

COUNTY IMPROVEMENT AUTHORITIES

40:37A-44. Short title

This act shall be known and may be cited as the "county improvement authorities law."

P.L. 1960, c. 183, § 1, eff. Jan. 18, 1961.

40:37A-45. Definitions

As used in this act, unless a different meaning clearly appears from the context:

- (a) "Authority" shall mean a public body created pursuant to this act;
- (b) "Bond resolution" shall have the meaning ascribed thereto in section 17 of P.L. 1960, c.183 (C.40:37A-60);
- (c) "Bonds" shall mean bonds, notes or other obligations issued pursuant to this act;
- (d) "Construct" and "construction" shall connote and include acts of clearance, demolition, construction, development or redevelopment, reconstruction, replacement, extension, improvement and betterment;
- (e) "Cost" shall mean, in addition to the usual connotations thereof, the cost of planning, acquisition or construction of all or any part of any public facility or facilities of an authority and of all or any property, rights, easements, privileges, agreements and franchises deemed by the authority to be necessary or useful and convenient therefor or in connection therewith, including interest or discount on bonds, cost of issuance of bonds, architectural, engineering and inspection costs and legal expenses, cost of financial, professional and other estimates and advice, organization, administrative, operating and other expenses of the authority prior to and during such acquisition or construction, and all such other expenses as may be necessary or incident to the financing, acquisition, construction and completion of such public facility or facilities or part thereof and the placing of the same fully in operation or the disposition of the same, and also such provision or reserves for working capital, operating, maintenance or replacement expenses or for payment or security of principal of or interest on bonds during or after such acquisition or construction as the authority may determine, and also reimbursements to the authority or any governmental unit or person of any moneys theretofore expended for the purposes of the authority;
- (f) The term "county" shall mean any county of any class of the State and shall include, without limitation, the terms "the county" and "beneficiary county" defined in this act, and the term "the county" shall mean the county which created an authority pursuant to this act;
- (g) "Development project" shall mean any lands, structures, or property or facilities acquired or constructed or to be acquired or constructed by an authority for the purposes of the authority described in subsection (e) of section 11 of P.L. 1960, c.183 (C.40:37A-54);

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(h) "Facility charges" shall have the meaning ascribed to said term in section 14 of P.L. 1960, c.183 (C.40:37A-57);

(i) "Facility revenues" shall have the meaning ascribed to said term in subsection (e) of section 20 of P.L. 1960, c.183 (C.40:37A-63);

(j) "Governing body" shall mean, in the case of a county, the board of chosen freeholders, or in the case of a county operating under article 3 or 5 of the "Optional County Charter Law" (P.L. 1972, c.154; C.40:41A-1 et seq.) as defined thereunder, and, in the case of a municipality, the commission, council, board or body, by whatever name it may be known, having charge of the finances of the municipality;

(k) "Governmental unit" shall mean the United States of America or the State or any county or municipality or any subdivision, department, agency, or instrumentality heretofore or hereafter created, designated or established by or for the United States of America or the State or any county or municipality;

(l) "Local bond law" shall mean chapter 2 of Title 40A, Municipalities and Counties, of the New Jersey Statutes (N.J.S.) as amended and supplemented;

(m) "Municipality" shall mean any city, borough, village, town, or township of the State but not a county or a school district;

(n) "Person" shall mean any person, partnership, association, corporation or entity other than a nation, state, county or municipality or any subdivision, department, agency or instrumentality thereof;

(o) "Project" shall have the meaning ascribed to said term in section 17 of P.L. 1960, c.183 (C.40:37A-60);

(p) "Public facility" shall mean any lands, structures, franchises, equipment, or other property or facilities acquired, constructed, owned, financed, or leased by the authority or any other governmental unit or person to accomplish any of the purposes of an authority authorized by section 11 of P.L. 1960, c.183 (C.40:37A-54);

(q) "Real property" shall mean lands within or without the State, above or below water, and improvements thereof or thereon, or any riparian or other rights or interests therein;

(r) "Garbage and solid waste disposal system" shall mean the plants, structures and other real and personal property acquired, constructed or operated or to be acquired, constructed or operated by a county improvement authority, including incinerators, sanitary landfill facilities or other plants for the treatment and disposal of garbage, solid waste and refuse matter and all other real and personal property and rights therein and appurtenances necessary or useful and convenient for the collection and treatment or disposal in a sanitary manner of garbage, solid waste and refuse matter (but not including sewage);

(s) "Garbage, solid waste or refuse matter" shall mean garbage, refuse and other discarded materials resulting from industrial, commercial and agricultural operations, and from domestic and community activities, and shall include all other waste materials including sludge, chemical waste, hazardous wastes and liquids, except for liquids which are treated in public sewage treatment plants and except for solid animal

