

LOCAL REDEVELOPMENT AND HOUSING LAW

40A:12A-1. Short title

This act shall be known and may be cited as the "Local Redevelopment and Housing Law."

P.L. 1992,c.79,s.1.

40A:12A-2. Findings, determinations, declarations

The Legislature hereby finds, determines and declares:

- a. There exist, have existed and persist in various communities of this State conditions of deterioration in housing, commercial and industrial installations, public services and facilities and other physical components and supports of community life, and improper, or lack of proper, development which result from forces which are amenable to correction and amelioration by concerted effort of responsible public bodies, and without this public effort are not likely to be corrected or ameliorated by private effort.
- b. From time to time the Legislature has, by various enactments, empowered and assisted local governments in their efforts to arrest and reverse these conditions and to promote the advancement of community interests through programs of redevelopment, rehabilitation and incentives to the expansion and improvement of commercial, industrial, residential and civic facilities.
- c. As a result of those efforts, there has grown a varied and complex body of laws, all directed by diverse means to the principal goal of promoting the physical development that will be most conducive to the social and economic improvement of the State and its several municipalities.
- d. It is the intent of this act to codify, simplify and concentrate prior enactments relative to local redevelopment and housing, to the end that the legal mechanisms for such improvement may be more efficiently employed.

P.L. 1992,c.79,s.2.

40A:12A-3. Definitions

As used in this act:

"Bonds" means any bonds, notes, interim certificates, debentures or other obligations issued by a municipality, county, redevelopment entity, or housing authority pursuant to this act.

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"Development" means the division of a parcel of land into two or more parcels, the construction, reconstruction, conversion, structural alteration, relocation, or enlargement of any building or other structure, or of any mining, excavation or landfill, and any use or change in the use of any building or other structure, or land or extension of use of land, for which permission may be required pursuant to the "Municipal Land Use Law," P.L. 1975, c.291 (C.40:55D-1 et seq.).

"Governing body" means the body exercising general legislative powers in a county or municipality according to the terms and procedural requirements set forth in the form of government adopted by the county or municipality.

"Housing authority" means a housing authority created or continued pursuant to this act.

"Housing project" means a project, or distinct portion of a project, which is designed and intended to provide decent, safe and sanitary dwellings, apartments or other living accommodations for persons of low and moderate income; such work or undertaking may include buildings, land, equipment, facilities and other real or personal property for necessary, convenient or desirable appurtenances, streets, sewers, water service, parks, site preparation, gardening, administrative, community, health, recreational, educational, welfare or other purposes. The term "housing project" also may be applied to the planning of the buildings and improvements, the acquisition of property, the demolition of existing structures, the construction, reconstruction, alteration and repair of the improvements and all other work in connection therewith.

"Persons of low and moderate income" means persons or families who are, in the case of State assisted projects or programs, so defined by the Council on Affordable Housing in the Department of Community Affairs, or in the case of federally assisted projects or programs, defined as of "low and very low income" by the United States Department of Housing and Urban Development.

"Public body" means the State or any county, municipality, school district, authority or other political subdivision of the State.

"Public housing" means any housing for persons of low and moderate income owned by a municipality, county, the State or the federal government, or any agency or instrumentality thereof.

"Publicly assisted housing" means privately owned housing which receives public assistance or subsidy, which may be grants or loans for construction, reconstruction, conservation, or rehabilitation of the housing, or receives operational or maintenance subsidies either directly or through rental subsidies to tenants, from a federal, State or local government agency or instrumentality.

"Real property" means all lands, including improvements and fixtures thereon, and property of any nature appurtenant thereto or used in connection therewith, and every estate, interest and right, legal or equitable, therein, including terms for years and liens by way of judgment, mortgage or otherwise, and indebtedness secured by such liens.

"Redeveloper" means any person, firm, corporation or public body that shall enter into or propose to enter into a contract with a municipality or other redevelopment entity for the redevelopment or rehabilitation of an area in need of redevelopment, or an area in

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need of rehabilitation, or any part thereof, under the provisions of this act, or for any construction or other work forming part of a redevelopment or rehabilitation project.

"Redevelopment" means clearance, replanning, development and redevelopment; the conservation and rehabilitation of any structure or improvement, the construction and provision for construction of residential, commercial, industrial, public or other structures and the grant or dedication of spaces as may be appropriate or necessary in the interest of the general welfare for streets, parks, playgrounds, or other public purposes, including recreational and other facilities incidental or appurtenant thereto, in accordance with are development plan.

"Redevelopment agency" means a redevelopment agency created pursuant to subsection a. of section 11 of P.L. 1992, c.79 (C.40A:12A-11) or established heretofore pursuant to the "Redevelopment Agencies Law," P.L. 1949, c.306 (C.40:55C-1 et seq.), repealed by this act, which has been permitted in accordance with the provisions of this act to continue to exercise its redevelopment functions and powers.

"Redevelopment area" or "area in need of redevelopment" means an area determined to be in need of redevelopment pursuant to sections 5 and 6 of P.L. 1992, c.79 (C.40A:12A-5 and 40A:12A-6) or determined heretofore to be a "blighted area" pursuant to P.L.1949, c.187 (C.40:55-21.1 et seq.) repealed by this act, both determinations as made pursuant to the authority of Article VIII, Section III, paragraph 1 of the Constitution. A redevelopment area may include lands, buildings, or improvements which of themselves are not detrimental to the public health, safety or welfare, but the inclusion of which is found necessary, with or without change in their condition, for the effective redevelopment of the area of which they are a part.

"Redevelopment entity" means a municipality or an entity authorized by the governing body of a municipality pursuant to subsection c. of section 4 of P.L. 1992, c.79 (C.40A:12A-4) to implement redevelopment plans and carry out redevelopment projects in an area in need of redevelopment, or in an area in need of rehabilitation, or in both.

"Redevelopment plan" means a plan adopted by the governing body of a municipality for the redevelopment or rehabilitation of all or any part of a redevelopment area, or an area in need of rehabilitation, which plan shall be sufficiently complete to indicate its relationship to definite municipal objectives as to appropriate land uses, public transportation and utilities, recreational and municipal facilities, and other public improvements; and to indicate proposed land uses and building requirements in the redevelopment area or area in need of rehabilitation, or both.

"Redevelopment project" means any work or undertaking pursuant to a redevelopment plan; such undertaking may include any buildings, land, including demolition, clearance or removal of buildings from land, equipment, facilities, or other real or personal properties which are necessary, convenient, or desirable appurtenances, such as but not limited to streets, sewers, utilities, parks, site preparation, landscaping, and administrative, community, health, recreational, educational, and welfare facilities.

"Rehabilitation" means an undertaking, by means of extensive repair, reconstruction or renovation of existing structures, with or without the introduction of new construction or the enlargement of existing structures, in any area that has been

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determined to be in need of rehabilitation or redevelopment, to eliminate substandard structural or housing conditions and arrest the deterioration of that area.

"Rehabilitation area" or "area in need of rehabilitation" means any area determined to be in need of rehabilitation pursuant to section 14 of P.L. 1992, c.79 (C.40A:12A-14).

P.L. 1992,c.79,s.3.

40A:12A-4. Powers of municipal governing body, planning board

In exercising the redevelopment and rehabilitation functions provided for in this act:

a. A municipal governing body shall have the power to:

(1) Cause a preliminary investigation to be made pursuant to subsection a. of section 6 of P.L. 1992, c.79(C.40A:12A-6) as to whether an area is in need of redevelopment;

(2) Determine pursuant to subsection b. of section 6 of P.L. 1992, c.79 (C.40A:12A-6) that an area is in need of redevelopment;

(3) Adopt a redevelopment plan pursuant to section 7 of P.L. 1992, c.79 (C.40A:12A-7);

(4) Determine pursuant to section 14 of P.L. 1992, c.79 (C.40A:12A-14) that an area is in need of rehabilitation.

B A municipal planning board shall have the power to:

(1) Conduct, when authorized by the municipal governing body, a preliminary investigation and hearing and make a recommendation pursuant to subsection b. of section 6 of P.L. 1992, c.79 (C.40A:12A-6) as to whether an area is in need of redevelopment;

(2) Make recommendations concerning a redevelopment plan pursuant to subsection e. of section 7 of P.L. 1992, c.79 (C.40A:12A-7), or prepare a redevelopment plan pursuant to subsection f. of that section.

(3) Make recommendations concerning the determination of an area in need of rehabilitation pursuant to section 14 of P.L. 1992, c.79 (C.40A:12A-14).

c. The municipality shall be responsible for implementing redevelopment plans and carrying out redevelopment projects pursuant to section 8 of P.L. 1992, c.79 (C.40A:12A-8). The municipality may execute these responsibilities directly, or in addition thereto or in lieu thereof, through either a municipal redevelopment agency, or a municipal housing authority authorized to exercise redevelopment powers pursuant to section 21 of P.L. 1992, c.79 (C.40A:12A-21), but there shall be only one redevelopment entity responsible for each redevelopment project. A county improvement authority authorized to undertake redevelopment projects pursuant to the "county improvement

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authorities law," P.L. 1960, c.183 (C.40:37A-44 et seq.) may also act as a redevelopment entity pursuant to this act. The redevelopment entity, so authorized, may contract with any other public body, in accordance with the provisions of section 8 of P.L. 1992, c.79 (C.40A:12A-8), for the carrying out of a redevelopment project or any part thereof under its jurisdiction. Notwithstanding the above, the governing body of the municipality may, by ordinance, change or rescind the designation of the redevelopment entity responsible for implementing a redevelopment plan and carrying out a redevelopment project and may assume this responsibility itself, but only the redevelopment entity authorized to undertake a particular redevelopment project shall remain authorized to complete it, unless the redevelopment entity and redeveloper agree otherwise, or unless no obligations have been entered into by the redevelopment entity with parties other than the municipality. This shall not diminish the power of the municipality to dissolve a redevelopment entity pursuant to section 24 of P.L. 1992, c.79 (C.40A:12A-24), and section 20 of the "Local Authorities Fiscal Control Law," P.L. 1983, c.313 (C.40A:5A-20).

P.L. 1992,c.79,s.4.

40A:12A-5. Determination of need for redevelopment

A delineated area may be determined to be in need of redevelopment if, after investigation, notice and hearing as provided in section 6 of P.L. 1992, c.79 (C.40A:12A-6), the governing body of the municipality by resolution concludes that within the delineated area any of the following conditions is found:

a. The generality of buildings are substandard, unsafe, unsanitary, dilapidated, or obsolescent, or possess any of such characteristics, or are so lacking in light, air, or space, as to be conducive to unwholesome living or working conditions.

b. The discontinuance of the use of buildings previously used for commercial, manufacturing, or industrial purposes; the abandonment of such buildings; or the same being allowed to fall into so great a state of disrepair as to be untenable.

c. Land that is owned by the municipality, the county, a local housing authority, redevelopment agency or redevelopment entity, or unimproved vacant land that has remained so for a period of ten years prior to adoption of the resolution, and that by reason of its location, remoteness, lack of means of access to developed sections or portions of the municipality, or topography, or nature of the soil, is not likely to be developed through the instrumentality of private capital.

d. Areas with buildings or improvements which, by reason of dilapidation, obsolescence, overcrowding, faulty arrangement or design, lack of ventilation, light and sanitary facilities, excessive land coverage, deleterious land use or obsolete layout, or any combination of these or other factors, are detrimental to the safety, health, morals, or welfare of the community.

e. A growing lack or total lack of proper utilization of areas caused by the condition of the title, diverse ownership of the real property therein or other conditions,

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resulting in a stagnant or not fully productive condition of land potentially useful and valuable for contributing to and serving the public health, safety and welfare.

f. Areas, in excess of five contiguous acres, whereon buildings or improvements have been destroyed, consumed by fire, demolished or altered by the action of storm, fire, cyclone, tornado, earthquake or other casualty in such a way that the aggregate assessed value of the area has been materially depreciated.

g. In any municipality in which an enterprise zone has been designated pursuant to the "New Jersey Urban Enterprise Zones Act," P.L. 1983, c.303 (C.52:27H-60 et seq.) the execution of the actions prescribed in that act for the adoption by the municipality and approval by the New Jersey Urban Enterprise Zone Authority of the zone development plan for the area of the enterprise zone shall be considered sufficient for the determination that the area is in need of redevelopment pursuant to sections 5 and 6 of P.L. 1992, c.79(C.40A:12A-5 and 40A:12A-6) for the purpose of granting tax exemptions within the enterprise zone district pursuant to the provisions of P.L. 1991, c.431 (C.40A:20-1 et seq.) or the adoption of a tax abatement and exemption ordinance pursuant to the provisions of P.L. 1991, c.441 (C.40A:21-1 et seq.). The municipality shall not utilize any other redevelopment powers within the urban enterprise zone unless the municipal governing body and planning board have also taken the actions and fulfilled the requirements prescribed in P.L. 1992, c.79 (C.40A:12A-1 et al.) for determining that the area is in need of redevelopment or an area in need of rehabilitation and the municipal governing body has adopted a redevelopment plan ordinance including the area of the enterprise zone.

P.L. 1992,c.79,s.5.

40A:12A-6. Investigation for determination as redevelopment area, public hearing

a. No area of a municipality shall be determined a redevelopment area unless the governing body of the municipality shall, by resolution, authorize the planning board to undertake a preliminary investigation to determine whether the proposed area is a redevelopment area according to the criteria set forth in section 5 of P.L. 1992, c.79 (C.40A:12A-5). Such determination shall be made after public notice and public hearing as provided in subsection b. of this section. The governing body of a municipality shall assign the conduct of the investigation and hearing to the planning board of the municipality.

b. (1) Before proceeding to a public hearing on the matter, the planning board shall prepare a map showing the boundaries of the proposed redevelopment area and the location of the various parcels of property included therein. There shall be appended to the map a statement setting forth the basis for the investigation.

(2) The planning board shall specify a date for and give notice of a hearing for the purpose of hearing persons who are interested in or would be affected by a determination that the delineated area is a redevelopment area.

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(3) The hearing notice shall set forth the general boundaries of the area to be investigated and state that a map has been prepared and can be inspected at the office of the municipal clerk. A copy of the notice shall be published in a newspaper of general circulation in the municipality once each week for two consecutive weeks, and the last publication shall be not less than ten days prior to the date set for the hearing. A copy of the notice shall be mailed at least ten days prior to the date set for the hearing to the last owner, if any, of each parcel of property within the area according to the assessment records of the municipality. A notice shall also be sent to all persons at their last known address, if any, whose names are noted on the assessment records as claimants of an interest in any such parcel. The assessor of the municipality shall make a notation upon the records when requested to do so by any person claiming to have an interest in any parcel of property in the municipality. The notice shall be published and mailed by the municipal clerk, or by such clerk or official as the planning board shall otherwise designate. Failure to mail any such notice shall not invalidate the investigation or determination thereon.

