

§§1,5-6 -  
C.4:1C-32.4 to  
4:1C-32.6  
§3 - C.4:1C-9.2  
§4 - C.54:4-23.3c  
§9 - Note

P.L. 2009, CHAPTER 213, *approved January 16, 2010*  
Senate Substitute (*First Reprint*) for  
Senate, No. 1538

1 AN ACT concerning agriculture and biomass, solar, and wind  
2 energy, <sup>1</sup>[amending and] <sup>1</sup>supplementing P.L.1983, c.32  
3 <sup>1</sup>(C.4:1C-11 et seq.), and amending and supplementing P.L.1983,  
4 c.31<sup>1</sup> and P.L.1964, c.48 <sup>1</sup>[, supplementing Title 4 of the Revised  
5 Statutes and P.L.1979, c.111 (C.13:18A-1 et seq.), and amending  
6 P.L.1983, c.31] <sup>1</sup>.

7

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

10

11 1. (New section) a. Notwithstanding any law, rule or  
12 regulation to the contrary, a person who owns preserved farmland  
13 may construct, install, and operate biomass, solar, or wind energy  
14 generation facilities, structures, and equipment on the farm, whether  
15 on the preserved portion of the farm or on any portion excluded  
16 from preservation, for the purpose of generating power or heat, and  
17 may make improvements to any agricultural, horticultural,  
18 residential, or other building or structure on the land for that  
19 purpose, provided that the biomass, solar, or wind energy  
20 generation facilities, structures, and equipment:

21 (1) do not interfere significantly with the use of the land for  
22 agricultural or horticultural production, as determined by the  
23 committee;

24 (2) are owned by the landowner <sup>1</sup>, or will be owned by the  
25 landowner upon the conclusion of the term of an agreement with the  
26 installer of the biomass, solar, or wind energy generation facilities,  
27 structures, or equipment by which the landowner uses the income or  
28 credits realized from the biomass, solar, or wind energy generation  
29 to purchase the facilities, structures, or equipment<sup>1</sup> ;

30 (3) are used to provide power or heat to the farm, either directly  
31 or indirectly, or to reduce, through net metering or similar programs  
32 and systems, energy costs on the farm; and

33 (4) are limited <sup>1</sup>(a) <sup>1</sup>in annual energy generation capacity to the  
34 previous calendar year's energy demand plus 10 percent, <sup>1</sup>[except

**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.

Matter enclosed in superscript numerals has been adopted as follows:

<sup>1</sup> Senate floor amendments adopted June 18, 2009.

1 as otherwise provided in] in addition to what is allowed under<sup>1</sup>  
2 subsection b. of this section <sup>1</sup>, or alternatively at the option of the  
3 landowner (b) to occupying no more than one percent of the area of  
4 the entire farm including both the preserved portion and any portion  
5 excluded from preservation<sup>1</sup> .

6 The person who owns the farm and the energy generation  
7 facilities, structures, and equipment may only sell energy through  
8 net metering <sup>1</sup>or as otherwise permitted under an agreement allowed  
9 pursuant to paragraph (2) of this subsection<sup>1</sup> .

10 b. The limit on the annual energy generation capacity  
11 established pursuant to <sup>1</sup>subparagraph (a) of paragraph (4) of  
12 subsection a. of this section shall not include energy generated from  
13 facilities, structures, or equipment <sup>1</sup>[located] existing<sup>1</sup> on the roofs  
14 of buildings or other structures <sup>1</sup>[constructed or used for  
15 agricultural or horticultural purposes other than the generation of  
16 energy for power or heat] on the farm as of the date of enactment of  
17 P.L. , c. (C. ) (pending before the Legislature as this bill)<sup>1</sup> .

18 c. A landowner shall seek and obtain the approval of the  
19 committee before constructing, installing, and operating biomass,  
20 solar, or wind energy <sup>1</sup>generation<sup>1</sup> facilities, structures, and  
21 equipment on the <sup>1</sup>[preserved]<sup>1</sup> farm as allowed pursuant to  
22 subsection a. of this section. <sup>1</sup>The committee shall provide the  
23 holder of any development easement on the farm with a copy of the  
24 application submitted for the purposes of subsection a. of this  
25 section, and the holder of the development easement shall have 30  
26 days within which to provide comments to the committee on the  
27 application.<sup>1</sup> The committee shall, within 90 days of receipt,  
28 approve, disapprove, or approve with conditions an application  
29 submitted for the purposes of subsection a. of this section. The  
30 decision of the committee on the application shall be based solely  
31 upon the criteria listed in subsection a. of this section <sup>1</sup>and  
32 comments received from the holder of the development easement<sup>1</sup> .

33 d. No fee shall be charged of the landowner for review of an  
34 application submitted to, or issuance of a decision by, the  
35 committee pursuant to this section.

36 e. The committee may suspend or revoke an approval issued  
37 pursuant to this section for a violation of any term or condition of  
38 the approval or any provision of this section.

