pursuant thereto, concerning the conveyance, disposal, or diversion of lands acquired, developed, or held for recreation and conservation purposes, the commissioner may:

(1) issue an order requiring any such person to comply in accordance with subsection b. of this section; or

(2) bring a civil action in accordance with subsection c. of this section; or

(3) levy a civil administrative penalty in accordance with subsection d. of this section; or

(4) bring an action for a civil penalty in accordance with subsection e. of this section.

Recourse to any of the remedies available under this section shall not preclude recourse to any of the other remedies prescribed in this section or by any other applicable law.

b. Whenever, on the basis of available information, the commissioner finds a person in violation of any provision of 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), sections 31 through 35 of P.L.1999, c. 152 (C.13:8C-31 through C.13:8C-35), or section 11 of P.L.2016, c. 12 (C.13:8C-53), or any other applicable law, or any rule or regulation adopted pursuant thereto, the commissioner may issue an order: (1) specifying the provision or provisions of the law, rule, or regulation, being violated; (2) citing the action which constituted the violation; (3) requiring compliance with the provision or provisions violated; (4) requiring the restoration of the area which is the site of the violation; and (5) providing notice to the person of the right to a hearing on the matters contained in the order.

c. The commissioner is authorized to institute a civil action in Superior Court for appropriate relief from any violation of any provision of 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), sections 31 through 35 of P.L.1999, c. 152 (C.13:8C-31 through C.13:8C-35), or section 11 of P.L.2016, c. 12 (C.13:8C-53), or any other applicable law, or any rule or regulation adopted pursuant thereto. Such relief may include, singly or in combination:

(1) a temporary or permanent injunction;

(2) assessment of the violator for the costs of any investigation, inspection, or monitoring survey which led to the establishment of the violation, and for the reasonable costs of preparing and bringing legal action under this subsection;

(3) assessment of the violator for any costs incurred by the State in removing, correcting, or terminating the adverse effects resulting from any unauthorized regulated activity for which legal action under this subsection may have been brought;

(4) assessment against the violator for compensatory damages for any loss or destruction of wildlife, fish or aquatic life, and for any other actual damages caused by an unauthorized regulated activity; or

(5) a requirement that the violator restore the site of the violation to the maximum extent practicable and feasible.

d. The commissioner is authorized to assess a civil administrative penalty of up to \$25,000 for each violation, and each day during which each violation continues shall constitute an additional, separate, and distinct offense. Any amount assessed under this subsection shall fall within a range established by regulation by the commissioner for violations of similar type, seriousness, and duration. In adopting rules and regulations establishing the amount of any penalty to be assessed, the commissioner may take into account the economic benefits from the violation gained by the violator. No assessment shall be levied pursuant to this section until after the party has been notified by certified mail or personal service. The notice shall: (1) identify the section of the law, rule, or regulation violated; (2) recite the facts alleged to constitute a violation; (3) state the amount of the civil penalties to be imposed; and (4) affirm the rights of the alleged violator to a hearing. The ordered party shall have 20 days from receipt of the notice within which to deliver to the commissioner a written request for a hearing. After the hearing and upon finding that a violation has occurred, the commissioner may issue a final order after assessing the amount of the fine specified in the notice. If no hearing is requested, the notice shall become a final order after the expiration of the 20-day period. Payment of the assessment is due when a final order is issued or the notice becomes a final order. The authority to levy an administrative penalty is in addition to all other enforcement provisions in any other applicable law, rule, or regulation, and the payment of any assessment shall not be deemed to affect the availability of any other enforcement provisions in connection with the violation for which the assessment is levied. Any civil administrative penalty assessed under this section may be compromised by the commissioner upon the posting of a performance bond by the violator, or upon such terms and conditions as the commissioner may establish by regulation.

e. A person who violates any provision of 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), sections 31 through 35 of P.L.1999, c. 152 (C.13:8C-31 through C.13:8C-35), or section 11 of P.L.2016, c. 12 (C.13:8C-53), or any other applicable law, or any rule or regulation adopted pursuant thereto, an administrative order issued pursuant to subsection b. of this section, or a court order issued pursuant to subsection c. of this section, or who fails to pay a civil administrative penalty in full pursuant to subsection d. of this section, shall be subject, upon order of a court, to a civil penalty not to exceed \$10,000 per day of such violation, and each day during which the violation continues shall constitute an additional, separate, and distinct offense. Any civil penalty imposed pursuant to this subsection may be collected with costs in a summary proceeding pursuant to the "Penalty Enforcement Law of 1999," P.L.1999, c. 274 (C.2A:58-10 et seq.). In addition to any penalties, costs or interest charges, the court may assess against the violator the amount of actual economic benefit accruing to the violator from the violation. The Superior Court and the municipal court shall have jurisdiction to enforce the provisions of the "Penalty Enforcement Law of 1999" in connection with this act.