(4) At the hearing, which may be adjourned from time to time, the planning board shall hear all persons who are interested in or would be affected by a determination that the delineated area is a redevelopment area. All objections to such a determination and evidence in support of those objections, given orally or in writing, shall be received and considered and made part of the public record.

(5) After completing its hearing on this matter, the planning board shall recommend that the delineated area, or any part thereof, be determined, or not be determined, by the municipal governing body to be a redevelopment area. After receiving the recommendation of the planning board, the municipal governing body may adopt a resolution determining that the delineated area, or any part thereof, is a redevelopment area. The determination, if supported by substantial evidence, shall be binding and conclusive upon all persons affected by the determination. Notice of the determination shall be served, within 10 days after the determination, upon each person who filed a written objection thereto and stated, in or upon the written submission, an address to which notice of determination may be sent.

(6) If written objections were filed in connection with the hearing, the municipality shall, for 45 days next following its determination to which the objections were filed, take no further action to acquire any property by condemnation within the redevelopment area.

(7) If a person who filed a written objection to a determination by the municipality pursuant to this subsection shall, within 45 days after the adoption by the municipality of the determination to which the person objected, apply to the Superior Court, the court may grant further review of the determination by procedure in lieu of prerogative writ; and in any such action the court may make any incidental order that it deems proper.

c. An area determined to be in need of redevelopment pursuant to this section shall be deemed to be a "blighted area" for the purposes of Article VIII, Section III, paragraph 1 of the Constitution. If an area is determined to be a redevelopment area and a redevelopment plan is adopted for that area in accordance with the provisions of this act,

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the municipality is authorized to utilize all those powers provided in section 8 of P.L. 1992, c.79 (C.40A:12A-8).

P.L. 1992,c.79,s.6.

40A:12A-7. Adoption of redevelopment plan

a. No redevelopment project shall be undertaken or carried out except in accordance with are development plan adopted by ordinance of the municipal governing body, upon its finding that the specifically delineated project area is located in an area in need of redevelopment or in an area in need of rehabilitation, or in both, according to criteria set forth in section 5 or section 14 of P.L.1992, c.79(C.40A:12A-5 or 40A:12A-14), as appropriate.

The redevelopment plan shall include an outline for the planning, development, redevelopment, or rehabilitation of the project area sufficient to indicate:

(1) Its relationship to definite local objectives as to appropriate land uses, density of population, and improved traffic and public transportation, public utilities, recreational and community facilities and other public improvements.

(2) Proposed land uses and building requirements in the project area.

(3) Adequate provision for the temporary and permanent relocation, as necessary, of residents in the project area, including an estimate of the extent to which decent, safe and sanitary dwelling units affordable to displaced residents will be available to them in the existing local housing market.

(4) An identification of any property within the redevelopment area which is proposed to be acquired in accordance with the redevelopment plan.

(5) Any significant relationship of the redevelopment plan to (a) the master plans of contiguous municipalities,

(b) the master plan of the county in which the municipality is located, and (c) the State Development and Redevelopment Plan adopted pursuant to the "State Planning Act," P.L. 1985, c.398 (C.52:18A-196 et al.).

b. A redevelopment plan may include the provision of affordable housing in accordance with the "Fair Housing Act," P.L. 1985, c.222 (C.52:27D-301 et al.) and the housing element of the municipal master plan.

c. The redevelopment plan shall describe its relationship to pertinent municipal development regulations as defined in the "Municipal Land Use Law," P.L. 1975, c.291 (C.40:55D-1 et seq.). The redevelopment plan shall supersede applicable provisions of the development regulations of the municipality or constitute an overlay zoning district within the redevelopment area. When the redevelopment plan supersedes any provision of the development regulations, the ordinance adopting the redevelopment plan shall contain an explicit amendment to the zoning district map included in the zoning ordinance. The zoning district map as amended shall indicate the redevelopment area to

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which the redevelopment plan applies. Notwithstanding the provisions of the "Municipal Land Use Law," P.L. 1975, c.291 (C.40:55D-1 et seq.) or of other law, no notice beyond that required for adoption of ordinances by the municipality shall be required for the hearing on or adoption of the redevelopment plan or subsequent amendments thereof.

d. All provisions of the redevelopment plan shall be either substantially consistent with the municipal master plan or designed to effectuate the master plan; but the municipal governing body may adopt a redevelopment plan which is inconsistent with or not designed to effectuate the master plan by affirmative vote of a majority of its full authorized membership with the reasons for so acting set forth in the redevelopment plan.

e. Prior to the adoption of a redevelopment plan, or revision or amendment thereto, the planning board shall transmit to the governing body, within 45 days after referral, a report containing its recommendation concerning the redevelopment plan. This report shall include an identification of any provisions in the proposed redevelopment plan which are inconsistent with the master plan and recommendations concerning these inconsistencies and any other matters as the board deems appropriate. The governing body, when considering the adoption of a redevelopment plan or revision or amendment thereof, shall review the report of the planning board and may approve or disapprove or change any recommendation by a vote of a majority of its full authorized membership and shall record in its minutes the reasons for not following the recommendations. Failure of the planning board to transmit its report within the required 45 days shall relieve the governing body from the requirements of this subsection with regard to the pertinent proposed redevelopment plan or revision or amendment thereof. Nothing in this subsection shall diminish the applicability of the provisions of subsection d. of this section with respect to any redevelopment plan or revision or amendment thereof.

f. The governing body of a municipality may direct the planning board to prepare a redevelopment plan or an amendment or revision to a redevelopment plan for a designated redevelopment area. After completing the redevelopment plan, the planning board shall transmit the proposed plan to the governing body for its adoption. The governing body, when considering the proposed plan, may amend or revise any portion of the proposed redevelopment plan by an affirmative vote of the majority of its full authorized membership and shall record in its minutes the reasons for each amendment or revision. When a redevelopment plan or amendment to a redevelopment plan is referred to the governing body by the planning board under this subsection, the governing body shall be relieved of the referral requirements of subsection e. of this section.

P.L. 1992,c.79,s.7.

40A:12A-8. Effectuation of redevelopment plan

Upon the adoption of a redevelopment plan pursuant to section 7 of P.L. 1992, c.79 (C.40A:12A-7), the municipality or redevelopment entity designated by the governing body may proceed with the clearance, replanning, development and redevelopment of the area designated in that plan. In order to carry out and effectuate the purposes of this act

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and the terms of the redevelopment plan, the municipality or designated redevelopment entity may:

- a. Undertake redevelopment projects, and for this purpose issue bonds in accordance with the provisions of section 29 of P.L. 1992, c.79 (C.40A:12A-29).
- b. Acquire property pursuant to subsection i. of section 22 of P.L.1992, c.79 (C.40A:12A-22).
- c. Acquire, by condemnation, any land or building which is necessary for the redevelopment project, pursuant to the provisions of the "Eminent Domain Act of 1971," P.L. 1971, c.361 (C.20:3-1 et seq.).
- d. Clear any area owned or acquired and install, construct or reconstruct streets, facilities, utilities, and site improvements essential to the preparation of sites for use in accordance with the redevelopment plan.
- e. Prepare or arrange by contract for the provision of professional services and the preparation of plans by registered architects, licensed professional engineers or planners, or other consultants for the carrying out of redevelopment projects.
- f. Arrange or contract with public agencies or redevelopers for the planning, replanning, construction, or undertaking of any project or redevelopment work, or any part thereof; negotiate and collect revenue from a redeveloper to defray the costs of the redevelopment entity, including where applicable the costs incurred in conjunction with bonds, notes or other obligations issued by the redevelopment entity, and to secure payment of such revenue; as part of any such arrangement or contract, provide for extension of credit, or making of loans, to redevelopers to finance any project or redevelopment work, or upon a finding that the project or redevelopment work would not be undertaken but for the provision of financial assistance, or would not be undertaken in its intended scope without the provision of financial assistance, provide as part of an arrangement or contract for capital grants to redevelopers; and arrange or contract with public agencies or redevelopers for the opening, grading or closing of streets, roads, roadways, alleys, or other places or for the furnishing of facilities or for the acquisition by such agency of property options or property rights or for the furnishing of property or services in connection with a redevelopment area.
- g. Lease or convey property or improvements to any other party pursuant to this section, without public bidding and at such prices and upon such terms as it deems reasonable, provided that the lease or conveyance is made in conjunction with a redevelopment plan, notwithstanding the provisions of any law, rule, or regulation to the contrary.
- h. Enter upon any building or property in any redevelopment area in order to conduct investigations or make surveys, sounding or test borings necessary to carry out the purposes of this act.
- i. Arrange or contract with a public agency for the relocation, pursuant to the "Relocation Assistance Law of 1967," P.L. 1967, c.79 (C.52:31B-1 et seq.) and the "Relocation Assistance Act," P.L. 1971, c.362 (C.20:4-1 et seq.), of residents, industry or commerce displaced from a redevelopment area.

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j. Make, consistent with the redevelopment plan: (1) plans for carrying out a program of voluntary repair and rehabilitation of buildings and improvements; and (2) plans for the enforcement of laws, codes, and regulations relating to the use and occupancy of buildings and improvements, and to the compulsory repair, rehabilitation, demolition, or removal of buildings and improvements.

k. Request that the planning board recommend and governing body designate particular areas as being in need of redevelopment or rehabilitation in accordance with the provisions of this act and make recommendations for the redevelopment or rehabilitation of such areas.

l. Study the recommendations of the planning board or governing body for redevelopment of the area.

m. Publish and disseminate information concerning any redevelopment area, plan or project.

n. Do all things necessary or convenient to carry out its powers.

P.L. 1992,c.79,s.8.

40A:12A-9. Agreements with redevelopers

a. All agreements, leases, deeds and other instruments from or between a municipality or redevelopment entity and to or with a redeveloper shall contain a covenant running with the land requiring that the owner shall construct only the uses established in the current redevelopment plan; a provision requiring the redeveloper to begin the building of the improvements for those uses within a period of time which the municipality or redevelopment entity fixes as reasonable; a provision that the redeveloper shall be without power to sell, lease or otherwise transfer the redevelopment area or project, or any part thereof, without the written consent of the municipality or redevelopment entity; a provision that upon completion of the required improvements, the conditions determined to exist at the time the area was determined to be in need of redevelopment shall be deemed to no longer exist, and the land and improvements thereon shall no longer be subject to eminent domain as a result of those determinations; and any other covenants, provisions and continuing controls as may be deemed necessary to effectuate the purposes of this act. The aforesaid covenants, provisions and controls shall be deemed satisfied upon termination of the agreements and covenants entered into by the redeveloper to construct the improvements and to perform the redevelopment. The rights of any third party acquired prior to termination of the agreements, including, but not limited to, any tax exemption or abatement granted pursuant to law, shall not be negatively affected by termination and satisfaction of the covenants.

b. A lease to a redeveloper may provide that all improvements shall become the property of the municipality or redevelopment entity. The execution of a lease with that provision shall not impose upon the municipality or redevelopment entity any liability for

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the financing, construction, management or operation of any redevelopment project, or any part thereof.

P.L. 1992,c.79,s.9.

40A:12A-10. Relocation of public utility facilities

Whenever a redevelopment entity which has acquired by purchase or condemnation real property for any project or for the widening of existing roads, streets, parkways, avenues or highways or for construction of new roads, streets, parkways, avenues or highways to any project or partly for such purposes and partly for other municipal or county purposes, shall determine that it is necessary that any tracks, pipes, mains, conduits, cables, wires, towers, poles and other equipment and appliances (herein called "public utility facilities") of any public utility as defined in R.S. 27:7-1 in, on, along, over or under the project or real property, should be relocated in, or removed from, that project or real property, the public utility owning or operating the public utility facilities shall relocate or remove the same in accordance with the order of the redevelopment entity; provided, however, that the cost and expenses of relocation or removal, including the cost of installing the public utility facilities in a new location, or new locations, and the cost of any lands, or any rights or interest in lands, or any other rights acquired to accomplish the relocation or removal, less the cost of any lands or any rights or interest in lands or any other rights of the public utility paid to the public utility in connection with the relocation or removal, shall be ascertained and paid by the redevelopment entity making such order. In case of any such relocation or removal of public utility facilities, the public utility, its successors or assigns, may maintain and operate such facilities, with the necessary appurtenances, in the new location or new locations, for as long a period, and upon the same terms and conditions, as it had the right to maintain and operate the public utility facilities in their former location or locations.

P.L. 1992,c.79,s.10. .

40A:12A-11. Creation of municipal redevelopment agency

a. The governing body of a municipality may, by ordinance, create a body corporate and politic to be known as the ". Redevelopment Agency," inserting the name of the municipality creating the agency. The agency shall be an instrumentality of the municipality creating it. A redevelopment agency shall be created pursuant to the procedures of the "Local Authorities Fiscal Control Law," P.L. 1983, c.313 (C.40A:5A-1 et seq.).

There shall be seven commissioners of a redevelopment agency. The commissioners shall be appointed by the governing body, in the manner generally required for appointments by the form of government under which the municipality is governed. Commissioners shall each serve for a term of five years; except that the first of these appointees shall be designated to serve for the following terms: one for a term of one year, one for a term of

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two years, two for terms of three years, one for a term of four years, and two for terms of five years. No more than two commissioners shall be officers or employees of the municipality. Each commissioner shall hold office for the term of his appointment and until his successor shall have been appointed and qualified. Any vacancy occurring in the office of commissioner, from any cause, shall be filled in the same manner as the original appointment, but for the unexpired term.

The municipal governing body may provide by ordinance that not more than two of the commissioners shall be members of the governing body. A commissioner who is a member of the governing body shall serve for a term of one year. That ordinance shall provide for the terms of the other commissioners to be appointed to staggered terms in substantial accord with the provisions of this section.