39 f. The committee, in consultation with the Department of  
40 Environmental Protection and the Department of Agriculture, shall  
41 adopt, pursuant to the “Administrative Procedure Act,” P.L.1968,  
42 c.410 (C.52:14B-1 et seq.), rules and regulations necessary for the  
43 implementation of this section, including provisions prescribing  
44 standards concerning impervious cover which may be permitted in  
45 connection with biomass, solar, or wind energy generation

1 facilities, structures, and equipment authorized to be constructed,  
2 installed, and operated on lands pursuant to this section.

3 g. <sup>1</sup>In the case of biomass energy generation facilities,  
4 structures, or equipment, the landowner shall also seek and obtain  
5 the approval of the Department of Agriculture as required pursuant  
6 to section 5 of P.L. , c. (C. ) (pending before the Legislature as  
7 this bill) if the land is valued, assessed and taxed pursuant to the  
8 “Farmland Assessment Act of 1964,” P.L.1964, c.48 (C.54:4-23.1 et  
9 seq.).

10 h. Notwithstanding any provision of this section to the contrary,  
11 the construction, installation, or operation of any biomass, solar, or  
12 wind energy generation facility, structure, or equipment in the  
13 pinelands area, as defined and regulated by the “Pinelands  
14 Protection Act,” P.L.1979, c.111 (C.13:18A-1 et seq.), shall comply  
15 with the standards of P.L.1979, c.111 and the comprehensive  
16 management plan for the pinelands area adopted pursuant to  
17 P.L.1979, c.111.

18 i. <sup>1</sup> For the purposes of this section:

19 “Biomass” means <sup>1</sup>[biomass that is cultivated and harvested on  
20 the farm management unit in a sustainable manner.

21 “Farm management unit” means a parcel or parcels of land,  
22 whether contiguous or noncontiguous, together with agricultural or  
23 horticultural buildings, structures and facilities, producing  
24 agricultural or horticultural products, and operated as a single  
25 enterprise] an agricultural crop, crop residue, or agricultural  
26 byproduct that is cultivated, harvested, or produced on the farm and  
27 which can be used to generate energy in a sustainable manner<sup>1</sup>.

28 “Net metering” means the same as that term is used for purposes  
29 of subsection e. of section 38 of P.L.1999, c.23 (C.48:3-87).

30 “Preserved farmland” means land on which a development  
31 easement was conveyed to, or retained by, the committee, a board,  
32 or a qualifying tax exempt nonprofit organization pursuant to the  
33 provisions of section 24 of P.L.1983, c.32 (C.4:1C-31), section 5 of  
34 P.L.1988, c.4 (C.4:1C-31.1), section 1 of P.L.1989, c.28 (C.4:1C-  
35 38), section 1 of P.L.1999, c.180 (C.4:1C-43.1), sections 37 through  
36 40 of P.L.1999, c.152 (C.13:8C-37 through C.13:8C-40), or any  
37 other State law enacted for farmland preservation purposes.

38

39 <sup>1</sup>2. Section 6 of P.L.1983, c.31 (C.4:1C-9) is amended to read as  
40 follows:

41 6. Notwithstanding the provisions of any municipal or county  
42 ordinance, resolution, or regulation to the contrary, the owner or  
43 operator of a commercial farm, located in an area in which, as of  
44 December 31, 1997 or thereafter, agriculture is a permitted use  
45 under the municipal zoning ordinance and is consistent with the  
46 municipal master plan, or which commercial farm is in operation as  
47 of the effective date of P.L.1998, c.48 (C.4:1C-10.1 et al.), and the

1 operation of which conforms to agricultural management practices  
2 recommended by the committee and adopted pursuant to the  
3 provisions of the "Administrative Procedure Act," P.L.1968, c.410  
4 (C.52:14B-1 et seq.), or whose specific operation or practice has  
5 been determined by the appropriate county board, or in a county  
6 where no county board exists, the committee, to constitute a  
7 generally accepted agricultural operation or practice, and all  
8 relevant federal or State statutes or rules and regulations adopted  
9 pursuant thereto, and which does not pose a direct threat to public  
10 health and safety may:

11 a. Produce agricultural and horticultural crops, trees and forest  
12 products, livestock, and poultry and other commodities as described  
13 in the Standard Industrial Classification for agriculture, forestry,  
14 fishing and trapping or, after the operative date of the regulations  
15 adopted pursuant to section 5 of P.L.2003, c.157 (C.4:1C-9.1),  
16 included under the corresponding classification under the North  
17 American Industry Classification System;

18 b. Process and package the agricultural output of the  
19 commercial farm;

20 c. Provide for the operation of a farm market, including the  
21 construction of building and parking areas in conformance with  
22 municipal standards;

23 d. Replenish soil nutrients and improve soil tilth;

24 e. Control pests, predators and diseases of plants and animals;

25 f. Clear woodlands using open burning and other techniques,  
26 install and maintain vegetative and terrain alterations and other  
27 physical facilities for water and soil conservation and surface water  
28 control in wetland areas;

29 g. Conduct on-site disposal of organic agricultural wastes;

30 h. Conduct agriculture-related educational and farm-based  
31 recreational activities provided that the activities are related to  
32 marketing the agricultural or horticultural output of the commercial  
33 farm; **[and]**

