

CHAPTER 135

AN ACT establishing a New Jersey Shade Tree and Community Forestry Program, providing for the issuance of certain license plates dedicated to the support and funding of the program, supplementing Title 13 and chapter 3 of Title 39 of the Revised Statutes and chapter 4 of Title 59 of the New Jersey Statutes, and amending R.S.40:64-14 and P.L.1958, c.41.

BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

C.13:1L-17.1 Short title.

1. Sections 1 through 9 of this act shall be known and may be cited as the "New Jersey Shade Tree and Community Forestry Assistance Act."

C.13:1L-17.2 Findings, declarations relative to shade trees, forests in communities.

2. The Legislature finds and declares that shade trees and forests are a necessary and important part of community and urban environments, and are critical to the environmental, social and economic welfare of the State; that the ability of all county and municipal governments to care for and manage their shade trees could be enhanced through technical and financial assistance from a State community forestry program; that local governments have experienced recurring and damaging exposure to litigation due to the drastic decline and poor condition of the State's community tree resource; that properly planned and implemented local community forestry programs can provide the necessary basis for local governments to reduce or eliminate liability associated with local tree care programs and shade tree commissions; and that the viability of county and municipal shade tree commissions is essential to the preservation and enhancement of the State's community tree resource.

The Legislature therefore determines that it is appropriate for the State to encourage, promote and assist in the establishment, retention and enhancement of shade tree and community forestry programs by local governments; and that it is altogether fitting and proper to establish a shade tree and community forest preservation license plate, the revenues from which would be dedicated to the support of a State community forestry program.

C.13:1L-17.3 Definitions relative to community forestry.

3. As used in sections 1 through 9 of this act:

"Commissioner" means the Commissioner of Environmental Protection;

"Community forestry" means the planting, protection, care and management of trees and other related natural resources within a municipality or county;

"Department" means the Department of Environmental Protection;

"Local government" means a municipality, county or other political subdivision of the State, or any agency thereof;

"Shade tree commission" means a municipal body created pursuant to R.S.40:64-1 et seq. or a county body created pursuant to R.S.40:37-1 et seq.; and

"State Forester" means the State Forester designated pursuant to section 17 of P.L.1983, c.324 (C.13:1L-17).

C.13:1L-17.4 "New Jersey Shade Tree and Community Forestry Program" established.

4. There is established in the Division of Parks and Forestry in the Department of Environmental Protection, under the supervision of the State Forester, the "New Jersey Shade Tree and Community Forestry Program," the purposes of which shall be to:

a. Assist local governments and shade tree commissions in establishing and maintaining community forestry programs and in encouraging persons to engage in appropriate and approved practices with respect to tree management and care;

b. Advise local governments and shade tree commissions in the development and coordination of policies, programs and activities for the promotion of community forestry;

c. Provide grants to local governments and shade tree commissions applying for assistance in the development and implementation of a comprehensive community forestry plan approved pursuant to section 7 of P.L.1996, c.135 (C. 13:1L-17.7), to the extent monies are appropriated or otherwise made available therefor;

d. Educate citizens on the importance of trees and forests and their role in the maintenance of a clean and healthy environment;

- e. Provide technical assistance, planning and analysis for projects related to community forestry;
- f. Provide training assistance to local governments and shade tree commissions regarding community forestry issues such as tree diseases, insect programs and tree planting and maintenance; and
- g. Provide volunteer opportunities for the State's citizens and organizations interested in community forestry activities.

C.13:1L-17.5 Community Forestry Council, establishment, membership, powers.

5. a. There is established in the department a Community Forestry Council, which shall consist of 20 members, appointed by the State Forester, all of whom shall be citizens with expertise or interest in trees, forestry, or tree or forest management, maintenance or care. Each of the members appointed shall serve for a term of three years and until a successor is appointed and qualified, except that of the members first appointed, seven shall serve terms of one year and seven shall serve terms of two years. All vacancies, except those created through the expiration of term, shall be filled for the unexpired term only, and in the same manner as the original appointment. Each member shall be eligible for reappointment, but may be removed by the commissioner or the State Forester for cause.