Any redevelopment agency created pursuant to the "Redevelopment Agencies Law," P.L. 1949, c.306 (C.40:55C-1 et seq.) and in existence until the repeal of that law by this act, shall continue notwithstanding that repeal, but shall exercise its powers pursuant to the provisions of this act. The five commissioners appointed by the governing body of the municipality shall continue in office until the terms for which they were appointed expire and their successors are appointed and qualified. The terms of those agency commissioners who were appointed by the mayor or the Commissioner of the Department of Community Affairs shall cease and determine 90 days after the effective date of this act.

b. A certificate of the appointment or reappointment of each commissioner shall be filed with the clerk, and that certificate shall be conclusive evidence of the due and proper appointment of that commissioner. A commissioner shall receive no compensation for his services, but shall be entitled to reimbursement for actual expenses necessarily incurred in the discharge of the duties of commissioner, including travel expenses. The powers of the agency shall be vested in the commissioners thereof in office from time to time. Four commissioners shall constitute a quorum for the purpose of conducting business and exercising powers and all other purposes. Action may be taken by the agency upon the affirmative vote of the majority, but not less than four of the commissioners present, unless in any case the bylaws of the agency shall require a larger number. The agency shall select a chairman and a vice-chairman from among the commissioners, and it shall employ an executive director, who shall be its secretary.

c. No commissioner or employee of an agency shall acquire any interest, direct or indirect, in a redevelopment project or in any property included or planned to be included in a project, nor shall he have any interest, direct or indirect, in any contract or proposed contract for materials and services to be furnished or used in connection with a project. If any commissioner or employee of an agency owns or controls an interest, direct or indirect, in any property included or planned to be included in a project, he shall immediately disclose the same in writing to the agency and the disclosure shall be entered upon the minutes of the agency. Failure so to disclose such an interest shall constitute misconduct in office. A commissioner or employee required by this subsection to make a disclosure shall not participate in any action by the agency affecting the property with

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respect to which disclosure is required. For inefficiency or neglect of duty or misconduct in office a commissioner may be removed by the municipality by which he was appointed; but a commissioner may be removed only after he has been given a copy of the charges at least 10 days prior to the hearing thereon and has had the opportunity to be heard in person or by counsel. In the event of a removal of a commissioner, a record of the proceedings, together with the charges and findings thereon, shall be filed in the office of the clerk of the municipality.

P.L. 1992,c.79,s.11.

40A:12A-12. Executive director of redevelopment agency

The executive director of a redevelopment agency shall have attained a degree from an accredited four year college or university in a public administration, social science or other appropriate program, and shall have at least five years' experience in public administration, public finance, realty, or similar professional employment. A master's degree in an appropriate program may substitute for two years of that experience. The executive director holding that position at the time this act becomes effective, possessing the required work experience and holding appropriate certification from the National Association of Housing and Redevelopment Officials, or equivalent certification from a nationally recognized professional association in the housing and redevelopment field, shall not be required to meet the educational requirement, except as otherwise provided in section 45 of P.L. 1992, c.79 (C.40A:12A-45) and shall be deemed qualified for continued employment as executive director of the agency in which he holds that post and eligible for equivalent employment in any other local redevelopment agency in this State. The executive director shall serve at the pleasure of the commissioners of the agency, and may be relieved of his duties only after 120 days' notice. The redevelopment agency may provide that the executive director shall be the appointing authority for all or any portion of the employees of the agency. The executive director shall assign and supervise employees in the performance of their duties. If the municipality which established the redevelopment agency has adopted the provisions of Title 11A of the New Jersey Statutes, the executive director shall be in the unclassified service of civil service, and all other employees shall be in the classified service of civil service, except as may be otherwise provided by that title. A redevelopment agency may adopt the provisions of Title 11A of the New Jersey Statutes separately from the establishing municipality.

P.L. 1992,c.79,s.12.

40A:12A-13. Submission of applications

All applications for development or redevelopment of a designated redevelopment area or portion of a redevelopment area shall be submitted to the municipal planning board for its review and approval in accordance with the requirements for review and approval of subdivisions and site plans as set forth by ordinance adopted pursuant to the "Municipal Land Use Law," P.L. 1975, c.291 (C.40:55D-1 et seq.).

P.L. 1992,c.79,s.13.

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40A:12A-14. Conditions for determination of need for rehabilitation

a. A delineated area may be determined to be in need of rehabilitation if the governing body of the municipality determines by resolution that there exist in that area conditions such that (1) a significant portion of structures therein are in a deteriorated or substandard condition, (2) there is a continuing pattern of vacancy, abandonment or under utilization of properties in the area, with a persistent arrearage of property tax payments thereon, and (3) a program of rehabilitation, as defined in section 3 of P.L. 1992, c.79 (C.40A:12A-3), may be expected to prevent further deterioration and promote the overall development of the community. Where warranted by consideration of the overall conditions and requirements of the community, a finding of need for rehabilitation may extend to the entire area of a municipality. Prior to adoption of the resolution, the governing body shall submit it to the municipal planning board for its review. Within 45 days of its receipt of the proposed resolution, the municipal planning board shall submit its recommendations regarding the proposed resolution, including any modifications which it may recommend, to the governing body for its consideration. Thereafter, or after the expiration of the 45 days if the municipal planning board does not submit recommendations, the governing body may adopt the resolution, with or without modification.

b. A delineated area shall be deemed to have been determined to be an area in need of rehabilitation in accordance with the provisions of this act if it has heretofore been determined to be an area in need of rehabilitation pursuant to P.L. 1975, c.104 (C.54:4-3.72 et seq.), P.L. 1977, c.12 (C.54:4-3.95 et seq.) or P.L. 1979, c.233 (C.54:4-3.121 et seq.).

P.L. 1992,c.79,s.14.

40A:12A-15. Implementation of redevelopment plan

In accordance with the provisions of a redevelopment plan adopted pursuant to section 7 of P.L. 1992, c.79 (C.40A:12A-7), a municipality or redevelopment entity may proceed with clearance, replanning, conservation, development, redevelopment and rehabilitation of an area in need of rehabilitation. With respect to a redevelopment project in an area in need of rehabilitation, the municipality or redevelopment entity, upon the adoption of a redevelopment plan for the area, may perform any of the actions set forth in section 8 of P.L. 1992, c.79 (C.40A:12A-8), except that with respect to such a project the municipality shall not have the power to take or acquire private property by condemnation in furtherance of a redevelopment plan, unless: a. the area is within an area determined to be in need of redevelopment pursuant to this act; or b. exercise of that power is authorized under any other law of this State.

P.L. 1992,c.79,s.15.

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40A:12A-16. Powers of municipality, county, housing authority

a. In order to carry out the housing purposes of this act, a municipality, county, or housing authority may exercise the following powers, in addition to those set forth in section 22 of P.L. 1992, c.79 (C.40A:12A-22):

(1) Plan, construct, own, and operate housing projects; maintain, reconstruct, improve, alter, or repair any housing project or any part thereof; and for these purposes, receive and accept from the State or federal government, or any other source, funds or other financial assistance;

(2) Lease or rent any dwelling house, accommodations, lands, buildings, structures or facilities embraced in any housing project; and pursuant to the provisions of this act, establish and revise the rents and charges therefor;

(3) Acquire property pursuant to subsection i. of section 22 of P.L. 1992, c.79 (C.40A:12A-22);

(4) Acquire, by condemnation, any land or building which is necessary for the housing project, pursuant to the provisions of the "Eminent Domain Act of 1971," P.L. 1971, c.361 (C.20:3-1 et seq.);

(5) Issue bonds in accordance with the provisions of section 29 of P.L. 1992, c.79 (C.40A:12A-29);

(6) Cooperate with any other municipality, private, county, State or federal entity to provide funds to the municipality or other governmental entity and to homeowners, tenant associations, nonprofit or private developers to acquire, construct, rehabilitate or operate publicly assisted housing, and to provide rent subsidies for persons of low and moderate income, including the elderly, pursuant to applicable State or federal programs;

(7) Encourage the use of demand side subsidy programs such as certificates and vouchers for low-income families and promote the use of project based certificates which provide subsidies for units in newly constructed and substantially rehabilitated structures, and of tenant based certificates which subsidize rent in existing units;

(8) Cooperate with any State or federal entity to secure mortgage assistance for any person of low or moderate income;

(9) Provide technical assistance and support to nonprofit organizations and private developers interested in constructing low and moderate income housing;

(10) If it owns and operates public housing units, provide to the tenants public safety services, including protection against drug abuse, and social services, including counseling and financial management, in cooperation with other agencies;

(11) Provide emergency shelters, transitional housing and supporting services to homeless families and individuals.

b. All housing projects, programs and actions undertaken pursuant to this act shall accord with the housing element of the master plan of the municipality within which undertaken, and with any fair share housing plan filed by the municipality with the Council on Affordable Housing, based upon the council's criteria and guidelines,

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pursuant to the "Fair Housing Act," P.L. 1985, c.222 (C.52:27D-301 et al.), whether or not the municipality has petitioned for substantive certification of the plan.

P.L. 1992,c.79,s.16.

40A:12A-17. Creation of housing authority

a. Except as provided in subsection b. of this section, the governing body of any county or municipality may, by ordinance, or by resolution in the case of a county whose charter does not provide for the adoption of ordinances, create a body corporate and politic to be known as the "Housing Authority of . . . ," inserting the name of the county or municipality. The authority shall constitute an agency and instrumentality of the municipality or county creating it. A housing authority shall be created pursuant to the procedures of the "Local Authorities Fiscal Control Law," P.L. 1983, c.313 (C.40A:5A-1 et seq.). The authority shall consist of seven members. In a county that operates under the "county executive plan" set forth in the "Optional County Charter Law," P.L. 1972, c.154 (C.40:41A-1 et seq.), six members shall be appointed by the county executive with the advice and consent of the board of chosen freeholders, and one member shall be appointed by the Commissioner of Community Affairs. In all other counties and municipalities, five members shall be appointed by the governing body of the county or municipality, as the case may be, one by the mayor or other chief executive officer of the municipality, or in the case of a county by the director of the board of chosen freeholders or by the chief executive officer of the county if the county's charter provides for such an officer, and one by the Commissioner of Community Affairs. The members shall serve for terms of five years and until their respective successors have been appointed and qualified; except that of the five members first appointed by the governing body one shall be appointed for a term of one year, one for a term of two years, one for a term of three years, one for a term of four years and one for a term of five years. All appointments shall be subject to and made in the manner required by the law under which the county or municipality is governed. Vacancies shall be filled in the same manner as the original appointments were made, but for the unexpired term. If a vacancy is not filled by the county executive, governing body or chief executive officer within 90 days of the occurrence of the vacancy, the Commissioner of the Department of Community Affairs shall notify the county executive, governing body or chief executive officer of his intent to fill the vacancy if it is not filled in 30 days. If the vacancy is not filled within that 30 day period, the commissioner may appoint a member for the unexpired term.

In any county or municipality which has heretofore created a housing authority pursuant to R.S.55:14A-4, the members of the authority who were appointed by the governing body and the chief executive officer of the county or municipality and who are in office upon the effective date of this act shall continue in office until the expiration of the terms for which they are appointed and qualified in accordance with the terms of this act.

b. No municipality which has been included with its consent within the area of operation of a county housing authority shall thereafter create a municipal housing authority. Where there is no housing authority in existence in any municipality of a

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county, the governing body of that county may create a housing authority, and thereafter no municipality within that county shall create an authority without the consent of the county governing body and the county housing authority.

c. A county may provide such publicly assisted housing programs as it chooses anywhere within the county; but it may provide such programs in municipalities which are within the area of operation of a county or municipal housing authority only after adoption of a resolution of the housing authority consenting thereto.

d. No more than one member of a housing authority may be an officer or employee of the municipality or county by which the authority is created. A certificate of the appointment or reappointment of any member shall be filed with the clerk of the municipality or the county, as the case may be, and that certificate shall be conclusive evidence of the due and proper appointment of that member. A member of an authority shall receive no compensation for his services, but shall be entitled to reimbursement for actual expenses necessarily incurred in the discharge of the duties of membership, including travel expenses. The powers of the authority shall be vested in the members thereof in office from time to time. Four members shall constitute a quorum of the authority for the purpose of conducting its business and exercising its powers and all other purposes. Action may be taken by the authority upon the affirmative vote of the majority, but not less than four of the members present, unless in any case the bylaws of the authority shall require a larger number. The authority shall select a chairman and a vice-chairman from among its members, and shall employ an executive director, who shall be its secretary.

e. No member or employee of an authority shall acquire any interest, direct or indirect, in any housing project or in any property included or planned to be included in such a project, nor shall he have any interest, direct or indirect, in any contract or proposed contract for materials and services to be furnished or used in connection with any housing project. If any member or employee of an authority owns or controls an interest, direct or indirect, in any property included or planned to be included in a housing project he shall immediately disclose the same in writing to the authority and the disclosure shall be entered upon the minutes of the authority. Failure to disclose such an interest shall constitute misconduct in office. A member or employee required by this subsection to make such a disclosure shall not participate in any action by the authority affecting the property with respect to which such disclosure is required. For inefficiency or neglect of duty or misconduct in office a member of an authority may be removed by the governing body or officer by which he was appointed; but a member may be removed only after he has been given a copy of the charges at least 10 days prior to a hearing thereon and has had the opportunity to be heard in person or by counsel. In the event of a removal of any member of an authority a record of the proceedings, together with the charges and findings thereon, shall be filed in the office of the clerk of the county or municipality.

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40A:12A-18. Executive director of housing authority

The executive director of a housing authority shall have attained a degree from an accredited four year college or university in a public administration, social science, or other appropriate program, and shall have at least five years' experience in public administration, public finance, realty, or similar professional employment. A master's degree in an appropriate program may substitute for two years of that experience. The executive director holding that position at the time this act becomes effective, possessing the required work experience and holding certification as a Public Housing Manager (PHM) from the National Association of Housing and Redevelopment Officials, or equivalent certification from a nationally recognized professional association in the housing and redevelopment field, shall not be required to meet the educational requirement, except as otherwise provided in section 45 of P.L. 1992, c.79 (C.40A:12A-45) and shall be deemed qualified for continued employment as executive director of the authority in which he holds that post and eligible for equivalent employment in any other local public housing authority in this State.

The executive director shall serve at the pleasure of the members of the authority, and may be relieved of his duties only after not less than 120 days' notice. The authority may provide that the executive director shall be the appointing authority for all or any portion of the employees of the authority. The executive director shall assign and supervise employees in the performance of their duties. A housing authority may elect to adopt or not to adopt the provisions of Title 11A of the New Jersey Statutes regardless of whether the establishing county or municipality has or has not adopted those provisions.

P.L. 1992,c.79,s.18; amended 1993,c.344,s.2.

40A:12A-18.1. Certain qualification for employment as executive director

A person who was an employee of a local housing authority in the position of Deputy Executive Director or Assistant Executive Director on the effective date of this act, who possesses the required work experience to be eligible for a position as executive director of a housing authority pursuant to section 18 of P.L. 1992, c.79 (C.40A:12A-18) and who holds certification as a Public Housing Manager (PHM) from the National Association of Housing and Redevelopment Officials or equivalent certification from a nationally recognized professional association in the housing and redevelopment field, shall not be required to meet the educational requirement specified by section 18 of P.L. 1992, c.79 (C.40A:12A-18), except as otherwise provided in section 45 of P.L. 1992, c.79 (C.40A:12A-45), and shall be deemed to be qualified for employment as executive director of the authority in which the person is employed and eligible for equivalent employment in any other local housing authority in this State.