34 i. Engage in the generation of power or heat from biomass,  
35 solar, or wind energy, provided that the energy generation is  
36 consistent with the provisions of P.L. , c. (C. ) (pending before  
37 the Legislature as this bill), as applicable, and the rules and  
38 regulations adopted therefor and pursuant to section 3 of P.L. , c.  
39 (C. ) (pending before the Legislature as this bill); and

40 j. Engage in any other agricultural activity as determined by  
41 the State Agriculture Development Committee and adopted by rule  
42 or regulation pursuant to the provisions of the "Administrative  
43 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.).<sup>1</sup>  
44 (cf: P.L.2003, c.157, s.6)

45

46 <sup>1</sup>3. (New section) a. The committee shall adopt, pursuant to the  
47 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et  
48 seq.):

1       (1) such rules and regulations as may be necessary for the  
2 implementation of subsection i. of section 6 of P.L.1983, c.31  
3 (C.4:1C-9); and

4       (2) agricultural management practices for biomass energy  
5 generation on commercial farms, including, but not necessarily  
6 limited to, standards for the management of odor, dust, and noise.

7       b. The Board of Public Utilities shall provide technical  
8 assistance and support to the State Agriculture Development  
9 Committee with regard to the committee's responsibilities in  
10 connection with this section and subsection i. of section 6 of  
11 P.L.1983, c.31 (C.4:1C-9).

12       c. Notwithstanding any provision of this section or subsection i.  
13 of section 6 of P.L.1983, c.31 (C.4:1C-9) to the contrary, the  
14 construction, installation, or operation of any biomass, solar, or  
15 wind energy generation facility, structure, or equipment in the  
16 pinelands area, as defined and regulated by the "Pinelands  
17 Protection Act," P.L.1979, c.111 (C.13:18A-1 et seq.), shall comply  
18 with the standards of P.L.1979, c.111 and the comprehensive  
19 management plan for the pinelands area adopted pursuant to  
20 P.L.1979, c.111.

21       d. For the purposes of this section and subsection i. of section 6  
22 of P.L.1983, c.31 (C.4:1C-9), "biomass" means an agricultural crop,  
23 crop residue, or agricultural byproduct that is cultivated, harvested,  
24 or produced on the commercial farm and which can be used to  
25 generate energy in a sustainable manner.<sup>1</sup>

26  
27       <sup>1</sup>[2.] 4.<sup>1</sup> (New section) a. (1) No land used <sup>1</sup>[exclusively or  
28 primarily]<sup>1</sup> for biomass, solar, or wind energy generation shall be  
29 considered land in agricultural or horticultural use or actively  
30 devoted to agricultural or horticultural use for the purposes of the  
31 "Farmland Assessment Act of 1964," P.L.1964, c.48 (C.54:4-23.1 et  
32 seq.), except as provided in this section.

33       (2) No generated energy from any source shall be considered an  
34 agricultural or horticultural product.

35       b. Land used for biomass, solar, or wind energy generation  
36 may be eligible for valuation, assessment and taxation pursuant to  
37 P.L.1964, c.48 (C.54:4-23.1 et seq.), provided that <sup>1</sup>[, for preserved  
38 farmland the criteria in section 1 of P.L. , c. (C. ) (pending  
39 before the Legislature as this bill) are met, or, in the case of other  
40 land]<sup>1</sup> :

41       (1) <sup>1</sup>[The] the<sup>1</sup> biomass, solar, or wind energy generation  
42 facilities, structures, and equipment were constructed, installed, and  
43 operated on property that is part of an operating farm continuing to  
44 be in operation as a farm in the tax year for which the valuation,  
45 assessment and taxation pursuant to P.L.1964, c.48 (C.54:4-23.1 et  
46 seq.) is applied for;

1 (2) ~~['In]~~ in the tax year preceding the construction,  
2 installation, and operation of the biomass, solar, or wind energy  
3 generation facilities, structures, and equipment on an operating  
4 farm, the acreage used for the biomass, solar, or wind energy  
5 generation facilities, structures, and equipment was valued, assessed  
6 and taxed as land in agricultural or horticultural use;

7 (3) ~~['The]~~ the power or heat generated by the biomass, solar,  
8 or wind energy generation facilities, structures, and equipment is  
9 used to provide, either directly or indirectly but not necessarily  
10 exclusively, power or heat to the farm or agricultural or  
11 horticultural operations supporting the viability of the farm;

12 (4) ~~['The]~~ the owner of the property has filed a conservation  
13 plan with the ~~['Soil Conservation District]~~ soil conservation  
14 district, with provisions for compliance with paragraph (5) of this  
15 subsection where applicable, to account for the aesthetic,  
16 impervious coverage, and environmental impacts of the  
17 construction, installation, and operation of the biomass, solar, or  
18 wind energy generation facilities, structures, and equipment,  
19 including, but not necessarily limited to, water recapture and  
20 filtration, and the conservation plan has been approved 'by the  
21 district;