f. The department may require an applicant to provide any information the department requires to determine compliance with any provision of 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), sections 31 through 35 of P.L.1999, c. 152 (C.13:8C-31 through C.13:8C-35), or section 11 of P.L.2016, c. 12 (C.13:8C-53), or any other applicable law, or any rule or regulation adopted pursuant thereto.

g. Any person who knowingly, recklessly, or negligently makes a false statement, representation, or certification in any application, record, or other document filed or required to be maintained under

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), sections 31 through 35 of P.L.1999, c. 152 (C.13:8C-31 through C.13:8C-35), or section 11 of P.L.2016, c. 12 (C.13:8C-53), or any other applicable law, or any rule or regulation adopted pursuant thereto, shall be in violation and shall be subject to the penalties assessed pursuant to subsections d. and e. of this section.

h. All penalties collected pursuant to this section shall either be used, as determined by the department, for the purposes of reviewing the conveyance, disposal, or diversion of lands acquired, developed, or held for recreation and conservation purposes.

13:8C-54. Duty of local government unit receiving grant or loan for recreation and conservation purposes relating to operation and maintenance of lands

A local government unit that receives a grant or loan for recreation and conservation purposes pursuant to this act shall satisfactorily operate and maintain the lands acquired or developed pursuant to the conditions of the agreement between the local government unit and the department when the grant or loan is made. In the event that the local government unit cannot or will not correct deficiencies in the operation and maintenance within a reasonable time period, the commissioner may require the repayment of all or a portion of the grant or loan amount received by the local government unit.

13:8C-55. Submission of funding recommendations to Garden State Preservation Trust

a. At least once each State fiscal year, the Department of Environmental Protection, the State Agriculture Development Committee, and the New Jersey Historic Trust shall each submit to the Garden State Preservation Trust a list of projects recommended to receive funding pursuant to P.L.2016, c. 12 (C.13:8C-43 et seq.). Except as otherwise provided by P.L.2016, c. 12 (C.13:8C-43 et seq.), such funding recommendations shall be based upon the same respective priority systems, ranking criteria, and funding policies as those established pursuant to sections 23, 24, 26, 27, and 37 through 42 of P.L.1999, c. 152 (C.13:8C-23, C.13:8C-24, C.13:8C-26, C.13:8C-27, and C.13:8C-37 through C.13:8C-42), section 7 of P.L.2005, c. 178 (C.13:8C-38.1), and sections 1 and 2 of P.L.2001, c. 405 (C.13:8C-40.1 and C.13:8C-40.2), and any rules or regulations adopted pursuant thereto.

b. The Garden State Preservation Trust shall review the project lists submitted pursuant to subsection a. of this section, and prepare, and submit to the Governor and to the President of the Senate and the Speaker of the General Assembly for introduction in the Legislature, proposed legislation appropriating moneys pursuant to P.L.2016, c. 12 (C.13:8C-43 et seq.) to fund projects on any such list. The Legislature

may approve one or more appropriation bills containing a project list or lists submitted by the Garden State Preservation Trust pursuant to this subsection.

13:8C-56. Submission of report to Governor and Legislature

Within one year after the date of enactment of this act, and biennially thereafter, the Garden State Preservation Trust, after consultation with the Department of Environmental Protection, the State Agriculture Development Committee, and the New Jersey Historic Trust shall submit to the Governor and the Legislature, pursuant to section 2 of P.L.1991, c. 164 (C.52:14-19.1), a written report, which shall:

- a. Describe the progress being made with respect to the acquisition and development of lands for recreation and conservation purposes, including lands that have incurred flood or storm damage or are likely to do so, or that may buffer or protect other properties from flood or storm damage, the preservation of farmland, and the preservation of historic properties, and provide recommendations with respect to any legislative, administrative, or local action that may be required to enable the Department of Environmental Protection, the State Agriculture Development Committee, and the New Jersey Historic Trust to meet their goals and objectives;
- b. Tabulate, both for the reporting period and cumulatively, the total acreage for the entire State, and the acreage in each county and municipality, of lands acquired for recreation and conservation purposes, including lands that protect water supplies and lands that have incurred flood or storm damage or are likely to do so, or that may buffer or protect other properties from flood or storm damage, using (1) funding provided by this act, and (2) any other funding provided for such purposes;
- c. Tabulate, both for the reporting period and cumulatively, the total acreage for the entire State, and the acreage in each county and municipality, of farmland preserved for farmland preservation purposes using (1) funding provided by this act, and (2) any other funding provided for such purposes;
- d. Tabulate, both for the reporting period and cumulatively, the total acreage for the entire State, and the acreage in each county and municipality, of any donations of land for recreation and conservation purposes or farmland preservation purposes;
- e. List, both for the reporting period and cumulatively, and by location by county and municipality, all stewardship activities funded pursuant to subsection b. of section 6 of this act¹ and paragraph (2) of subsection b. of section 8 of this act;²
- f. List, both for the reporting period and cumulatively, and by project name, project sponsor, and location

by county and municipality, all historic preservation projects, including emergency intervention and the acquisition of historic preservation easements, funded with constitutionally dedicated CBT moneys in whole or in part;

g. Indicate those areas of the State where, as designated by the Department of Environmental Protection in the Open Space Master Plan prepared pursuant to section 5 of P.L.2002, c. 76 (C.13:8C-25.1), the acquisition and development of lands by the State for recreation and conservation purposes, including lands that have incurred flood or storm damage or are likely to do so, or that may buffer or protect other properties from flood or storm damage, is planned or is most likely to occur, and those areas of the State where there is a need to protect water resources, including the identification of lands where protection is needed to assure adequate quality and quantity of drinking water supplies in times of drought, indicate those areas of the State where the allocation of constitutionally dedicated CBT moneys for farmland preservation purposes is planned or is most likely to occur, and provide a proposed schedule and expenditure plan for those acquisitions, developments, and allocations, for the next reporting period, which shall include an explanation of how those acquisitions, developments, and allocations will be distributed throughout all geographic regions of the State to the maximum extent practicable and feasible;

h. List any surplus real property owned by the State or an independent authority of the State that may be utilizable for recreation and conservation purposes or farmland preservation purposes, and indicate what action has been or must be taken to effect a conveyance of those lands to the department, the committee, local government units, qualifying tax exempt nonprofit organizations, or other entities or persons so that the lands may be preserved and used for those purposes;

i. List, for the reporting period, all projects for which applications for funding under the Green Acres, Blue Acres, farmland preservation, and historic preservation programs were received but not funded with constitutionally dedicated CBT moneys or other funds during the reporting period, and the reason or reasons why those projects were not funded;

j. Tabulate, both for the reporting period and cumulatively, the total acreage for the entire State, and the acreage in each county and municipality, of lands acquired for recreation and conservation purposes that protect water resources and that have incurred flood or storm damage or are likely to do so, or that may buffer or protect other properties from flood or storm damage; and

k. Describe any other information or statistics necessary to document the expenditure of funds pursuant to this act in conjunction with the expenditure of funds pursuant to P.L.1999, c. 152 (C.13:8C-1 et al.) and any Green Acres bond act.

Footnotes

1 N.J.S.A. § 13:8C-48.

2 N.J.S.A. § 13:8C-50

13:8C-57. Rules and regulations

a. The Department of Environmental Protection, the State Agriculture Development Committee, the New Jersey Historic Trust, and the Department of the Treasury shall each adopt, pursuant to the “Administrative Procedure Act,” P.L.1968, c. 410 (C.52:14B-1 et seq.), such rules and regulations as may be necessary to implement and carry out the goals and objectives of this act.

b. Notwithstanding the provisions of any law to the contrary, any rules and regulations of the Department of Environmental Protection, the State Agriculture Development Committee, the New Jersey Historic Trust, and the Department of the Treasury that have been adopted pursuant to the “Administrative Procedure Act” and are in effect as of the date of enactment of this act, that are not inconsistent with the provisions of this act, and that pertain to the Green Acres, Blue Acres, farmland preservation, and historic preservation programs continued pursuant to this act, shall continue in effect until amended or supplemented and readopted as necessary to reflect the provisions and requirements of this act.