P.L. 1993,c.344,s.3.

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40A:12A-19. Management, operation of housing projects

a. It is hereby declared to be the policy of this State that each municipality, county, or housing authority providing public housing pursuant to this act shall manage and operate its housing projects in an efficient manner so as to enable it to fix the rentals for dwelling accommodations at the lowest possible rates consistent with providing decent, safe and sanitary dwelling accommodations; and that no municipality, county, or housing authority shall construct or operate any such project for profit or as a source of revenue to the municipality or county. To this end, a municipality, county, or housing authority shall fix the rentals for dwellings in its projects at no higher rates than it shall find to be necessary in order to project revenues which, together with all other available moneys, revenues, income and receipts of the municipality, county, or housing authority, will be sufficient to:

(1) pay, as the same become due, the principal of and interest upon the bonds of the authority or the bonds of the municipality or county issued pursuant to section 29 or section 37 of P.L. 1992, c.79 (C.40A:12A-29 or 40A:12A-37);

(2) meet the cost of, and provide for, maintaining and operating the projects, including the cost of any insurance, and the administrative expenses of the municipality, county or housing authority; and

(3) create during not less than six years immediately succeeding its issuance of any bonds, and thereafter maintain, a reserve sufficient to meet the largest principal and interest payments which will be due on those bonds in any one year thereafter.

b. In the operation or management of housing projects a municipality, county or housing authority shall at all times observe the following duties with respect to rentals and tenant selection:

(1) It may rent or lease the dwelling accommodations therein only to persons of low and moderate income and at rentals within the financial reach of such persons.

(2) It may rent or lease to a tenant dwelling accommodations consisting of a room or rooms of such size, location and dimensions as necessary to provide safe and sanitary accommodations to the proposed occupants thereof, without overcrowding, in accordance with the standards for use and occupancy of space as set forth in the State Housing Code adopted pursuant to P.L. 1971, c.224 (C.2A:42-85 et seq.).

(3) It shall adopt income standards for selecting tenants which are consistent with applicable State or federal law.

c. Notwithstanding any provisions of this section, a municipality, county or housing authority may agree to conditions as to tenant eligibility or preference required by the federal government or State government pursuant to applicable federal or State law in any contract with the municipality, county, or housing authority for financial assistance.

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40A:12A-20. Rules, regulations concerning admissions to housing project

The municipality, county or housing authority shall establish rules and regulations concerning admissions to any housing project which shall provide priority categories for persons displaced or caused to be displaced by public action or by redevelopment projects, highway programs or other public works; persons living in housing found to be "substandard" within the meaning of P.L. 1966, c.168 (C.2A:42-74 et seq.) or P.L. 1971, c.224 (C.2A:42-85 et seq.), or otherwise violative of minimum health and safety standards; persons and families who, by reason of family income, family size or disabilities have special needs; and elderly persons.

P.L. 1992,c.79,s.20.

40A:12A-21. Municipal housing authority may act as redevelopment entity

A municipality may authorize its municipal housing authority to act as a redevelopment entity under this act. An authorization made after the effective date of this act shall be subject to prior review and approval pursuant to the "Local Authorities Fiscal Control Law," P.L. 1983, c.313 (C.40A:5A-1 et seq.). In a municipality where a municipal housing authority has been authorized pursuant to section 4 of P.L. 1949, c.300 (C.55:14A-34), repealed by this act, to function as a redevelopment agency, that housing authority shall, upon taking effect of this act, continue to exercise those functions, but shall exercise all powers, duties and functions relative to redevelopment projects in the manner provided for a redevelopment entity under this act. When acting in its capacity as a municipal redevelopment entity, a municipal housing authority shall, in acquiring property and undertaking and financing redevelopment projects, act as an instrumentality of the municipal government as provided for in this act.

P.L. 1992,c.79,s.21.

40A:12A-22. Powers of municipality, county, redevelopment agency, housing authority

A municipality, county, redevelopment agency, or housing authority is authorized to exercise all those public and essential governmental functions necessary or convenient to effectuate the purposes of this act, including the following powers which shall be in addition to those otherwise granted by this act or by other law:

a. To sue and be sued; to have a seal and to alter the same at pleasure; to have perpetual succession; to make and execute contracts and other instruments necessary and convenient to the exercise of the powers of the agency or authority; and to make and from time to time amend and repeal bylaws, rules and regulations, not inconsistent with this act, to carry into effect its powers and purposes.

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b. Pursuant to an adopted cash management plan, invest any funds held in reserve or sinking funds, or any funds not required for immediate disbursement, in property or securities in which governmental units may legally invest funds subject to their control; to purchase its bonds at a price not more than the principal amount thereof and accrued interest, all bonds so purchased to be canceled.

c. Borrow money and receive grants and loans from any source for the financing of a redevelopment project or housing project.

d. Invest in an obligee the right in the event of a default by the agency to foreclose and take possession of the project covered by the mortgage or apply for the appointment of a receiver.

e. Invest in a trustee or trustees or holders of bonds the right to enforce the payment of the bonds or any covenant securing or relating to the bonds, which may include the right, in the event of the default, to take possession and use, operate and manage any project or part thereof, and to collect the rents and revenues arising therefrom and to dispose of the moneys in accordance with the agreement of the authority with the trustee.

f. Provide for the refunding of any of its bonds, by the issuance of such obligations, in such manner and form, and upon such terms and conditions, as it shall deem in the best interests of the public.

g. Consent to the modification of any contract, bond indenture, mortgage or other instrument entered into by it.

h. Pay or compromise any claim arising on, or because of any agreement, bond indenture, mortgage or instrument.

i. Acquire or contract to acquire from any person, firm, or corporation, public or private, by contribution, gift, grant, bequest, devise, purchase, or otherwise, real or personal property or any interest therein, including such property as it may deem necessary or proper, although temporarily not required for such purposes, in a redevelopment area or in any area designated by the governing body as necessary for carrying out the relocation of the residents, industry and commerce displaced from a redevelopment area.

j. Subordinate, waive, sell, assign or release any right, title, claim, lien or demand however acquired, including any equity or right of redemption, foreclosure, sell or assign any mortgage held by it, or any interest in real or personal property; and purchase at any sale, upon such terms and at such prices as it determines to be reasonable, and to take title to the property, real, personal, or mixed, so acquired and similarly to sell, exchange, assign, convey or otherwise dispose of any property.

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k. Complete, administer, operate, obtain and pay for insurance on, and maintain, renovate, repair, modernize, lease or otherwise deal with any property.

l. Employ or retain consulting and other attorneys, planners, engineers, architects, managers and financial experts and other employees and agents of a permanent or temporary nature as may be necessary, determine their qualifications, duties and compensation, and delegate to one or more of its agents or employees such powers and duties as it deems proper. For such legal services as may be required, a redevelopment agency or housing authority may call upon the chief law officers of the municipality or county, as the case may be, or may employ its own counsel and legal staff.

m. Arrange or contract with a public agency, to the extent that it is within the scope of that agency's functions, to cause the services customarily provided by such other agency to be rendered for the benefit of the occupants of any redevelopment area or housing project, and have such other agency provide and maintain parks, recreation centers, schools, sewerage, transportation, water and other municipal facilities adjacent to or in connection with a redevelopment area or project.

n. Conduct examinations and investigations, hear testimony and take proof, under oath at public or private hearings of any material matter, compel witnesses and the production of books and papers and issue commissions for the examination of witnesses who are out of State, unable to attend, or excused from attendance; authorize a committee designated by it consisting of one or more members, or counsel, or any officer or employee to conduct the examination or investigation, in which case it may authorize in its name the committee, counsel, officer or employee to administer oaths, take affidavits and issue subpoenas or commissions.

o. Make and enter into all contracts and agreements necessary or incidental to the performance of the duties authorized in this act.

P.L. 1992,c.79,s.22.

40A:12A-23. Agencies, authorities subject to existing laws

Each redevelopment agency and housing authority shall be subject to the provisions of the "Local Authorities Fiscal Control Law," P.L. 1983, c.313 (C.40A:5A-1 et seq.), and, except as specifically provided in this act, to the provisions of the "Local Public Contracts Law," P.L. 1971, c.198 (C.40A:11-1 et seq.).

P.L. 1992,c.79,s.23.

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40A:12A-24. Dissolution of redevelopment agency, housing authority

A municipality or county may dissolve its redevelopment agency or housing authority by ordinance, or by resolution in the case of a county whose charter does not provide for the adoption of ordinances, and transfer all the agency's or authority's assets, liabilities and responsibilities to itself in accordance with the provisions of section 20 of the "Local Authorities Fiscal Control Law," P.L. 1983, c.313 (C.40A:5A-20).

P.L. 1992,c.79,s.24.

40A:12A-25. Expenditures of agency, authority

All expenditures by a redevelopment agency or housing authority, including its debt payments, shall be consistent with its annual budget, which shall be transmitted to the governing body and chief executive officer of the municipality or county which created the redevelopment agency or housing authority.

P.L. 1992,c.79,s.25.

40A:12A-26. Financial reports by redevelopment entity

Each redevelopment entity shall:

a. As part of its annual budget, submit to the municipality an estimate of all income and expenses for each redevelopment project, which shall include all its indebtedness including payments necessary to meet interest and principal payments on bonds issued pursuant to this act.

b. File with the municipality a detailed report of all its transactions, including a statement of all revenues and expenditures, without exception, at monthly, quarterly, or annual intervals as the municipality may prescribe.

P.L. 1992,c.79,s.26.

40A:12A-27. Oversight of governing body over redevelopment agency

a. The governing body of any municipality which has established a redevelopment entity may order the redevelopment agency, or any officer or employee thereof, to do such acts as may be necessary to comply with the provisions of any redevelopment plan approved by the governing body or to refrain from doing any acts in violation thereof, and may require the redevelopment entity to file, at such time and in such manner as the

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governing body may prescribe, reports and answers to specific questions concerning projects.

b. The governing body of any county or municipality which has established a housing authority may require the authority to file, at such time and in such manner as the governing body may prescribe, reports and answers to specific questions concerning projects.

c. Nothing in this section shall limit the executive powers of the mayor regarding municipal agencies in municipalities governed by a mayor-council plan of government under the "Optional Municipal Charter Law," P.L. 1950, c.210 (C.40:69A-1 et seq.), or of the county executive in counties governed by a county executive form of government under the "Optional County Charter Law," P.L. 1972, c.154 (C.40:41A-1 et seq.).

P.L. 1992,c.79,s.27.

40A:12A-28. No ordinance, resolution adopted by initiative, referendum

No ordinance, amendment or revision of an ordinance, or resolution under this act shall be submitted to or adopted by initiative or referendum, notwithstanding any other law to the contrary.

P.L. 1992,c.79,s.28.

40A:12A-29. Issuance of bonds, notes

a. Bonds and notes issued by a redevelopment agency or housing authority pursuant to this act shall be authorized by resolution of the housing authority or redevelopment agency and may be issued in one or more series and shall be sold in any one of the following manners: (1) at public sale at not less than par after advertisement in a newspaper of general circulation in the municipality or county and in a financial paper published in the city of Philadelphia, Pennsylvania, or the city of New York, New York, one week prior to the sale; (2) at private sale without advertisement at not less than par to a municipality, county, the State or federal government; (3) at public sale to any willing buyer at less than par and at private sale to any willing buyer without advertisement at par or less than par, upon application to and prior approval of the Local Finance Board in the Department of Community Affairs.

b. Bonds issued pursuant to this act by a county or municipality shall be authorized by ordinance adopted in the manner prescribed by the "Local Bond Law" (N.J.S. 40A:2-1 et seq.) except as provided in section 32 of P.L. 1992, c.79 (C.40A:12A-32).

c. Bonds issued to finance redevelopment projects may be secured by the assets and revenues of such projects. A municipality or redevelopment entity financing redevelopment projects through the issuance of bonds may pledge the property and

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revenues of those projects, or any of them, for repayment of those bonds, and shall pay such rate of interest thereon as the municipal governing body may deem for the best interest of the municipality.

d. Bonds issued to finance housing projects may be secured by the assets and revenues of those housing projects or by contractual agreements with the Federal government. A municipality, county, or housing authority financing housing projects through the issuance of bonds may pledge the property and revenues of those projects, or any of them, for the repayment of those bonds, and shall pay such rate of interest thereon as the county or municipal governing body, as the case may be, may deem for the best interest of the county or municipality.

e. Whenever a municipality or county shall, pursuant to this act, issue notes for a period not exceeding five years, the municipality or county may sell the notes at private sale without advertisement at not less than par.

P.L. 1992,c.79,s.29.

40A:12A-30. Power of agency, authority to issue bonds, notes

a. A redevelopment agency or housing authority shall have the power and is hereby authorized to issue, from time to time, its bonds, bond anticipation notes and other notes and obligations in such principal amounts as in its opinion shall be necessary to provide sufficient funds for achieving any of its corporate purposes, including, but not limited to: the making of mortgage loans, the payment, funding or refunding of the principal of, or interest or redemption premiums on, any bonds, bond anticipation notes and other notes and obligations issued by it whether or not such have become due; the establishment or increase of reserves to secure or to pay such bonds, bond anticipation notes and other notes and obligations or interest thereon; and all costs or expenses incident to and necessary or convenient to carry out its corporate purposes and powers.

b. A redevelopment agency or housing authority may issue such bonds, bond anticipation notes or other notes or obligations as it may determine, including bonds, bond anticipation notes or other notes or obligations as to which the principal and interest are payable: (1) exclusively from the income and revenues of the redevelopment agency or housing authority resulting from projects financed with the proceeds of such bonds, bond anticipation notes or other notes or obligations; (2) exclusively from the income and revenues of the redevelopment agency or housing authority resulting from certain projects, whether or not such projects were financed in whole or in part from the proceeds of such bonds, bond anticipation notes or other notes or obligations; or, (3) from its revenues generally. Any bonds, bond anticipation notes or other notes or obligations may be additionally secured by a pledge of any grant, subsidy or contribution from the United States of America or an agency or instrumentality thereof or the State or any agency, instrumentality or political subdivision thereof, or any person, firm or corporation or a pledge of any income or revenues, funds or moneys of the redevelopment agency or housing authority from any source whatsoever.