22 (5) ~~['Where]~~ where solar energy generation facilities,  
23 structures, and equipment are installed, the property under the solar  
24 panels is used to the greatest extent practicable for the farming of  
25 shade crops or other plants capable of being grown under such  
26 conditions, or for pasture for grazing;

27 (6) ~~['The]~~ the amount of acreage devoted to the biomass,  
28 solar, or wind energy generation facilities, structures, and  
29 equipment does not exceed a ratio of one to five acres, or portion  
30 thereof, of land devoted to energy generation facilities, structures,  
31 and equipment and land devoted to agricultural or horticultural  
32 operations; ~~['and']~~

33 (7) ~~['Biomass]~~ biomass, solar, or wind energy generation  
34 facilities, structures, and equipment are constructed or installed on  
35 no more than 10 acres of the farmland for which the owner of the  
36 property is applying for valuation, assessment and taxation pursuant  
37 to P.L.1964, c.48 (C.54:4-23.1 et seq.), and if power is being  
38 generated, no more than two megawatts of power are generated on  
39 the ~~['no more than']~~ 10 acres 'or less; and'

40 (8) for biomass energy generation, the owner of the property has  
41 obtained the approval of the Department of Agriculture pursuant to  
42 section 5 of P.L. , c. (C. ) (pending before the Legislature as  
43 this bill).

44 c. No income from any power or heat sold from the biomass,  
45 solar, or wind energy generation may be considered income for  
46 eligibility for valuation, assessment ~~['or]~~ and taxation of land  
47 pursuant to the "Farmland Assessment Act of 1964," P.L.1964, c.48

1 (C.54:4-23.1 et seq.), and, notwithstanding the provisions of that  
2 act, or any rule or regulation adopted pursuant thereto, to the  
3 contrary, there shall be no income requirement for property valued,  
4 assessed and taxed pursuant to subsection b. of this section.

5 d. Notwithstanding any provision of this section, section 3 of  
6 P.L.1964, c.48 (C.54:4-23.3), or section 4 of P.L.1964, c.48  
7 (C.54:4-23.4) to the contrary, the construction, installation, or  
8 operation of any biomass, solar, or wind energy generation facility,  
9 structure, or equipment in the pinelands area, as defined and  
10 regulated by the "Pinelands Protection Act," P.L.1979, c.111  
11 (C.13:18A-1 et seq.), shall comply with the standards of P.L.1979,  
12 c.111 and the comprehensive management plan for the pinelands  
13 area adopted pursuant to P.L.1979, c.111.

14 e. The Division of Taxation, in consultation with the Department  
15 of Agriculture, shall adopt, pursuant to the "Administrative  
16 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), such rules  
17 and regulations as may be necessary for the implementation and  
18 administration of this section.

19 f.<sup>1</sup> For the purposes of this section:

20 "Biomass" means <sup>1</sup>[biomass that is cultivated and harvested on  
21 the farm management unit] an agricultural crop, crop residue, or  
22 agricultural byproduct that is cultivated, harvested, or produced on  
23 the farm, or directly obtained from a farm where it was cultivated,  
24 harvested, or produced, and which can be used to generate energy<sup>1</sup>  
25 in a sustainable manner <sup>1</sup>, except with respect to preserved  
26 farmland, "biomass" means the same as that term is defined in  
27 section 1 of P.L. , c. (C. ) (pending before the Legislature as  
28 this bill)<sup>1</sup> .

29 <sup>1</sup>["Farm management unit" means a parcel or parcels of land,  
30 whether contiguous or noncontiguous, together with agricultural or  
31 horticultural buildings, structures and facilities, producing  
32 agricultural or horticultural products, and operated as a single  
33 enterprise.]

34 "Land used for biomass, solar, or wind energy generation" means  
35 the land upon which the biomass, solar, or wind energy generation  
36 facilities, structures, and equipment are constructed, installed, and  
37 operated. In the case of biomass energy generation, "land used for  
38 biomass, solar, or wind energy generation" shall not mean the land  
39 upon which agricultural or horticultural products used as fuel in the  
40 biomass energy generation facility, structure, or equipment are  
41 grown.<sup>1</sup>

42 "Preserved farmland" means land on which a development  
43 easement was conveyed to, or retained by, the <sup>1</sup>[committee, a  
44 board,] State Agriculture Development Committee, a county  
45 agriculture development board,<sup>1</sup> or a qualifying tax exempt  
46 nonprofit organization pursuant to the provisions of section 24 of  
47 P.L.1983, c.32 (C.4:1C-31), section 5 of P.L.1988, c.4 (C.4:1C-

1 31.1), section 1 of P.L.1989, c.28 (C.4:1C-38), section 1 of  
2 P.L.1999, c.180 (C.4:1C-43.1), sections 37 through 40 of P.L.1999,  
3 c.152 (C.13:8C-37 through C.13:8C-40), or any other State law  
4 enacted for farmland preservation purposes.