b. A majority of the membership of the council shall constitute a quorum for the transaction of council business. Action may be taken and motions and resolutions adopted by the council at any meeting thereof by the affirmative vote of a majority of the full membership of the council.

c. Members of the council shall serve without compensation, but may be reimbursed for expenses necessarily incurred in the discharge of their official duties.

d. The State Forester shall appoint a chairperson and vice-chairperson and the council may elect such other officers as may be necessary. The council may appoint such staff or hire such experts as it may require within the limits of appropriations made for these purposes.

e. The council may call to its assistance such employees as are necessary and made available to it from any agency or department of the State or its political subdivisions.

f. The council may adopt, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), and in consultation with the department, any rules and regulations necessary to carry out its responsibilities pursuant to P.L.1996, c.135 (C.13:1L-17.1 et al.).

g. The council shall advise the State Forester, the Division of Parks and Forestry and the department on issues concerning community forestry and assist with such other functions as may be authorized pursuant to P.L.1996, c.135 (C.13:1L-17.1 et al.) or any other law.

C.13:1L-17.6 Duties of State Forester.

6. The State Forester, with the advice and assistance of the council, shall establish minimum standards, and provide a training skills and accreditation program, for representatives of local governments and shade tree commissions, the content of which shall be the appropriate and approved methods for the planting, protection, care and management of trees and other related natural resources under their control.

C.13:1L-17.7 Development, distribution of comprehensive community forestry plan, approval.

7. a. The State Forester, with the advice and assistance of the council, shall develop and make available to local governments and shade tree commissions a list of guideline elements found within a comprehensive community forestry plan. These guidelines shall establish but not limit the basic framework of an approved plan. The State Forester, with the advice and assistance of the council, shall develop and make available to local governments and shade tree commissions a procedure for submitting for approval a comprehensive community forestry plan.

b. A local government may develop and submit to the State Forester for approval a comprehensive community forestry plan according to procedures established by the department.

c. The State Forester, after review and comment by the council, shall approve a comprehensive community forestry plan if all required parts of the plan adequately address the needs of the community and the tree resource.

C.13:1L-17.8 Annual report on status of New Jersey Shade Tree and Community Forestry Program.

8. The commissioner, with advice from the State Forester, shall prepare an annual report on the status of the New Jersey Shade Tree and Community Forestry Program established pursuant to section 4 of P.L.1996, c.135 (C.13:1L-17.4), which shall also include any recommendations for legislative or administrative action to improve implementation of that act, and transmit that report to the Governor, the President of the Senate, the Speaker of the General Assembly, and the chairpersons of the Senate Natural Resources and Economic Development Committee, the Senate Budget and Appropriations Committee, the Assembly Environment, Science and Technology Committee, and the Assembly Appropriations Committee, or the successors of those committees as designated respectively by the President of the Senate and the Speaker of the General Assembly.

C.13:1L-17.9 Rules, regulations.

9. The department shall 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 P.L.1996, c.135 (C.13:1L-17.1 et al.), including establishment of:

- a. Guidelines for development of a comprehensive community forestry plan;
- b. Criteria for proper selection, planting and care of trees;
- c. Procedures to accept and evaluate submitted comprehensive community forestry plans;
- d. Procedures for the review and approval of training skills and accreditation programs in tree care and management for local officials;
- e. Guidelines for the provision of technical assistance under the program to local governments and shade tree commissions in the formation of comprehensive community forestry plans; and
- f. Criteria for ranking grant applications received from local governments and shade tree commissions applying for assistance in the development and implementation of comprehensive community forestry plans.

C.39:3-27.79 Issuance of shade tree, community forest preservation license plates.

10. The Director of the Division of Motor Vehicles in the Department of Transportation shall, upon proper application therefor, issue shade tree and community forest preservation license plates for any motor vehicle owned or leased and registered in the State. In addition to the registration number and other markings or identification otherwise prescribed by law, a shade tree and community forest preservation license plate shall display words or a slogan and an emblem indicating support for, or an interest in, shade tree and community forest preservation. The words or slogan and emblem shall be chosen by the director; however, the director shall solicit, in conjunction with the Legislature, input from the general public on the design of the plate and shall review the submissions prior to choosing the design. Issuance of shade tree and community forest preservation license plates in accordance with this section shall be subject to the provisions of chapter 3 of Title 39 of the Revised Statutes, except as hereinafter otherwise specifically provided.