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c. Whether or not the bonds, bond anticipation notes and other notes and obligations issued pursuant to this act are of such form and character as to be negotiable instruments under the terms of Title 12A, Commercial Transactions, New Jersey Statutes, such bonds, bond anticipation notes and other notes and obligations and any coupon thereof are hereby made negotiable instruments within the meaning of and for all the purposes of Title 12A, subject only to the provisions of the bonds and notes for registration.

d. Bonds, bond anticipation notes and other notes and obligations of a redevelopment agency or housing authority issued under the provisions of this act shall not be in any way a debt or liability of the State or of any political subdivision thereof other than the redevelopment agency or housing authority and shall not create or constitute any indebtedness, liability or obligation of the State or of any political subdivision, nor be or constitute a pledge of the faith and credit of the State or of any political subdivision; but all such bonds, bond anticipation notes and other notes and obligations, unless funded or refunded by bonds, bond anticipation notes or other notes or obligations of the redevelopment agency or housing authority shall be payable from revenues or funds pledged or available for their payment as authorized in this act. Each bond, bond anticipation note or other note or obligation shall contain on its face a statement to the effect that the redevelopment agency or housing authority is obligated to pay the principal thereof or the interest thereon only from the revenues or funds of the redevelopment agency or housing authority, and that neither the State nor any political subdivision thereof is obligated to pay such principal or interest, and that neither the faith and credit nor the taxing power of the State or any political subdivision thereof is pledged to the payment of the principal of or the interest on such bonds, bond anticipation notes or other notes or obligations.

e. All expenses incurred in carrying out the provisions of this act shall be payable solely from revenues or funds provided or to be provided under the provisions of this act, and nothing in this act shall be construed to authorize a redevelopment agency or housing authority to incur indebtedness or liability on behalf of or payable by this State or any political subdivision thereof.

P.L. 1992,c.79,s.30.

40A:12A-31. Provisions of bond resolution

Any bond resolution of a redevelopment agency or housing authority providing for or authorizing the issuance of any bonds may contain provisions, and such authority, in order to secure the payment of such bonds and in addition to its other powers, shall have power by provision in such bond resolution to covenant and agree with the several holders of such bonds, as to:

- a. The custody, security, use, expenditure or application of the proceeds of the bonds;
- b. The construction and completion, or replacement, of any project;

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c. The use, regulation, operation, maintenance, insurance or disposition of any project, or restrictions on the exercise of the powers of the authority to dispose, or to limit or regulate the use, of any project;

d. Payment of the principal of or interest on the bonds, or any other obligations, and the sources and methods thereof, the rank or priority of bonds or obligations as to any lien or security, or the acceleration of the maturity of bonds or obligations;

e. The use and disposition of any moneys of the redevelopment agency or housing authority, including project revenues;

f. Pledging, setting aside, depositing or trusteeing all or any part of the revenues or other moneys of the redevelopment agency or housing authority to secure the payment of the principal of or interest on the bonds or any other obligations or the payment of expenses of operation or maintenance of any project, and the powers and duties of any trustee with regard thereto;

g. The setting aside out of the project revenues or other moneys of the redevelopment agency or housing authority of reserves and sinking funds, and the source, custody, security, regulation, application and disposition thereof;

h. Determination or definition of the project revenues or of the expenses of operation and maintenance of a project;

i. The rents, rates, fees, or other charges in connection with, or for the use of services of, or otherwise relating to any project, including any parts thereof theretofore constructed or acquired and any parts, extensions, replacements or improvements thereof thereafter constructed or acquired, and the fixing, establishment, collection and enforcement of the same, the amount or amounts of project revenues to be produced thereby, and the disposition and application of the amounts charged or collected;

j. The assumption or payment or discharge of any indebtedness, liens or other claims relating to any part of any project or any obligations having or which may have a lien on any part of the project revenues;

k. Limitations on the issuance of additional bonds or any other obligations or on the incurrence of indebtedness of the redevelopment agency or housing authority;

l. Limitations on the powers of the redevelopment agency or housing authority to construct, acquire or operate any structures, facilities or properties which may compete or tend to compete with any of its projects;

m. Vesting in a trustee or trustees within or without the State such property, rights, powers and duties in trust as the redevelopment agency or housing authority may determine which may include any or all of the rights, powers and duties of the trustee appointed by the holders of bonds pursuant to this act, and limiting or abrogating the right of such holders to appoint a trustee pursuant to this act or limiting the rights, duties and powers of such trustee;

n. Payment of the costs or expenses incident to the enforcement of the bonds or of the provisions of the bond resolution or of any covenant or agreement of the redevelopment agency or housing authority with the holders of bonds;

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o. The procedure, if any, by which the terms of any covenant or agreement with, or duty to, the holders of bonds may be amended or abrogated, the amount of bonds the holders of which must consent thereto, and the manner in which such consent may be given or evidenced; or

p. Any other matter or course of conduct which, by recital in the bond resolution, is declared to further secure the payment of the principal of or interest on bonds and to be part of any covenant or agreement with the holders of bonds.

All provisions of the bond resolution and all covenants and agreements shall constitute valid and legally binding contracts between the redevelopment agency or housing authority and the several holders of the bonds, regardless of the time of issuance of such bonds, and shall be enforceable by any such holder or holders by appropriate action or proceeding in any court of competent jurisdiction, including a proceeding in lieu of prerogative writ.

P.L. 1992,c.79,s.31.

40A:12A-32. Appointment of trustee for bondholders

a. If the bond resolution of a redevelopment agency or housing authority authorizing or providing for the issuance of a series of its bonds shall provide in substance that the holders of the bonds of such series shall be entitled to the benefits of this section, then if there shall be a default in the payment of principal of or interest on any bonds of such series after the same shall become due, whether at maturity or upon call for redemption, and default shall continue for a period of 30 days, or if the redevelopment agency or housing authority shall fail or refuse to comply with any of the provisions of this act, or shall fail or refuse to carry out and perform the terms of any contract with the holders of the bonds, and failure or refusal shall continue for a period of 30 days after written notice to the redevelopment agency or housing authority of its existence and nature, the holders of 25% in aggregate principal amount of the bonds of such series then outstanding by instrument or instruments filed in the office of the Secretary of State and proved or acknowledged in the same manner as a deed to be recorded, may appoint a trustee to represent the holders of the bonds of such series for the purposes provided in this section.

b. The trustee may, and upon written request of the holders of 25% in aggregate principal amount of the bonds of such series then outstanding shall, in his or its own name:

(1) By any action or proceeding, enforce all rights of the holders of such bonds, including the right to require the redevelopment agency or housing authority to charge and collect charges adequate to carry out any contract as to, or pledge of, project revenues, and to require the authority to carry out and perform the terms of any contract with the holders of such bonds or its duties under this act;

(2) Bring an action upon all or any part of such bonds or interest coupons or claims appurtenant thereto;

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(3) By action, require the redevelopment agency or housing authority to account as if it were the trustee of an express trust for the holders of such bonds;

(4) By action, enjoin any acts or things which may be unlawful or in violation of the rights of the holders of such bonds; or

(5) Declare all such bonds due and payable, whether or not in advance of maturity, upon 30 days' prior notice in writing to the redevelopment agency or housing authority and, if all defaults shall be made good, then with the consent of the holders of 25% of the principal amount of such bonds then outstanding, annul such declaration and its consequences.

c. The trustee shall, in addition to the foregoing, possess all of the powers necessary for the exercise of the functions specifically set forth herein or incident to the general representation of the holders of bonds of such series in the enforcement and protection of their rights.

d. In any action or proceeding by the trustee, reasonable fees, counsel fees and expenses of the trustee and of the receiver, if any, appointed pursuant to this act, shall, if allowed by the court, constitute taxable costs and disbursements, and all costs and disbursements, allowed by the court, shall be a first charge upon any charges and revenues of the redevelopment agency or housing authority pledged for the payment or security of bonds of such series.

P.L. 1992,c.79,s.32.

40A:12A-33. Appointment of receiver

If the bond resolution of a redevelopment agency or housing authority authorizing or providing for the issuance of a series of its bonds shall provide in substance that the holders of the bonds of such series shall be entitled to the benefits of section 32 of P.L. 1992, c.79 (C.40A:12A-32) and shall further provide in substance that a trustee appointed pursuant to that section or having the powers of such a trustee shall have the powers provided by this section, then the trustee, whether or not all of the bonds of such series shall have been declared due and payable, shall be entitled to the appointment of a receiver of the project or projects of the redevelopment agency or housing authority, and such receiver may enter upon and take possession of the project or projects and, subject to any pledge or contract with the holders of bonds of the redevelopment agency or housing authority, shall take possession of all moneys and other property derived from or applicable to the acquisition, construction, operation, maintenance or reconstruction of the project or projects and proceed in a commercially feasible manner with such acquisition, construction, operation, maintenance or reconstruction which the redevelopment agency or housing authority is under any obligation to do, and operate, maintain and reconstruct the project or projects and fix, charge, collect, enforce and receive the charges and all revenues thereafter arising subject to any pledge thereof or contract with the holders of bonds relating thereto and perform the public duties and carry out the contracts and obligations of the redevelopment agency or housing authority in the

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same manner as the agency or authority itself might do and under the direction of the court.

P.L. 1992,c.79,s.33.

40A:12A-34. Property exempt from levy, sale

All property of a redevelopment agency or housing authority shall be exempt from levy and sale by virtue of an execution, and no execution or other judicial process shall issue against the same, nor shall any judgment against a redevelopment agency or housing authority be a charge or lien upon its property; provided, that nothing herein contained shall apply to or limit the rights of the holder of any bonds to pursue any available remedy for the enforcement of any pledge or lien given by a redevelopment agency or housing authority.

P.L. 1992,c.79,s.34.

40A:12A-35. Investment in bonds

Notwithstanding any restriction contained in any other law, the State and all public officers, municipalities, counties, political subdivisions and public bodies, and agencies thereof, all banks, trust companies, savings banks and institutions, building and loan associations, savings and loan associations, investment companies, and other persons carrying on a banking business, all insurance companies, insurance associations and other persons carrying on an insurance business and all executors, administrators, guardians, trustees and other fiduciaries, may legally invest any sinking funds, money or other funds belonging to them or within their control in any bonds issued pursuant to this act and such bonds shall be authorized security for any and all public deposits.

P.L. 1992,c.79,s.35.

40A:12A-36. Projects, properties declared public property

All projects and all other properties of a redevelopment agency or housing authority are hereby declared to be public property of a political subdivision of the State and devoted to an essential public and governmental function and purpose and shall be exempt from all taxes and special assessments of the State or any subdivision thereof. All bonds issued pursuant to this act are declared to be issued by a political subdivision of this State and for an essential public and governmental purpose and to be a public instrumentality and such bonds, and the interest thereon and the income therefrom, and all charges, funds, revenues and other moneys pledged or available to pay or secure the payment of such bonds, or interest thereon, shall at all times be exempt from taxation except for transfer, inheritance and estate taxes and taxes on transfers by or in contemplation of death.

P.L. 1992,c.79,s.36.

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40A:12A-37. Municipality, county may incur indebtedness to aid housing authority, redevelopment entity

- a. Any municipality or county may incur indebtedness, borrow, appropriate and expend money and issue its negotiable bonds or other obligations for the purpose of aiding any housing authority with respect to any housing project which is located within its jurisdiction and as to which the State or federal government shall have contracted to furnish financial assistance.
- b. Any municipality or county may incur indebtedness, borrow, appropriate and expend money and issue its negotiable bonds or other obligations for the purpose of aiding any redevelopment entity with respect to any redevelopment project which is located within its jurisdiction.
- c. The bonds or other obligations of any municipality or county issued pursuant to this section shall be authorized by ordinance adopted pursuant to the "Local Bond Law" (N.J.S. 40A:2-1 et seq.), except that: (1) the ordinance may be adopted notwithstanding the provisions of N.J.S. 40A:2-6 and, subject to the provisions of subsection e. of this section, bonds or other obligations may be authorized and issued notwithstanding any debt or other limit prescribed by that law; (2) the ordinance may be adopted notwithstanding the provisions of N.J.S. 40A:2-11 and no down payment will be required; (3) the bonds or other obligations shall mature in annual installments commencing not more than two and ending not more than 40 years from the date of issuance; and (4) the ordinance need set forth only a brief and general description of the location and designation of the housing or redevelopment project with respect to which the bonds or other obligations are authorized, the amount of the appropriation made thereby, the maximum amount of bonds or other obligations to be issued pursuant thereto, and the rate or maximum rate of interest the bonds or obligations shall bear. The bonds or other obligations may be subject to redemption prior to maturity, with or without premium, at such times and on such terms and conditions as may be provided by resolution of the governing body adopted prior to their issuance, and all matters relating to the bonds or obligations and those matters required to be stated in the ordinance may be performed or determined by resolution or resolutions of the governing body adopted prior to their issuance.
- d. Any bonds or other obligations, issued or authorized pursuant to subsection b. of this section by a municipality or county for the purpose of providing cash to meet cash grant-in-aid requirements of a redevelopment entity or of a municipality exercising directly the powers conferred by this act with respect to a redevelopment project located within that municipality, and as to which the federal government shall have contracted to furnish financial assistance, shall be deductible from the gross debt of the municipality or county on any debt statement filed in accordance with the "Local Bond Law" (N.J.S. 40A:2-1 et seq.). Any bonds or other obligations issued or authorized pursuant to subsection b. of this section by any municipality for the purpose of providing funds to enable any housing authority, redevelopment entity or municipality exercising directly the powers conferred by this act to extend credit or make loans to redevelopers pursuant

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to section 8 of P.L. 1992, c.79 (C.40A:12A-8) shall be deductible from the gross debt of the municipality for a period from the date of adoption of the ordinance until one year after the completion of construction or rehabilitation of the project or until the end of the fifth fiscal year commencing subsequent to the date of adoption of the ordinance, whichever period is shorter. The municipality shall file with the Local Finance Board a certified copy of the ordinance as introduced, and a request that the board determine by resolution on the basis of a project report whether the project will generate revenues annually for the municipality from rental payments, loan repayments, real property taxes, including payments in lieu of taxes, income from the investment or proceeds of obligations authorized by the ordinance and other sources, direct or indirect, including like revenues generated from related projects, that the Local Finance Board finds justifiable in its discretion, in an amount equal to or exceeding the annual debt service requirement for the obligations for that fiscal year, or in the subsequent fiscal year if the municipality is not required to make payments of principal of or interest on obligations issued for that purpose in a particular fiscal year. If the board determines affirmatively, it shall endorse its approval on the certified copy of the ordinance. If, within 60 days of the request and filing, the board determines negatively as to the matters described above, it shall disapprove the ordinance, endorse that disapproval on the certified copy and deliver to the municipality a statement of its reasons therefor.

e. If it appears from the supplemental debt statement filed pursuant to N.J.S. 40A:2-10 with respect to an ordinance adopted pursuant to this act, which relates to a housing project, or a redevelopment project the bonds or other obligations for which are not deductible from the gross debt pursuant to subsection d. of this section, that the percentage of net debt as stated therein exceeds the limit prescribed by N.J.S. 40A:2-6, the ordinance shall not take effect unless there shall be endorsed upon a certified copy thereof, as adopted, the approval of the Local Finance Board of the Division of Local Government Services in the Department of Community Affairs. A certified copy of that ordinance shall, upon introduction, be filed with the Local Finance Board together with such statements and information with respect thereto and regarding the financial condition of the municipality as the board may prescribe. The board shall cause its approval to be endorsed upon the certified copy if it shall be satisfied, and shall record upon its minutes its estimates that: (1) the amounts to be expended by the municipality or county for such project are not unreasonable or exorbitant; (2) issuance of the bonds or obligations will not materially impair the credit of the municipality or county or substantially reduce its ability during the ensuing 10 years to pay punctually the principal and interest of its debts and supply essential public improvements and services; and, (3) taking into consideration trends in population and in values and uses of the property and in needs for essential public improvements, the percentage of net debt of the municipality or county, computed as provided in the "Local Bond Law" (N.J.S. 40A:2-1 et seq.), will at some date within 10 years be either less than the debt limit prescribed by that law or less than the percentage appearing from the supplemental debt statement. If the Local Finance Board within 60 days after the filing of the certified copy shall not be satisfied as to the matters described above, it shall disapprove the ordinance, endorse that disapproval on the certified copy and deliver to the municipality or county a statement of its reasons therefor.