5  
6 5. (New section) a. No person may construct, install, or  
7 operate biomass energy generation facilities, structures, or  
8 equipment on any land that is valued, assessed and taxed pursuant  
9 to the "Farmland Assessment Act of 1964," P.L.1964, c.48 (C.54:4-  
10 23.1 et seq.), without the approval of the Department of  
11 Agriculture, in addition to any other approvals that may be required  
12 by law.

13 b. The Department of Agriculture, in consultation with the  
14 Department of Environmental Protection, shall adopt, pursuant to  
15 the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1  
16 et seq.), rules and regulations concerning: (1) the construction,  
17 installation, and operation of biomass energy generation facilities,  
18 structures, and equipment and the management of biomass fuel for  
19 such facilities, structures, and equipment on farms; and (2) the  
20 process by which a landowner may apply for the approval required  
21 pursuant to subsection a. of this section, including establishment of  
22 reasonable application fees, if necessary, to help pay for the cost of  
23 review of the application, except no application fee may be charged  
24 for preserved farmland as defined in section 1 of P.L. , c. (C. )  
25 (pending before the Legislature as this bill).

26 c. Notwithstanding any provision of this section to the contrary,  
27 the construction, installation, or operation of any biomass, solar, or  
28 wind energy generation facility, structure, or equipment in the  
29 pinelands area, as defined and regulated by the "Pinelands  
30 Protection Act," P.L.1979, c.111 (C.13:18A-1 et seq.), shall comply  
31 with the standards of P.L.1979, c.111 and the comprehensive  
32 management plan for the pinelands area adopted pursuant to  
33 P.L.1979, c.111.

34 d. For the purposes of this section, "biomass" means an  
35 agricultural crop, crop residue, or agricultural byproduct that is  
36 cultivated, harvested, or produced on the farm, or directly obtained  
37 from a farm where it was cultivated, harvested, or produced, and  
38 which can be used to generate energy in a sustainable manner,  
39 except with respect to preserved farmland, "biomass" means the  
40 same as that term is defined in section 1 of P.L. , c. (C. )  
41 (pending before the Legislature as this bill).<sup>1</sup>

42  
43 '[3.] 6.' (New section) '[a. (1) The State Agriculture  
44 Development Committee shall adopt, pursuant to the  
45 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et  
46 seq.), rules and regulations for the implementation and  
47 administration of section 1 of P.L. , c. (C. ) (pending before  
48 the Legislature as this bill), section 6 of P.L.1983, c.31 (C.4:1C-9)

1 as amended by P.L. , c. (C. ) (pending before the Legislature  
2 as this bill), and section 3 of P.L.1983, c.32 (C.4:1C-13) as  
3 amended by P.L. , c. (C. ) (pending before the Legislature as  
4 this bill).

5 (2) The Department of Agriculture, in consultation with the State  
6 Agriculture Development Committee and the Department of the  
7 Treasury, shall adopt, pursuant to the "Administrative Procedure  
8 Act," P.L.1968, c.410 (C.52:14B-1 et seq.), any rules and  
9 regulations necessary to carry out the purposes of P.L. ,  
10 c. (C. ) (pending before the Legislature as this bill), except as  
11 provided otherwise under paragraph (1) of this subsection and  
12 subsection f. of section 1 of P.L. , c. (C. ) (pending before the  
13 Legislature as this bill).

14 b. (1)]<sup>1</sup> Every two years, the Department of Agriculture, in  
15 consultation with the State Agriculture Development Committee  
16 and the Department of the Treasury, shall prepare a report on the  
17 implementation of P.L. , c. (C. ) (pending before the  
18 Legislature as this bill). The report shall include: a survey and  
19 inventory of all biomass, solar, or wind energy 'generation'  
20 facilities, structures, and equipment placed on farmland in  
21 accordance with <sup>1</sup>[section 1 or 2 of]<sup>1</sup> P.L. , c. (C. ) (pending  
22 before the Legislature as this bill); the extent to which existing  
23 structures, such as barns, sheds, and silos, are used for those  
24 purposes, and how those structures have been modified therefor; the  
25 extent to which new structures, instead of existing structures, have  
26 been erected; and such other information as either of the  
27 departments or the committee deems useful.

28 <sup>1</sup>[(2)]<sup>1</sup> The report prepared pursuant to this <sup>1</sup>[subsection]  
29 section<sup>1</sup> shall be transmitted to the Governor, the Legislature  
30 pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), and the  
31 respective chairpersons of the Senate Economic Growth Committee,  
32 the Senate Environment Committee, the Assembly Agriculture and  
33 Natural Resources Committee, and the Assembly Environment and  
34 Solid Waste Committee or their designated successors. Copies of  
35 the report shall also be made available to the public upon request  
36 and free of charge, and shall be posted on the website of the  
37 Department of Agriculture.