C.39:3-27.80 Application, fee for shade tree, community forest preservation license plate.

11. a. Application for issuance of a shade tree and community forest preservation license plate shall be made to the Division of Motor Vehicles on forms and in a manner as may be prescribed by the director. In order to be deemed complete, an application shall be accompanied by a fee of \$50 payable to the Division of Motor Vehicles, which fee shall be in addition to all fees otherwise required by law for the registration of the motor vehicle.

b. The annual fee for the registration certificate of a motor vehicle that has been issued a shade tree and community forest preservation license plate pursuant to the provisions of P.L.1996, c.135 (C.39:3-27.79 et al.) shall include in each year subsequent to the year of issuance a fee in the amount of \$10, which fee shall be in addition to all fees otherwise required by law for the renewal of the registration of the motor vehicle and shall be collected by the Division of Motor Vehicles and deposited in the Shade Tree and Community Forest Preservation License Plate Fund created pursuant to section 12 of P.L.1996, c.135 (C.39:3-27.81).

C.39:3-27.81 Creation of "Shade Tree and Community Forest Preservation License Plate Fund."

12. a. There is created in the Department of Environmental Protection a special non-lapsing fund to be known as the "Shade Tree and Community Forest Preservation License Plate Fund." There shall be deposited in the fund the amount collected from all license plate fees collected pursuant to section 11 of P.L.1996, c.135 (C.39:3-27.80), less the amounts necessary to reimburse the Division of Motor Vehicles for all costs authorized pursuant to section 13 of P.L.1996, c.135 (C.39:3-27.82). Monies deposited in the fund shall be dedicated for support and funding of projects and programs concerned with shade tree and community forest preservation, including but not limited to the awarding of grants for such purposes to municipal shade tree commissions created pursuant to R.S.40:64-1 et seq., county shade tree commissions created pursuant to R.S.40:37-1 et seq., municipalities, and counties. Monies in the fund may also be awarded as grants to local governments and shade tree commissions pursuant to subsection c. of section 4 of P.L.1996, c.135 (C.13:1L-17.4). Monies deposited in the fund shall be held in interest-bearing accounts in public depositories as defined pursuant to section 1 of P.L.1970, c.236 (C.17:9-41), and may be invested or reinvested in such securities as are approved by the State Treasurer. Interest or other income earned on monies deposited in the fund, and any monies which may be appropriated or otherwise become available for the purposes of the fund, shall be credited to and deposited in the fund for use as set forth in P.L.1996, c.135 (C.13:1L-17.1 et al.).

b. The Division of Parks and Forestry in the Department of Environmental Protection shall administer the fund and the distribution of grants pursuant to this section. The Division of Parks and Forestry shall, by rule or regulation adopted pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), establish qualifications for determining grant eligibility, criteria for ranking grant applications, and standards and authorized purposes for the use of such grants.

C.39:3-27.82 Reimbursement to Division of Motor Vehicles.

13. a. Prior to the deposit of license plate fees collected pursuant to section 11 of P.L.1996, c.135 (C.39:3-27.80) into the fund, amounts thereof as are necessary shall be used to reimburse the Division of Motor Vehicles for all costs reasonably and actually incurred, as stipulated by the director, for:

(1) producing, issuing, renewing, and publicizing the availability of shade tree and community forest preservation license plates; and

(2) any initial computer programming changes that may be necessary to implement the shade tree and community forest preservation license plate program established by P.L.1996, c.135 (C.39:3-27.79 et al.).

b. The Director of the Division of Motor Vehicles shall annually certify to the Commissioner of Environmental Protection the average cost per license plate incurred in the immediately preceding year by the Division of Motor Vehicles in producing, issuing, renewing, and publicizing the availability of shade tree and community forest preservation license plates. The annual certification of the average cost per license plate shall be approved by the Joint Budget Oversight Committee, or its successor.

c. In the event that the average cost per license plate as certified by the director and approved by the Joint Budget Oversight Committee, or its successor, is greater than the \$50 application fee established in subsection a. of section 11 of P.L.1996, c.135 (C.39:3-27.80) in two consecutive fiscal years, the director may discontinue the issuance of shade tree and community forest preservation license plates.