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f. Any municipality or county may issue its negotiable notes, at public or private sale, in anticipation of the issuance of bonds authorized by it pursuant to this section after the ordinance has taken effect and may, from time to time, renew those notes in accordance with the provisions of the "Local Bond Law" (N.J.S. 40:2-1 et seq.).

g. All bonds and notes issued pursuant to this section shall be direct obligations of the municipality or county issuing them and, unless payment is otherwise made or provided for, a tax sufficient in an amount to pay the principal and interest on such bonds and notes shall be levied and collected by the municipality or county in the year in which the same shall become due and payable. The bonds and notes may contain a recital that they are issued pursuant to this act in the manner or mode of procedure prescribed by law, and those recitals shall be conclusive evidence of their validity and of the regularity of their issuance.

h. The powers conferred by this section shall be in addition to the powers conferred by any other law, and bonds or other obligations may be issued hereunder for the purposes herein provided, notwithstanding that other law may provide for the issuance of bonds or obligations for like purposes.

i. The Local Finance Board shall, by regulation, provide for the budgetary treatment of moneys borrowed by a county or municipality on behalf of a redevelopment entity or housing authority, stating those provisions of chapter 4 of Title 40A of the New Jersey Statutes which are or are not to apply.

P.L. 1992,c.79,s.37.

40A:12A-38. Cooperation with other public body

Any municipality or county may cooperate with any other public body, as authorized in the "Interlocal Services Act," P.L. 1973, c.208 (C.40:8A-1 et seq.), in the planning, undertaking and carrying out of redevelopment or housing projects.

P.L. 1992,c.79,s.38.

40A:12A-39. Powers of public body in aiding, cooperating with projects

For the purpose of aiding and cooperating in the planning, undertaking, construction or operation of housing or redevelopment projects located within the area in which it is authorized to act, any public body may, upon such terms, with or without consideration, as it may determine:

a. Dedicate, sell, convey or lease any of its property to a municipality or county, housing authority, redevelopment entity or the federal government;

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b. Cause parks, playgrounds, recreational, community, educational, water, sewer or drainage facilities, or any other works which it is otherwise empowered to undertake, to be furnished adjacent to or in connection with housing or redevelopment projects;

c. Furnish, dedicate, close, pave, install, grade, plan or replan streets, roads, roadways, alleys, sidewalks, or other places which it is otherwise empowered to undertake;

d. Plan or replan, zone or rezone any land within the jurisdiction of that public body, make exceptions from development regulations and ordinances, and change its map;

e. Enter into agreements, which may extend over any period, notwithstanding any provision or rule of law to the contrary, with a housing authority or redevelopment entity or the federal government respecting action to be taken by such public body pursuant to any of the powers granted by this act. If at any time title to, or possession of, any project is held by any public body or governmental agency authorized by law to engage in the development or administration of public housing or redevelopment projects, including the federal government, the provisions of the agreements shall inure to the benefit of and may be enforced by that public body or governmental agency;

f. Do any and all things necessary or convenient to aid and cooperate in the planning, undertaking, construction or operation of housing or redevelopment projects;

g. Cause services to be furnished to a housing authority or redevelopment entity of the character which the public body is otherwise empowered to furnish;

h. Enter into agreements with a housing authority or redevelopment entity respecting the exercise by such public body of its powers, relating to the repair, elimination or closing of unsafe, insanitary, or unfit dwellings;

i. Purchase or legally invest in any of the bonds of a housing authority or redevelopment entity and exercise all of the rights of any holder of such bonds;

j. Incur the entire expense of any public improvements made by the public body in exercising the powers herein granted.

k. Grant, sell, convey or lease any of its property, including real property already devoted to a public use, whether held in a proprietary or governmental capacity, to a housing authority or redevelopment entity; provided, that the public body making the grant or lease determines that the premises are no longer required for the public purposes to which the property is devoted, and that it is in the public interest so to grant, sell, convey, or lease the property.

Notwithstanding any other law to the contrary, any grant, sale, conveyance, lease or agreement provided for in this section may be made by a public body without appraisal, public notice, advertisement or bidding.

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40A:12A-40. Payment in lieu of taxes

In connection with any housing project located wholly or partly within the area in which it is authorized to act, a public body may agree with a housing authority, redevelopment agency, redevelopment entity or the federal government that a certain sum, in no event to exceed the amount equal to 10% of the amount received by that authority, agency, entity or government in the form of shelter rents, or that no sum, shall be paid by that authority, agency, entity or government in lieu of taxes for any year or period of years.

P.L. 1992,c.79,s.40.

40A:12A-41. Donations, capital grants

Any municipality or county located in whole or in part within the area of operation of a housing authority or a redevelopment entity shall have the power from time to time to lend or donate money or make capital grants or periodic subsidies to the authority or entity, or to agree to take such action. The housing authority or redevelopment entity, when it has the money available therefor, shall make reimbursements for all loans made to it.

P.L. 1992,c.79,s.41.

40A:12A-42. Creation of advisory council

A municipality or county may create an advisory council to advise it regarding housing or redevelopment matters.

P.L. 1992,c.79,s.42.

40A:12A-43. Submission of annual report

Any municipality, county, redevelopment entity or housing authority utilizing the powers authorized herein shall submit an annual report to the Commissioner of Community Affairs indicating the name, location and size of all projects under its management. In addition, the annual report shall contain such information as the commissioner shall deem necessary in order to fulfill the reporting requirements set forth in section 1 of P.L. 1992, c.176 (C.52:27D-3.3).

P.L. 1992,c.79,s.43; amended 1992,c.176,s.2.

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40A:12A-44. Duties, authority of commissioner

The Commissioner of Community Affairs shall be the chief advocate of the State in working with the federal Department of Housing and Urban Development to promote the redevelopment and housing purposes of this act.

The Commissioner of Community Affairs is authorized to hold an annual Redevelopment and Housing Congress to review current developments in redevelopment and housing occurring throughout the State.

P.L. 1992,c.79,s.44.

40A:12A-45. Standards for course of study for executive directors

The Commissioner of Community Affairs shall prescribe and enforce standards for the curriculum and administration of a course of study as he deems appropriate, the object of which shall be to assist members and executive directors of local housing authorities and municipal redevelopment agencies to acquire the knowledge and skills necessary to oversee and administer the operations of such authorities or agencies in accordance with current law and in the best interests of the citizens served by such authorities. The commissioner shall adopt the standards by administrative rule, pursuant to the provisions of the "Administrative Procedure Act," P.L. 1968, c.410 (C.52:14B-1 et seq.).

The course shall consist of instruction in the principles of housing and redevelopment, which may include, but not be limited to, construction management and code compliance, financial management and public administration, and such other topics as the commissioner may deem appropriate. The commissioner shall, to the greatest extent possible, cooperate with organizations of housing authority representatives and redevelopment agency representatives, and shall consult with Rutgers, The State University, and other educational institutions in establishing the standards for the curriculum and administration of the course of study, as provided above.

P.L. 1992,c.79,s.45.

40A:12A-46 Completion of course of study by incumbent members, executive directors

a. Any person serving as a member of a housing authority or a redevelopment agency on or after the effective date of the rules adopted pursuant to section 45 of P.L. 1992, c.79 (C.40A:12A-45) shall satisfactorily complete the course of study prescribed by the commissioner within eighteen months following the date of appointment or July 1, 1997, whichever is later, or shall be deemed to have resigned his position effective at the end of that period of time.

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Notwithstanding the provisions of this section, a person serving as a member of a housing authority or redevelopment agency on the effective date of the rules adopted pursuant to section 45 of P.L. 1992, c.79 may continue to serve to the end of his appointed term even if the remaining period in that term exceeds eighteen months and the member does not satisfactorily complete the prescribed course of study within that time. However, such a member shall not be eligible for reappointment to membership on the housing authority or redevelopment agency until a period of five years has elapsed following the completion of the member's term.

b. Any person serving as the executive director of a housing authority or redevelopment agency on or after the effective date of the rules adopted pursuant to section 45 of P.L. 1992, c.79 (C.40A:12A-45) shall satisfactorily complete the course of study prescribed by the commissioner within two years after the effective date of the rules or the effective date of his appointment, whichever is later, or shall be deemed to have resigned his position effective at the end of that period of time.

c. Notwithstanding any provision of law, rule, regulation, or this section to the contrary, any person deemed to have resigned his position pursuant to subsection a. or b. of this section and who has been replaced by another appointee shall have no claim to the appointment.

P.L. 1992, c.79, s.46; amended 1997, c.27, s.1.

40A:12A-47. Completion by executive directors of course of study

Commencing one year after the effective date of P.L. 1992, c.79 (C.40A:12A-1 et al.), a person appointed as executive director of a housing authority or redevelopment agency shall satisfactorily complete the course of study prescribed by the commissioner within two years of the date of appointment, and at least one half of the requisite courses shall be satisfactorily completed within one year of appointment. A person who fails to meet these requirements shall be deemed to have resigned the position effective at the end of the first year or second year of appointment, as appropriate.

P.L. 1992,c.79,s.47.

40A:12A-48 Waiving of course requirements

The commissioner may waive the course requirements set forth in sections 46 and 47 of P.L. 1992, c.79 (C.40A:12A-46 and 40A:12A-47) for any person whom the commissioner determines to be qualified to serve as a member or executive director of a housing authority or redevelopment agency by reason of adequate and equivalent training or professional experience, or a combination thereof. The commissioner may extend credit toward completion of the course requirements for equivalent or nearly equivalent courses completed by an individual under the sponsorship of a professional organization.

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The commissioner may accept as fulfilling the course requirements set forth in sections 46 and 47 of P.L. 1992, c.79 (C.40A:12A-46 and 40A:12A-47) any course prescribed therein and taken by an individual at that individual's own expense at a time when the individual was not serving as a member or executive director of a housing authority or redevelopment agency.

P.L. 1992, c.79, s.48; amended 1997, c.27, s.2.

40A:12A-49. Rules, regulations

The Commissioner of Community Affairs shall promulgate rules and regulations to effectuate the provisions of this act. The Local Finance Board shall adopt rules and regulations to effectuate the fiscal and financial controls set forth in the act.

P.L. 1992,c.79,s.49.

40A:12A-49. Rules, regulations

The Commissioner of Community Affairs shall promulgate rules and regulations to effectuate the provisions of this act. The Local Finance Board shall adopt rules and regulations to effectuate the fiscal and financial controls set forth in the act.

P.L. 1992,c.79,s.49.

40:12A-50. Findings, declarations relative to landfill reclamation improvement districts

a. The Legislature finds and declares that it is a public purpose and compelling State interest and is consistent with Article VIII, Section 3, paragraph 1 of the Constitution of this State to facilitate the redevelopment of large landfill sites in areas in need of redevelopment within municipalities that are attempting to create economic growth and thereby to promote job creation and economic development. Environmentally sound landfill reclamation is essentially a "capping" process, and the development potential of a capped landfill is limited. The extensive landfill areas in some of the State's areas in need of redevelopment present major obstacles, both environmentally and financially, for the proper redevelopment of the economic potential of these areas, which makes it necessary to provide special financial and redevelopment tools for municipalities to address these obstacles.

b. The Legislature, therefore, determines that it is appropriate to enable municipalities to establish landfill reclamation improvement districts in areas in need of redevelopment comprising landfills of sufficient size to foster meaningful economic development and to provide municipalities with the appropriate tools for the reclamation and redevelopment of those districts.

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c. The Legislature further determines that the proper remediation of extensive landfills and the redevelopment of large landfill sites are necessary to halt the decline in economic activity and the underemployment of economic resources in these areas, to reverse the deterioration of the value of previous investments in areas in need of redevelopment and of public revenue collections on those investments, and to eliminate the disincentive to new investment; and that the improvement of these large sites is vital to the safety, health and welfare of the residents of the municipalities in which they are located and to the State, and constitutes an important opportunity for enhancing the economic condition of the municipalities in which large site landfills are located and that of the State, by augmenting the fiscal resources of government and by stimulating private and public efforts to enhance the attractiveness and desirability of the State as a place to live and work.

d. Therefore, to foster this redevelopment, the Legislature further determines, in accordance with the New Jersey Constitution, including without limitation, Article VIII, Section 3, paragraph 1, that a municipality that has created a landfill reclamation improvement district may: (1) provide for a tax abatement within that district and for a payments in lieu of taxes agreement, in accordance with P.L. 1991, c.431 (C.40A:20-1 et seq.) and P. L.1995, c.173 (C.40A:12A-50 et seq.) and this amendatory and supplementary act, P.L. 1996, c.73 (C.40A:12A-50a et al.); (2) levy special assessments on real property within that district in accordance with chapter 56 of Title 40 of the Revised Statutes, R.S. 40:56-1 et seq., and with P.L. 1995, c.173 and this amendatory and supplementary act, P.L. 1996, c.73 (C.40A:12A-50a et al.); and (3) secure revenue bonds, notes or other obligations with those payments in lieu of taxes and special assessments, and utilize these means to secure funds to effect landfill closures, remediation, redevelopment, and construction of infrastructure improvements which will benefit the public at large and which constitute an important public purpose.

e. The Legislature, further, determines that special financing problems exist with respect to the size or nature and extent of remediation and infrastructure improvements where the reclamation improvement district consists of a tract of land of at least 150 acres of which not less than 100 acres were formerly used as a landfill, and determines that the municipality, may, by ordinance, levy a franchise assessment for the privilege of transacting business within the district, which franchise assessment shall be used to compensate the municipality for loss of tax revenues arising from assignment of payments in lieu of taxes or special assessments, or both, as security for bonds.

f. The Legislature, further, determines that it is appropriate to authorize the New Jersey Economic Development Authority established pursuant to P.L. 1974, c.80 (C.34:1B-1 et seq.) or other instrumentality created by law with the power to incur debt and issue bonds and other obligations, as a conduit for municipalities, to issue and secure revenue bonds, notes or other obligations issued in accordance with P.L. 1995, c.173 (C.40A:12A-50 et seq.) and this amendatory and supplementary act, P.L. 1996, c.73 (C.40A:12A-50a et al.) with respect to financing or refinancing, without limitation, the site work, construction, reconstruction, repair, alteration, improvement, and development of any infrastructure or parking or transportation facilities or work that abates, prevents or

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reduces environmental pollution or other improvements that provide a public benefit within or appurtenant to a landfill reclamation improvement district.