38

39 <sup>1</sup>[4. Section 6 of P.L.1983, c.31 (C.4:1C-9) is amended to read  
40 as follows:

41 6. Notwithstanding the provisions of any municipal or county  
42 ordinance, resolution, or regulation to the contrary, the owner or  
43 operator of a commercial farm, located in an area in which, as of  
44 December 31, 1997 or thereafter, agriculture is a permitted use  
45 under the municipal zoning ordinance and is consistent with the  
46 municipal master plan, or which commercial farm is in operation as  
47 of the effective date of P.L.1998, c.48 (C.4:1C-10.1 et al.), and the

1 operation of which conforms to agricultural management practices  
2 recommended by the committee and adopted pursuant to the  
3 provisions of the "Administrative Procedure Act," P.L.1968, c.410  
4 (C.52:14B-1 et seq.), or whose specific operation or practice has  
5 been determined by the appropriate county board, or in a county  
6 where no county board exists, the committee, to constitute a  
7 generally accepted agricultural operation or practice, and all  
8 relevant federal or State statutes or rules and regulations adopted  
9 pursuant thereto, and which does not pose a direct threat to public  
10 health and safety may:

11 a. Produce agricultural and horticultural crops, trees and forest  
12 products, livestock, and poultry and other commodities as described  
13 in the Standard Industrial Classification for agriculture, forestry,  
14 fishing and trapping or, after the operative date of the regulations  
15 adopted pursuant to section 5 of P.L.2003, c.157 (C.4:1C-9.1),  
16 included under the corresponding classification under the North  
17 American Industry Classification System;

18 b. Process and package the agricultural output of the  
19 commercial farm;

20 c. Provide for the operation of a farm market, including the  
21 construction of building and parking areas in conformance with  
22 municipal standards;

23 d. Replenish soil nutrients and improve soil tilth;

24 e. Control pests, predators and diseases of plants and animals;

25 f. Clear woodlands using open burning and other techniques,  
26 install and maintain vegetative and terrain alterations and other  
27 physical facilities for water and soil conservation and surface water  
28 control in wetland areas;

29 g. Conduct on-site disposal of organic agricultural wastes;

30 h. Conduct agriculture-related educational and farm-based  
31 recreational activities provided that the activities are related to  
32 marketing the agricultural or horticultural output of the commercial  
33 farm; **[and]**

34 i. Engage in the generation of power or heat from biomass,  
35 solar, or wind energy, provided that the energy generation is  
36 consistent with the provisions of section 1 or 2 of P.L. , c. (C. )  
37 (pending before the Legislature as this bill), as applicable, and the  
38 rules and regulations adopted therefor, and, in the case of biomass  
39 energy, the energy is generated from biomass cultivated and  
40 harvested on the farm management unit in a sustainable manner;  
41 and

42 j. Engage in any other agricultural activity as determined by  
43 the State Agriculture Development Committee and adopted by rule  
44 or regulation pursuant to the provisions of the "Administrative  
45 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.).

46 (cf: P.L.2003, c.157, s.6)']<sup>1</sup>

1       <sup>1</sup>[5. Section 3 of P.L.1983, c.32 (C.4:1C-13) is amended to read  
2 as follows:

3       3. As used in this act:

4       a. "Agricultural development areas" means areas identified by  
5 a county agricultural development board pursuant to the provisions  
6 of section 11 of this act and certified by the State Agriculture  
7 Development Committee;

8       b. "Agricultural use" means the use of land for common  
9 farmsite activities, including but not limited to: production,  
10 harvesting, storage, grading, packaging, processing and the  
11 wholesale and retail marketing of crops, plants, animals and other  
12 related commodities, including biomass, solar, or wind energy  
13 generation consistent with the provisions of section 1 of P.L. ,

14 c. (C. ) (pending before the Legislature as this bill) and the rules  
15 and regulations adopted therefor, provided that in the case of  
16 biomass energy it is generated from biomass cultivated and  
17 harvested on the farm management unit in a sustainable manner,  
18 and the use and application of techniques and methods of soil  
19 preparation and management, fertilization, weed, disease and pest  
20 control, disposal of farm waste, irrigation, drainage and water  
21 management, and grazing;

22       c. "Board" means a county agriculture development board  
23 established pursuant to section 7 or a subregional agricultural  
24 retention board established pursuant to section 10 of this act;

25       d. "Committee" means the State Agriculture Development  
26 Committee established pursuant to section 4 of the "Right to Farm  
27 Act," P.L.1983, c.31 (C.4:1C-4);

28       e. "Cost," as used with respect to cost of fee simple absolute  
29 title, development easements or soil and water conservation  
30 projects, includes, in addition to the usual connotations thereof,  
31 interest or discount on bonds; cost of issuance of bonds; the cost of  
32 inspection, appraisal, legal, financial, and other professional  
33 services, estimates and advice; and the cost of organizational,  
34 administrative and other work and services, including salaries,  
35 supplies, equipment and materials necessary to administer this act;

36       f. "Development easement" means an interest in land, less than  
37 fee simple absolute title thereto, which enables the owner to  
38 develop the land for any nonagricultural purpose as determined by  
39 the provisions of this act and any relevant rules or regulations  
40 promulgated pursuant hereto;

41       g. "Development project" means any proposed construction or  
42 capital improvement for nonagricultural purposes;