13:8C-58. Legislative findings and declarations relating to the acquisition of land for conservation and recreation purposes

The Legislature finds and declares that:

a. Enhancing the quality of life of the citizens of New Jersey is a paramount policy of the State, and open space protects the natural beauty and resources of the State and provides its citizens and visitors to New Jersey with greater opportunities for recreation, relaxation, and education, all of which contribute greatly to the quality of life;

b. A broad diversity of animal and plant species is essential to sustaining both the environment and the economy of the Garden State, and the conservation of adequate habitat for those species, and especially for those that are endangered, threatened, or rare, is necessary to preserve this biodiversity;

c. Acquiring and preserving land for recreation and conservation purposes also helps protect water supply and quality, which is critical to the existence of all life;

d. Whenever land becomes available for acquisition by a governmental entity for potential preservation as open space, it is incumbent upon the governmental entity to make every possible effort to acquire that land, especially when the land is contiguous to other preserved land and the sale price is reasonable or

even discounted;

e. Antiquated or unnecessary covenants of very little or no economic value persist in some deeds to properties located in unformed, dissolved, or discontinued common interest communities, encumbering the titles in such a way that prevents their conveyance to a governmental entity to be preserved as open space;

f. Examples of such covenants are those that authorize owners of contiguous or closely associated properties to form an association or other common interest community for the purpose of constructing and maintaining a private road to serve the property owners, or maintaining a private lake that the property owners all may access and enjoy; however, in many circumstances these property owners have never formed an association or other common interest community or, if one was formed, it has since been dissolved or discontinued;

g. Notwithstanding that such an association or other common interest community may never have been formed or, if formed, has since been dissolved or discontinued, a governmental entity may be reluctant to acquire and preserve a property subject to such a deed covenant because it does not wish to risk the possibility, remote as it may be, of eventually having to pay dues or other fees or comply with any other obligation as may be required by the covenant, or engage in potentially costly or lengthy litigation on the issue;

h. Such uncertainty makes it difficult for a governmental entity to know exactly what financial or other commitment it is making for the benefit of the public, and for that reason, may cause the governmental entity to decide, out of an abundance of appropriate caution in conserving its financial and other assets, to not acquire the property at issue;

i. Such a result is unacceptable for the public policy reasons cited above; and

j. Therefore, it is appropriate and necessary for the State to declare and provide by law that any such covenant is void in all respects and unenforceable with regard to land that is acquired by a governmental entity for preservation as open space for recreation and conservation purposes.

13:8C-59. Definitions relating to the acquisition of land for conservation and recreation purposes

As used in this act:

“Governmental entity” means the State or a county, municipality, or other political subdivision of the State, or any agency, authority, department, or other entity thereof.

“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).

13:8C-60. Covenants deemed unenforceable and void; land acquired for recreation and conservation purposes

a. Whenever a governmental entity acquires land to be preserved for recreation and conservation purposes, and the deed for the land includes any covenant authorizing the owner of the land and other landowners whose deeds include the same covenant to form an association or other common interest community for a common purpose, which may or may not also authorize dues, fees, or other obligations to be charged or imposed in connection therewith, the covenant shall be void in all respects and unenforceable with regard to the land acquired by the governmental entity, provided that the governmental entity:

(1) acquires the land before any such association or other common interest community has been formed or after the dissolution or discontinuation of any previously existing association or other common interest community; and

(2) owns land preserved for recreation and conservation purposes that is contiguous to the land acquired, or the contiguous land is owned by another governmental entity for such purposes.

b. Nothing in subsection a. of this section shall be construed to prohibit an association or other common interest community in existence at the time of acquisition of land by a governmental entity that will preserve the land for recreation and conservation purposes, from voluntarily and permanently exempting the governmental entity, or otherwise releasing the land, from operation or enforcement of a covenant like that described in subsection a. of this section, including but not limited to, any requirement therein to pay dues or other fees or comply with any other obligation.

c. Whenever a governmental entity acquires land in the manner described in this act, the governmental entity shall not permit public access to, or use of, the subject of the covenant, such as, for example: (1) a private road that leads to or passes by the acquired land, or (2) a private lake.