C.39:3-27.83 Notification of availability of shade tree, community forest preservation plates.

14. The Director of the Division of Motor Vehicles shall notify eligible motorists of the opportunity to obtain shade tree and community forest preservation license plates by including a notice with all motor vehicle registration renewals, and by posting appropriate posters or signs in all facilities and offices of the Division of Motor Vehicles. The notices, posters, and signs shall be designed by the Commissioner of Environmental Protection. The designs shall be subject to the approval of the director, and the Commissioner of Environmental Protection shall supply the Division of Motor Vehicles with the notices, posters, and signs to be circulated or posted by that division.

C.39:3-27.84 Interagency memorandum of agreement.

15. The Commissioner of Environmental Protection, the Director of the Division of Motor Vehicles, and the State Treasurer shall develop and enter into an interagency memorandum of agreement setting forth the procedures to be followed by the departments and the Division of Motor Vehicles in carrying out their respective responsibilities under P.L.1996, c.135 (C.13:1L-17.1 et al.).

C.59:4-10 Immunity from liability relative to community forestry.

16. a. Except as provided pursuant to N.J.S. 59:3-14, a shade tree commission, or a member of a shade tree commission, or a volunteer participating in a community forestry program as provided for by P.L.1996, c.135 (C.13:1L-17.1 et al.), is not liable for an injury or death caused directly or indirectly by a tree or shrub, or any part thereof, if:

(1) the tree or shrub, or pertinent part thereof, is on public property or on a public easement or right-of-way, or the tree or shrub, regardless of its location, is regulated, planted, cared for, controlled, or maintained by the shade tree commission; and

(2) the local government or the shade tree commission has participated in and successfully completed a training skills and accreditation program established pursuant to section 6 of P.L.1996, c.135 (C.13:1L-17.6) and has a comprehensive community forestry plan approved pursuant to section 7 of that act.

b. The existence of a municipal shade tree commission established pursuant to R.S.40:64-1 et seq. or a county shade tree commission established pursuant to R.S.40:37-1 et seq., or the fact that a municipality or county has otherwise provided for the regulation, planting, care, control, or maintenance of trees or shrubs within its jurisdiction, shall not be cause to immunize a private person from liability for an injury caused directly or indirectly by a tree or shrub, or any part thereof, who otherwise would be liable for that injury.

17. R.S.40:64-14 is amended to read as follows:

No liability for death or injury.

40:64-14. No liability for death or injury. Nothing in this chapter contained shall be construed to make any shade tree commission or any member thereof, or any volunteer participating in a community forestry program as provided for by section 4 of P.L.1996, c.135 (C.13:1L-17.4), responsible for the death or injury of any person, or for an injury to any property or highway tree or shrub. Liability for any such death or injury shall be governed by the provisions of section 16 of P.L.1996, c.135 (C.59:4-10) and any other relevant provisions of the "New Jersey Tort Claims Act," N.J.S.59:1-1 et seq.

18. Section 7 of P.L.1958, c.41 (C.40:37-10.2) is amended to read as follows:

C.40:37-10.2 Immunity from liability for death, injury.

7. Nothing in this article contained shall be construed to make any shade tree commission or a member thereof, or any volunteer participating in a community forestry program as provided for by section 4 of P.L.1996, c.135 (C.13:1L-17.4), responsible for the death or injury of any person, or for an injury to any property or highway tree or shrub. Liability for any such death or injury shall be governed by the provisions of section 16 of P.L.1996, c.135 (C.59:4-10) and any other relevant provisions of the "New Jersey Tort Claims Act," N.J.S.59:1-1 et seq.

19. Sections 1 through 9 and sections 15 through 18 shall take effect immediately. Sections 10 through 14 shall take effect on the 180th day after enactment, but the Commissioner of Environmental Protection, the State Treasurer, and the Director of the Division of Motor Vehicles may take such anticipatory acts in advance of that date as may be necessary for the timely implementation of the provisions of those sections of this act upon the effective date thereof.

Approved December 5, 1996.