43       h. "Farmland preservation program" or "municipally approved  
44 farmland preservation program" (hereinafter referred to as  
45 municipally approved program) means any voluntary program, the  
46 duration of which is at least 8 years, authorized by law enacted  
47 subsequent to the effective date of the "Farmland Preservation Bond  
48 Act of 1981," P.L.1981, c.276, which has as its principal purpose

1 the long-term preservation of significant masses of reasonably  
2 contiguous agricultural land within agricultural development areas  
3 adopted pursuant to this act and the maintenance and support of  
4 increased agricultural production as the first priority use of that  
5 land. Any municipally approved program shall be established  
6 pursuant to section 14 of this act;

7 i. "Fund" means the "Farmland Preservation Fund" created  
8 pursuant to the "Farmland Preservation Bond Act of 1981,"  
9 P.L.1981, c.276;

10 j. "Governing body" means, in the case of a county, the  
11 governing body of the county, and in the case of a municipality, the  
12 commission, council, board or body, by whatever name it may be  
13 known, having charge of the finances of the municipality;

14 k. "Secretary" means the Secretary of Agriculture;

15 l. "Soil and water conservation project" means any project  
16 designed for the control and prevention of soil erosion and sediment  
17 damages, the control of pollution on agricultural lands, the  
18 impoundment, storage and management of water for agricultural  
19 purposes, or the improved management of land and soils to achieve  
20 maximum agricultural productivity;

21 m. "Soil conservation district" means a governmental  
22 subdivision of this State organized in accordance with the  
23 provisions of R.S. 4:24-1 et seq.; and

24 n. "Agricultural deed restrictions for farmland preservation  
25 purposes" means a statement containing the conditions of the  
26 conveyance and the terms of the restrictions set forth in P.L.1983,  
27 c.32 and as additionally determined by the committee on the use  
28 and the development of the land which shall be recorded with the  
29 deed in the same manner as originally recorded.

30 (cf: P.L.1988, c.4, s.1)]<sup>1</sup>

31

32 <sup>1</sup>[6.] 7.<sup>1</sup> Section 3 of P.L.1964, c.48 (C.54:4-23.3) is amended  
33 to read as follows:

34 3. Land shall be deemed to be in agricultural use when devoted  
35 to the production for sale of plants and animals useful to man,  
36 including but not limited to: forages and sod crops; grains and feed  
37 crops; dairy animals and dairy products; poultry and poultry  
38 products; livestock, including beef cattle, sheep, swine, horses,  
39 ponies, mules or goats, including the breeding, boarding, raising,  
40 rehabilitating, training or grazing of any or all of such animals,  
41 except that "livestock" shall not include dogs; bees and apiary  
42 products; fur animals; trees and forest products; or when devoted to  
43 and meeting the requirements and qualifications for payments or  
44 other compensation pursuant to a soil conservation program under  
45 an agreement with an agency of the federal government, except that  
46 land which is devoted exclusively to the production for sale of tree  
47 and forest products, other than Christmas trees, and is not

1 appurtenant woodland, shall not be deemed to be in agricultural use  
2 unless the landowner fulfills the following additional conditions:

3 a. The landowner establishes and complies with the provisions  
4 of a woodland management plan for this land, prepared in  
5 accordance with policies, guidelines and practices approved by the  
6 Division of Parks and Forestry in the Department of Environmental  
7 Protection, in consultation with the Department of Agriculture and  
8 the Dean of Cook College at Rutgers, The State University, which  
9 policies, guidelines and practices are designed to eliminate  
10 excessive and unnecessary cutting;

11 b. The landowner and a forester from a list of foresters  
12 approved by the Department of Environmental Protection annually  
13 attest to compliance with subsection a. of this section; and

14 c. The landowner annually submits an application, as  
15 prescribed in section 13 of P.L.1964, c.48 (C.54:4-23.13), to the  
16 assessor, accompanied by a copy of the plan established pursuant to  
17 subsection a. of this section; written documentation of compliance  
18 with subsection b. of this section; a supplementary woodland data  
19 form setting forth woodland management actions taken in the pre-  
20 tax year, the type and quantity of tree and forest products sold, and  
21 the amount of income received or anticipated for same; a map of the  
22 land showing the location of the activity and the soil group classes  
23 of the land; and other pertinent information required by the Director  
24 of the Division of Taxation as part of the application for valuation,  
25 assessment and taxation, as provided in P.L.1964, c.48 (C.54:4-23.1  
26 et seq.). The landowner shall, at the same time, submit to the  
27 Commissioner of the Department of Environmental Protection an  
28 exact copy of the application and accompanying information  
29 submitted to the assessor pursuant to this subsection. For the  
30 purposes of this amendatory and supplementary act, "appurtenant  
31 woodland" means a wooded piece of property which is contiguous  
32 to, part of, or beneficial to a tract of land, which tract of land has a  
33 minimum area of at least five acres devoted to agricultural or  
34 horticultural uses other than the production for sale of trees and  
35 forest products, exclusive of Christmas trees, to which tract of land  
36 the woodland is supportive and subordinate.