P.L. 1995,c.173,s.1; amended 1996,c.73,s.2.

40A:12A-50a. "Large Site Landfill Reclamation and Improvement Law"

P.L. 1995, c.173 (C.40A:12A-50 et seq.) as amended and supplemented shall be known and may be cited as the "Large Site Landfill Reclamation and Improvement Law."

P.L. 1996,c.73,s.1.

40A:12A-51. Definitions used in C.40A:12A-50 et seq.

As used in P.L. 1995, c.173 (C.40A:12A-50 et seq.) and this amendatory and supplementary act, P.L. 1996, c.73 (C.40A:12A-50a et al.):

"Authority" means the New Jersey Economic Development Authority established pursuant to P.L. 1974, c.80 (C.34:1B-1 et seq.) or other instrumentality created by law with the power to incur debt and issue bonds and other obligations.

"Bonds" mean bonds, notes or other obligations issued to finance projects by the authority pursuant to P.L. 1995, c.173 (C.40A:12A-50 et seq.) and this amendatory and supplementary act, P.L. 1996, c.73 (C.40A:12A-50a et al.).

"Municipality" means the municipal governing body or, if a redevelopment agency or redevelopment entity is established in the municipality pursuant to P.L. 1992, c.79 (C.40A:12A-1 et seq.) and the municipality so provides, the redevelopment agency or entity so established.

"Redeveloper" means any person that enters or proposes to enter, pursuant to P.L. 1995, c.173 (C.40A:12A-50 et seq.) and this amendatory and supplementary act, P.L. 1996, c.73 (C.40A:12A-50a et al.) and the "Local Redevelopment and Housing Law," P.L. 1992, c.79 (C.40A:12A-1 et seq.), into a redevelopment agreement with a municipality that has established a landfill reclamation improvement district.

"Redevelopment agreement" means a contract between a municipality and a redeveloper for any work or undertaking for the clearance, development and redevelopment, and the construction or rehabilitation of any commercial, industrial or public structures or improvements, landfill closure, remediation, or redevelopment, including, but not limited to, on-site and off-site infrastructure improvements, or rehabilitation of an area in need of redevelopment, or part thereof, under the provisions of P.L. 1995, c.173 (C.40A:12A-50 et seq.) and this amendatory and supplementary act, P.L. 1996, c.73 (C.40A:12A-50a et al.) and the "Local Redevelopment and Housing Law," P.L. 1992, c.79 (C.40A:12A-1 et seq.), that provide a public benefit within a district undertaken pursuant to an ordinance creating a landfill reclamation improvement district pursuant to section 3 of P.L. 1995, c.173 (C.40A:12A-52).

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"Financial agreement" means an agreement that meets the requirements of a financial agreement under P.L. 1991, c.431 (C.40A:20-1 et seq.).

"Franchise assessment" means: (1) a gross receipts assessment on the amount of the sale price of all tangible property sold by a business in a district, valued in money, whether received in money or otherwise, excluding the cost of transportation if such cost is separately stated in the written contract and excluding any tax imposed pursuant to the "Sales and Use Tax Act," P.L. 1966, c.30 (C.54:32B-1 et seq.); (2) or a gross receipts assessment on all rental receipts from the rental of commercial property in a district; or (3) both (1) and (2), as imposed pursuant to section 4 of P.L. 1995, c.173 (C.40A:12A-53), and this amendatory and supplementary act, P.L. 1996, c.73 (C.40A:12A-50a et al.).

"Landfill reclamation improvement district" or "district" means a tract of land of at least 150 acres in size, which may consist of one or more tax lots, of which not less than 100 acres were formerly or are presently used as a landfill, which has been delineated a "redevelopment area" or "area in need of redevelopment" pursuant to the "Local Redevelopment and Housing Law," P.L. 1992, c.79 (C.40A:12A-1 et seq.), and is an area which has been designated a landfill reclamation improvement district by a municipality pursuant to section 3 of P.L. 1995, c.173 (C.40A:12A-52).

"Special assessment" means an assessment upon the lands or improvements on such lands, or both, in the landfill reclamation improvement district benefited by improvements undertaken pursuant to P.L. 1995, c.173 (C.40A:12A-50 et seq.) and this amendatory and supplementary act, P.L. 1996, c.73 (C.40A:12A-50a et al.), assessed pursuant to chapter 56 of Title 40 of the Revised Statutes, R.S. 40:56-1 et seq. except as otherwise provided in subsection b. of section 8 of this amendatory and supplementary act, P.L. 1996, c.73 (C.40A:12A-56).

P.L. 1995,c.173,s.2; amended 1996,c.73,s.3.

40A:12A-52. Creation of landfill reclamation improvement districts permitted

A municipality in which there is a tract of land of at least 150 acres in size which may consist of one or more tax lots, of which not less than 100 acres were formerly or are presently used as a landfill which has been delineated a "redevelopment area" or "area in need of redevelopment" pursuant to the "Local Redevelopment and Housing Law," P.L. 1992, c.79 (C.40A:12A-1 et seq.), may adopt an ordinance creating a landfill reclamation improvement district whenever the municipality determines that the closure and remediation of the landfill within the district and the proposed development of the property within the district will promote the health and general welfare of the residents of the municipality and the district. A municipality may create, by separate ordinances, more than one district. Any municipal redevelopment plan adopted by the municipality shall provide for the development of the property within the district in compliance with P.L. 1995, c.173 (C.40A:12A-50 et seq.) and this amendatory and supplementary act, P.L. 1996, c.73 (C.40A:12A-50a et al.).

P.L. 1995,c.173,s.3; amended 1996,c.73,s.4.

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40A:12A-53. Adoption of ordinance to levy, collect franchise assessment; purposes

- a. A municipality that has created a district pursuant to section 3 of P.L. 1995, c.173 (C.40A:12A-52), in which there is an area designated as an urban enterprise zone in which the receipts of certain sales are exempt to the extent of 50% of the tax imposed under the "Sales and Use Tax Act," P.L. 1966, c.30 (C.54:32B-1 et seq.), pursuant to section 21 of P.L. 1983, c.303 (C.52:27H-80), may for the purpose of increasing public revenue adopt an ordinance to levy and collect, within the district, a franchise assessment not to exceed three percent of gross receipts and to devote the proceeds from those assessments to municipal purposes as provided in this section.
- b. The rate of the franchise assessment shall be uniform throughout the district. The franchise assessment shall apply only within the territorial limits of the district and shall be in addition to any other assessments, taxes and excises.
- c. The ordinance shall be a valid and binding ordinance of the municipality. The ordinance shall continue in force and effect until repealed by the governing body. The municipality may also provide and covenant by ordinance that the ordinance authorizing the franchise assessment will not be amended so as to repeal or reduce the franchise assessment while bonds issued pursuant to P.L. 1995, c.173 (C.40A:12A-50 et seq.) and this amendatory and supplementary act, P.L. 1996, c.73 (C.40A:12A-50a et al.) are outstanding, unless the resolution authorizing the bonds shall provide otherwise. Such covenant shall constitute a valid and legally binding contract between the municipality and bondholders.
- d. No franchise assessment shall be imposed on gross receipts which the municipality or the State is prohibited from taxing under New Jersey law, or the Constitution and laws of the United States of America.
- e. Upon adoption, the municipal clerk shall immediately transmit a copy of the ordinance to the Director of the Division of Local Government Services in the Department of Community Affairs and to the Director of the Division of Taxation in the Department of the Treasury. Every ordinance levying a franchise assessment pursuant to this section shall provide for reporting assessments due and for the collection thereof, and all franchise assessments pursuant to such an ordinance shall be remitted to the chief financial officer of the municipality. An ordinance levying a franchise assessment shall take effect only on the first day of any month in any year. The ordinance shall provide for the allocation and distribution of the proceeds of the franchise assessments collected; provided, however, that only such sums as are retained by the municipality pursuant to the ordinance shall be included in the general funds of the municipality and all other franchise assessment proceeds shall be held in trust for the payment or reimbursement of costs or obligations incurred for the purposes of the district.
- f. The ordinance shall set forth the person or persons subject to the franchise assessment payment and collection procedures, and any other matters deemed relevant by the municipality with the municipality having discretion as to the mechanism to be

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utilized. The ordinance shall also contain findings that the imposition of the franchise assessment is necessary because of the substantial risks undertaken to develop a landfill reclamation improvement district, and to offset loss of revenues by the municipality because of its assignment of payments in lieu of taxes.

g. The ordinance shall provide for the collection of the franchise assessment by an officer of the municipality who shall be designated in the ordinance; shall provide methods for enforcement; and may provide penalties for the violation of any of the provisions of the ordinance.

h. All revenues collected under the ordinance and retained by the municipality pursuant to this section shall be deposited in the general fund of the municipality and may be used for general municipal purposes, including the payment of salaries, construction, reconstruction, maintenance and repair of municipal buildings, installations and properties and for such other purposes as may be provided by existing ordinances or ordinances hereafter enacted for general municipal purposes.

P.L. 1995,c.173,s.4; amended 1996,c.73,s.5.

40A:12A-53.1. Powers of municipality adopting franchise assessment ordinance

For the purposes of the effective administration of the franchise assessment, a municipality adopting a franchise assessment ordinance shall have the power to:

a. Collect the franchise assessment, interest and penalties imposed by an ordinance adopted pursuant to section 4 of P.L. 1995, c.173 (C.40A:12A-53) which shall from the time due be a debt of the person by whom payable to the municipality, recoverable in a court of competent jurisdiction in a civil action in the name of the municipality to be instituted within three years of the date due.

b. Authorize, as an additional remedy, the chief financial officer of the municipality to issue a certificate to the clerk of the Superior Court that any person is indebted under the ordinance in an amount stated in the certificate. Thereupon, the clerk to whom the certificate is issued shall immediately enter upon the record of documented judgments the name of the person, the address of the place of business where the franchise assessment liability was incurred, the amount of the debt so certified and the date of making of the entry. The making of the entry shall have the same force and effect as the entry of a documented judgment in the office of the clerk, and the chief financial officer of the municipality shall have all the remedies and may take all the proceedings for the collection of the debt which may be had or taken upon the recovery of a judgment in an action, but without prejudice to the person's right of appeal.

c. Provide that, if for any reason the franchise assessment is not paid when due, interest at the rate of 12% per annum on the amount of the franchise assessment due, and an additional penalty of one-half of 1% of the amount of the unpaid assessment for each month or fraction thereof during which the franchise assessment remains unpaid, shall be

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added and collected. When action is brought for the recovery of any franchise assessment, the person liable therefor shall, in addition, be liable for the costs of collection and the interest and penalties imposed.

Any aggrieved person may, within 90 days of the entry of the decision, order, finding, assessment or action of the chief financial officer of the municipality under this section, file an appeal in the Superior Court, upon payment of the amount stated by the chief financial officer to be due. The appeal provided by this section shall be the exclusive remedy available to any person for review of a determination of the chief financial officer with respect to a liability for the franchise assessment imposed.

P.L. 1996,c.73,s.6.

40A:12A-54. Appropriation of franchise assessments; apportionment of retained amount

Any portion of the aggregate franchise assessment collected annually by the municipality which is not appropriated or expended by the municipality for purposes of the district as such purposes are provided in the "Local Redevelopment and Housing Law," P.L. 1992, c.79 (C.40A:12A-1 et seq.), but is retained by the municipality, shall be apportioned between the municipality and the county in which the landfill reclamation improvement district is located, such that 90 percent of the retained franchise assessment collected in that year shall be retained by the municipality and 10 percent shall be transferred by the municipality to the county for use in economic development.

P.L. 1995,c.173,s.5; amended 1996,c.73,s.7.

40A:12A-55. Adoption of redevelopment plan, powers of municipality

a. A municipality that has created a landfill reclamation improvement district pursuant to section 3 of P.L. 1995, c.173 (C.40A:12A-52), is deemed to have adopted a redevelopment plan for the specifically delineated area of the district for the purposes of section 7 of the "Local Redevelopment and Housing Law," P.L. 1992, c.79 (C.40A:12A-7) and may undertake a redevelopment project within the district. In addition to the other powers enumerated in this act, the municipality may incur indebtedness, borrow and expend money, and issue its negotiable bonds or other obligations pursuant to sections 29 through 37 of P.L. 1992, c.79 (C.40A:12A-29 through 40A:12A-37) for the purpose of financing or refinancing the construction, reconstruction, repair, alteration, improvement, and development of any infrastructure or parking or transportation facilities or work that reduces, abates or prevents environmental pollution or other improvements that provide a public benefit within or to a landfill reclamation improvement district.

b. Notwithstanding the provisions of subsection g. of section 37 of P.L. 1992, c.79 (C.40A:12A-37), the bonds and notes issued pursuant to this section shall not be direct and general obligations of the municipality issuing them and the municipality shall not be

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obligated to levy and collect a tax sufficient in an amount to pay the principal and interest on such bonds and notes when the same become due and payable. Any bonds or other obligations issued or authorized pursuant to this section shall be deductible from the gross debt of the municipality or county on any debt statement filed in accordance with the "Local Bond Law," P.L. 1960, c.169 (C.40A:2-1 et seq.).

c. A municipality that has created a landfill reclamation improvement district may adopt an ordinance which provides for tax abatement within that district and for a payment in lieu of taxes. The municipality may enter into agreements of no more than 35 years' duration with the redeveloper or owners of all or any part of a district for tax abatement and payments in lieu of taxes in an amount agreed upon. The bonds or other obligations described in this section shall be special and limited obligations secured by the agreement for payment in lieu of taxes or other available sources.

d. In addition to the bonds or other obligations authorized to be issued by a municipality pursuant to this section, the New Jersey Economic Development Authority, created pursuant to section 4 of P.L. 1974, c.80 (C.34:1B-4) or a county improvement authority may issue negotiable bonds or other obligations for the purpose of financing or refinancing the construction, reconstruction, repair, alteration, improvement, and development of any infrastructure or parking or transportation facilities or work that reduces, abates or prevents environmental pollution or other improvements that provide a public benefit within or to a landfill reclamation improvement district. The agreement for payment in lieu of taxes provided for in this section or other source of revenues may be assigned directly to the New Jersey Economic Development Authority or county improvement authority or the trustee of bonds as payment or security for the bonds or other obligations. Notwithstanding any law to the contrary, the assignment of the agreement for payment in lieu of taxes may be an absolute assignment of all the municipality's right, title, and interest in such agreement or in the payment in lieu of taxes, and such agreement or payment shall not be included in the general funds of the municipality. The municipality shall be a "person" within the meaning of that term as defined in section 3 of P.L. 1974 c.80 (C.34:1B-3); and the purpose described in this section shall be a "project" within the meaning of that term as defined in section 3 of P.L. 1974, c.80 (C.34:1B-3).

e. After the bonds are paid and no longer deemed to be outstanding, the payment in lieu of taxes shall be paid directly to the municipality and shall be included within its general funds.