37 For the purposes of this section and P.L.1964, c.48 (C.54:4-23.1  
38 et seq.):

39 (1) agricultural use shall also include biomass, solar, or wind  
40 energy generation, provided that the biomass, solar, or wind energy  
41 generation <sup>1</sup>;

42 (a) does not constitute the primary use of the land being valued,  
43 assessed and taxed pursuant to P.L.1964, c.48 (C.54:4-23.1 et seq.);  
44 and

45 (b)]<sup>1</sup> is consistent with the provisions of <sup>1</sup>[section 1 or 2 of]<sup>1</sup>  
46 P.L. , c. (C. ) (pending before the Legislature as this bill), as  
47 applicable, and the rules and regulations adopted therefor; <sup>1</sup>and<sup>1</sup>

1       (2) “biomass” means ‘[biomass that is cultivated and harvested  
2 on the farm management unit in a sustainable manner; and

3       (3) “farm management unit” means a parcel or parcels of land,  
4 whether contiguous or noncontiguous, together with agricultural or  
5 horticultural buildings, structures and facilities, producing  
6 agricultural or horticultural products, and operated as a single  
7 enterprise] an agricultural crop, crop residue, or agricultural  
8 byproduct that is cultivated, harvested, or produced on the farm, or  
9 directly obtained from a farm where it was cultivated, harvested, or  
10 produced, and which can be used to generate energy in a sustainable  
11 manner, except with respect to preserved farmland, “biomass”  
12 means the same as that term is defined in section 1 of P.L. , c.  
13 (C. ) (pending before the Legislature as this bill)‘ .  
14 (cf: P.L.1995, c.276, s.1)

15

16       ‘[7.] 8.’ Section 4 of P.L.1964, c.48 (C.54:4-23.4) is amended  
17 to read as follows:

18       4. Land shall be deemed to be in horticultural use when devoted  
19 to the production for sale of fruits of all kinds, including grapes,  
20 nuts and berries; vegetables; nursery, floral, ornamental and  
21 greenhouse products; or when devoted to and meeting the  
22 requirements and qualifications for payments or other compensation  
23 pursuant to a soil conservation program under an agreement with  
24 an agency of the Federal Government.

25       For the purposes of this section and P.L.1964, c.48 (C.54:4-23.1  
26 et seq.):

27       (1) horticultural use shall also include biomass, solar, or wind  
28 energy generation, provided that the biomass, solar, or wind energy  
29 generation ‘[:

30       (a) does not constitute the primary use of the land being valued,  
31 assessed and taxed pursuant to P.L.1964, c.48 (C.54:4-23.1 et seq.);  
32 and

33       (b)]’ is consistent with the provisions of ‘[section 1 or 2 of]’  
34 P.L. , c. (C. ) (pending before the Legislature as this bill), as  
35 applicable, and the rules and regulations adopted therefor; ‘and’

36       (2) “biomass” means ‘[biomass that is cultivated and harvested  
37 on the farm management unit in a sustainable manner; and

38       (3) “farm management unit” means a parcel or parcels of land,  
39 whether contiguous or noncontiguous, together with agricultural or  
40 horticultural buildings, structures and facilities, producing  
41 agricultural or horticultural products, and operated as a single  
42 enterprise] an agricultural crop, crop residue, or agricultural  
43 byproduct that is cultivated, harvested, or produced on the farm, or  
44 directly obtained from a farm where it was cultivated, harvested, or  
45 produced, and which can be used to generate energy in a sustainable  
46 manner, except with respect to preserved farmland, “biomass”

1 means the same as that term is defined in section 1 of P.L. , c.  
2 (C. ) (pending before the Legislature as this bill)<sup>1</sup> .  
3 (cf: P.L.1964, c.48, s.4)

4  
5 <sup>1</sup>[8. (New section) Notwithstanding any provision of section 1  
6 of P.L. , c. (C. ) (pending before the Legislature as this bill)  
7 and section 2 of P.L. , c. (C. ) (pending before the Legislature  
8 as this bill), and of section 6 of P.L.1983, c.31 (C.4:1C-9), section 3  
9 of P.L.1983, c.32 (C.4:1C-13), and sections 3 and 4 of P.L.1964,  
10 c.48 (C.54:4-23.3 and C.54:4-23.4) as amended by P.L. , c.  
11 (C. ) (pending before the Legislature as this bill), to the contrary,  
12 the construction, installation, or operation of any biomass, solar, or  
13 wind energy generation facility, structure, or equipment in the  
14 pinelands area, as defined and regulated by the “Pinelands  
15 Protection Act,” P.L.1979, c.111 (C.13:18A-1 et seq.), shall comply  
16 with the standards of P.L.1979, c.111 and the comprehensive  
17 management plan for the pinelands area adopted pursuant to  
18 P.L.1979, c.111.]<sup>1</sup>

19  
20 9. This act shall take effect immediately, except that sections  
21 <sup>1</sup>[2, 6, and 7] 4, 7, and 8<sup>1</sup> of this act shall be applicable to tax years  
22 commencing after the date of enactment of this act.

23  
24  
25  
26  
27 \_\_\_\_\_  
Concerns biomass, solar, and wind energy generation on farms.