P.L. 1995,c.173,s.6.

40A:12A-56. Provision for tax abatement, payments in lieu of taxes; special assessments

a. A municipality that has created a landfill reclamation improvement district pursuant to section 3 of P.L. 1995, c.173 (C.40A:12A-52) may provide for tax abatement within that district and for payments in lieu of taxes in accordance with the provisions of P.L. 1991,

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c.431 (C.40A:20-1 et seq.); provided, however, that the provisions of section 12 of P.L. 1991, c.431 (C.40A:20-12) establishing a minimum or maximum annual service charge and requiring staged increases in annual service charges over the term of the exemption period, and of section 13 of P.L. 1991, c.431 (C.40A:20-13) permitting the relinquishment of status under that act, shall not apply to landfill reclamation improvement district projects.

b. In addition to, or in lieu of, the tax abatement provided for in subsection a. of this section, the municipality may provide by ordinance for one or more special assessments within the landfill reclamation improvement district in accordance with chapter 56 of title 40 of the Revised Statutes, R.S. 40:56-1 et seq., provided, however, that the provisions of R.S. 40:56-35 shall be applied so that if any installment of a special assessment shall remain unpaid for 30 days after the time at which it shall become due, the municipality may provide, by ordinance, either that: (1) the whole assessment or balance due thereon shall become and be immediately due; or, (2) any subsequent installments which would not yet have become due except for the default shall be considered as not in default and that the lien for the installments not yet due shall continue; and provided, further, that the ordinance may require that the assessments be payable in yearly installments, with legal interest thereon, over a period of years up to but in no event exceeding the period of years for which the bonds were issued, or for 30 years, whichever shall be less. In levying a special assessment on the lands or improvements, or both, located in the district, the municipality may provide that the amount of the special assessment shall be a specific amount, not to exceed the cost of the improvements, paid with respect to property located in the district. That specific amount shall, to the extent accepted by the owner of the property benefited, be deemed the conferred benefit, in lieu of the amount being determined by the procedures otherwise applicable to determining the actual benefit conferred on the property. Special assessments levied pursuant to an ordinance adopted under this subsection shall constitute a municipal lien upon confirmation by the municipal governing body or by the court, under R.S. 40:56-33.

c. Upon adoption, a copy of the ordinance shall be filed for public inspection in the office of the municipal clerk, and there shall be published in a newspaper, published or circulating in the municipality, a notice stating the fact and the date of adoption and the place where the ordinance is filed and a summary of the contents of the ordinance. The notice shall state that any action or proceeding of any kind or nature in any court questioning the validity or proper authorization of the ordinance or the actions authorized to be taken as set forth in the ordinance shall be commenced within 20 days after the publication of the notice. If no action or proceeding questioning the validity of the ordinance providing for tax abatement, special assessments or other actions authorized by the ordinance shall be commenced or instituted within 20 days after the publication of the notice, the county and the school district and all other municipalities within the county and all residents and taxpayers and owners of property therein shall be forever barred and foreclosed from instituting or commencing any action or proceeding in any court questioning the validity or enforceability of the ordinance or the validity or enforceability of acts authorized under the ordinance, and the ordinance and acts authorized by the

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ordinance shall be conclusively deemed to be valid and enforceable in accordance with their terms and tenor.

P.L. 1996,c.73,s.8.

40A:12A-57. Application for issuance of negotiable bonds, obligations secured by payments in lieu of taxes, special assessments

a. The municipality may, by resolution of the governing body, authorize the municipality to apply to the authority for the authority to issue negotiable bonds or other obligations secured by payments in lieu of taxes and special assessments. Bonds so issued shall be for the purpose of financing or refinancing the construction, reconstruction, repair, alteration, improvement, and development of any on-site or off-site infrastructure improvements, or parking or transportation facilities, or work that reduces, abates or prevents environmental pollution, or other improvements that provide a public benefit within or to a landfill reclamation improvement district.

b. A municipality that has created a landfill reclamation improvement district pursuant to section 3 of P.L. 1995, c.173 (C.40A:12A-52) may, by resolution of its governing body, enter into contracts with the authority relating to any project or projects for the purpose of financing or refinancing the construction, reconstruction, repair, alteration, improvement, and development of any on-site or off-site infrastructure improvements, or parking or transportation facilities, or work that reduces, abates or prevents environmental pollution, or other improvements that provide a public benefit within or to a landfill reclamation improvement district. A resolution so adopted shall contain findings and determinations of the governing body: (1) that the project will result in the closure and remediation of a landfill and create employment opportunities in the municipality; and, (2) that the contract with the authority is a necessary inducement to the undertaking of the project in that the contract makes the financing thereof feasible. The contract or contracts may provide for the assignment, for the benefit of bondholders, of all or any portion of payments in lieu of taxes and special assessments. A contract may be made and entered into for a term beginning currently or at some future or contingent date, and with or without consideration, and for a specified or unlimited time, and on any terms and conditions which may be requested by the municipality and as may be agreed to by the authority in conformity with its contracts with the holders of bonds, and shall be valid and binding on the municipality. The municipality is hereby authorized and directed to do and perform any contract so entered into by it and to provide for the discharge of any obligation thereunder in the same manner as other obligations of the municipality.

Any contract, and any instrument making or evidencing the same, may be pledged or assigned by the authority, with the consent of the municipality executing the contract, to secure its bonds and thereafter may not be modified except as provided by the terms of the instrument or by the terms of the pledge or assignment.

c. The payments in lieu of taxes and special assessments may be assigned directly to the authority or the trustee for the bonds as payment or security for the bonds.

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Notwithstanding any law to the contrary, the assignment shall be an absolute assignment of all the municipality's right, title, and interest in the payment in lieu of taxes and special assessments, or portion thereof, along with the rights and remedies provided to the municipality under the agreement including, but not limited to, the right of collection of payments due. Payments in lieu of taxes and special assessments shall not be included in the general funds of the municipality, nor shall they be subject to any laws regarding the receipt, deposit, investment or appropriation of public funds and shall retain such status notwithstanding enforcement of the payment or assessment by the municipality or assignee as provided herein. The municipality shall be a "person" within the meaning of that term as defined in section 3 of P.L. 1974, c.80 (C.34:1B-3); and the purpose described in this section shall be a "project" within the meaning of that term as defined in section 3 of P.L. 1974, c.80 (C.34:1B-3).

d. Notwithstanding the provisions of subsection g. of section 37 of P.L. 1992, c.79 (C.40A:12A-37), the bonds and notes issued pursuant to this section shall be non-recourse obligations, and shall not be direct and general obligations of the municipality, and the municipality shall not be obligated to levy and collect a tax sufficient in an amount to pay the principal and interest on the bonds and notes when the same become due and payable. The provisions of the "Local Government Supervision Act (1947)," P.L. 1947, c.151 (C.52:27BB-1 et seq.) shall not apply to any bonds or other obligations issued or authorized pursuant to this section and those bonds or other obligations shall not be considered gross debt of the municipality on any debt statement filed in accordance with the "Local Bond Law," N.J.S. 40A:2-1 et seq., and the provisions of chapter 27 of Title 52 of the Revised Statutes shall not apply to such bonds.

e. The proceeds from the sale of the bonds and any funds provided by any department of the State, authority created by the State or bi-state authority, shall not require compliance with public bidding laws, including the "Local Public Contracts Law," P.L. 1971, c.198 (C.40A:11-1 et seq.), or any other statute where the redeveloper shall undertake the landfill closure, remediation, redevelopment and construction of the infrastructure improvements. The use of these funds shall be subject to public accountability and oversight by the municipality or agency providing the funds.

P.L. 1996,c.73,s.9.

40A:12A-58. Payments in lieu of taxes continuous lien; recording of ordinance; termination of lien

a. Payments required to be made in accordance with an agreement for payments in lieu of taxes entered into under section 8 of this amendatory and supplementary act, P.L. 1996, c.73 (C.40A:12A-56) shall be a continuous lien on the land against which the ordinance is recorded on and after the date of recordation of both the ordinance and the agreement, whether simultaneously or not, all subsequent payments in lieu of taxes thereunder, interest, penalties and costs of collection which thereafter fall due or accrue shall be added and relate back to and be a part of the initial lien. Upon recordation of the

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ordinance and agreement, payments in lieu of taxes shall constitute a municipal lien within the meaning, and for all purposes, of law.

b. If revenue bonds or other obligations are issued by the authority in order to finance or refinance the construction, reconstruction, repair, alteration, improvement, and development of any infrastructure, or parking or transportation facilities, or work that reduces, abates or prevents environmental pollution, or other improvements that provide a public benefit within or to a landfill reclamation improvement district in accordance with section 9 of P.L. 1996, c.73 (C.40A:12A-57), the municipality or the redeveloper may record, either simultaneously or at different times, any ordinance enacted by the municipality relating to the payment in lieu of taxes agreement or special assessments and, either simultaneously with the ordinance or at different times, a copy of the agreement or agreements. The ordinance, when recorded, shall contain a legend at the top of the front page substantially as follows:

"THIS ORDINANCE SECURES BONDS OR OTHER OBLIGATIONS ISSUED IN ACCORDANCE WITH THE PROVISIONS OF THE "LARGE SITE LANDFILL RECLAMATION AND IMPROVEMENT LAW" AND THE LIEN HEREOF IN FAVOR OF THE OWNERS OF SUCH BONDS OR OTHER OBLIGATIONS IS A MUNICIPAL LIEN SUPERIOR TO ALL OTHER NON-MUNICIPAL LIENS HEREAFTER RECORDED."

c. Notwithstanding any law to the contrary, upon recordation of both the ordinance and any accompanying agreement and upon the issuance of bonds or other obligations, the lien thereof shall be perfected for all purposes in accordance with law and the lien shall thereafter be superior to all non-municipal liens thereafter recorded or otherwise arising, without any additional notice, recording, filing, continuation filing or action, until the payment in full of the bonds or other obligations. The lien thereby established shall apply not only to the bonds and other obligations initially issued, but also to any refinancing or refunding thereof, as well as to any additional bonds and other obligations thereafter issued on a parity therewith in accordance with the provisions of the original documents securing the initial bonds and other obligations; provided, however, that in the event any ordinance or agreement is amended or supplemented in a way which increases the amount of payment in lieu of taxes or special assessments, the lien as to that increase shall be perfected and apply upon the recordation of the amended or supplemented ordinance and agreement (including the above-recited legend). Except as set forth in this section, no amendment or supplement to the ordinance or agreement thereafter recorded shall affect the perfection or priority of the lien established upon original recordation thereof.

d. Upon the final payment in full of any bonds or other obligations secured as provided in this section and section 9 of this amendatory and supplementary act, P.L. 1996, c.73 (C.40A:12A-57), the lien established hereby shall terminate, and the municipality shall record a notice to that effect.

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40A:12A-59. Payment in lieu of taxes may be secured by mortgage

In lieu of the provisions of section 10 of P.L. 1996, c.73 (C.40A:12A-58), the municipality may provide in the agreement that the payment in lieu of taxes, if any, is to be secured by a mortgage. In that event the mortgage may also be assigned and pledged to the repayment of the bonds authorized herein.

The assignment of any mortgage that secures a payment in lieu of taxes, if any, may also be an absolute assignment of all or part of the municipality's right, title, and interest in the mortgage and, to the extent assigned, any moneys realized from the foreclosure of the mortgaged property shall not be included in the general funds of the municipality.

After the bonds or other obligations are paid and no longer deemed to be outstanding, the assignment of the mortgage shall terminate.

P.L. 1996,c.73,s.11.

40A:12A-60. Bonds exempt from taxation; exceptions

All bonds issued pursuant to this act are hereby declared to be issued by a political subdivision of this State and for an essential public and governmental purpose and the bonds, and the interest thereon and the income therefrom, and all facility charges, funds, revenues and other moneys pledged or available to pay or secure the payment of the bonds, or interest thereon, shall at all times be exempt from taxation except for transfer inheritance and estate taxes.

P.L. 1996,c.73,s.12.

40A:12A-61. Pledge, covenant, agreement with bond holders

The State of New Jersey does hereby pledge to and covenant and agree with the holders of any bonds issued pursuant to this act that the State will not limit or alter the terms of any agreement, ordinance or resolution made in connection with the security for and the issuance and sale of any bonds, so as to in any way impair the rights or remedies of such holders, and will not modify in any way the exemption from taxation provided for in this act, until the bonds, together with interest thereon, with interest on any unpaid installments of interest, and all costs and expenses in connection with any action or proceeding by or on behalf of such holders, are fully met and discharged or provided for.

P.L. 1996,c.73,s.13.

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40A:12A-62. Severability

If any section, subsection, clause or provision of this act shall be adjudged to be unconstitutional or ineffective in whole or in part, to the extent that it is not adjudged unconstitutional or is not ineffective, it shall be valid and effective and no other section, subsection, clause or provision of this act shall on account thereof be deemed invalid or ineffective, and the inapplicability or invalidity of any section, subsection, clause or provision of this act in any one or more instances or under any one or more circumstances shall not be taken to affect or prejudice in any way its applicability or validity in any other instance or under any other circumstance.

P.L. 1996,c.73,s.14.

40A:12A-63. Bonds, notes, obligations presumed fully authorized, issued

After issuance, pursuant to this act, all bonds, notes or other obligations shall be conclusively presumed to be fully authorized and issued by all courts and officers of this State, and any person shall be estopped from questioning their sale, execution or delivery.

P.L. 1996,c.73,s.15.