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and vegetable wastes collected by swine producers licensed by the State Department of Agriculture to collect, prepare and feed such wastes to swine on their own farms;

(t) "Blighted, deteriorated or deteriorating area" may include an area determined heretofore by the municipality to be blighted in accordance with the provisions of P.L. 1949, c.187, repealed by P.L. 1992, c.79 (C.40:55-21.1 et seq.) and, in addition, areas which are determined by the municipality, pursuant to the same procedures as provided in said law, to be blighted, deteriorated or deteriorating because of structures or improvements which are dilapidated or characterized by disrepair, lack of ventilation or light or sanitary facilities, faulty arrangement, location, or design, or other unhealthful or unsafe conditions;

(u) "Redevelopment" may include planning, replanning, conservation, rehabilitation, clearance, development and redevelopment; and the construction and rehabilitation and provision for construction and rehabilitation of residential, commercial, industrial, public or other structures and the grant or dedication or rededication 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 a redevelopment plan approved by the governing body of a municipality;

(v) "Redevelopment plan" shall mean a plan as it exists from time to time for the redevelopment of all or any part of a redevelopment area, which plan shall be sufficiently complete to indicate such land acquisition, demolition and removal of structures, redevelopment, improvements, conservation or rehabilitation as may be proposed to be carried out in the area of the project, zoning and planning changes, if any, land uses, maximum densities, building requirements, the plan's relationship to definite local objectives respecting appropriate land uses, improved traffic, public transportation, public utilities, recreational and community facilities, and other public improvements and provision for relocation of any residents and occupants to be displaced in a manner which has been or is likely to be approved by the Department of Community Affairs 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.) and rules and regulations pursuant thereto;

(w) "Redevelopment project" shall mean any undertakings and activities for the elimination, and for the prevention of the development or spread, of blighted, deteriorated, or deteriorating areas and may involve any work or undertaking pursuant to a redevelopment plan; such undertaking may include: (1) acquisition of real property and demolition, removal or rehabilitation of buildings and improvements thereon; (2) carrying out plans for a program of voluntary repair and rehabilitation of buildings or other improvements; and (3) installation, construction or reconstruction of streets, utilities, parks, playgrounds or other improvements necessary for carrying out the objectives of the redevelopment project;

(x) "Redeveloper" shall mean any person or governmental unit that shall enter into or propose to enter into a contract with an authority for the redevelopment of an area or any part thereof under the provisions of this act;

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(y) "Redevelopment area" shall mean an area of a municipality which the governing body thereof finds is a blighted area or an area in need of rehabilitation whose redevelopment is necessary to effectuate the public purposes declared in this act. A redevelopment area may include lands, buildings, or improvements which of themselves are not detrimental to the public health, safety or welfare, but whose inclusion is found necessary, with or without change in their condition, for the effective redevelopment of the area of which they are a part;

(z) "Sludge" shall mean any solid, semisolid, or liquid waste generated from a municipal, industrial or other sewage treatment plant, water supply treatment plant, or air pollution control facility, or any other such waste having similar characteristics and effects, but shall not include effluent; and

(aa) "Beneficiary county" shall mean any county that has not created an authority pursuant to this act.

P.L. 1960, c.183, s.2; amended 1962, c.224, s.3; 1968, c.66, s.1; 1973, c.330, s.1; 1979, c.275, s.31; 1981, c.492, s.1; 1982, c.113, s.1; 1994, c.76, s.1.

40:37A-46. Creation of authority

The governing body of a county may by ordinance or resolution, as appropriate, create a public body corporate and politic under and pursuant to this act, under the name and style of "the county improvement authority, " with all or any significant part of the name of said county inserted. Said body shall consist of the 5 members thereof, who shall be residents of the county and be appointed by ordinance or resolution of said governing body as hereinafter provided, and it shall constitute the authority contemplated and provided for in this act and an agency or instrumentality of said county. Copies of said ordinance or resolution for the creation of the authority, certified by the clerk of said governing body, shall be filed in the office of the Secretary of State and in the office of the Division of Local Government Services in the Department of Community Affairs. A copy of any such certified ordinance or resolution, duly certified by or on behalf of the Secretary of State, shall be admissible in evidence in any action or proceeding and shall be conclusive evidence of due and proper adoption and filing thereof as aforesaid. After such filing in the office of the Secretary of State, a copy of said ordinance or resolution shall be published at least once in a newspaper published or circulating in the county, together with a notice stating the fact and date of its adoption and the date of the first publication of such notice. If no action questioning the validity of the creation or establishment of the authority shall be commenced within 45 days after the first publication of such notice, then said authority shall be conclusively deemed to have been validly created and established and authorized to transact business and exercise powers as a public body created pursuant to this act.

P.L. 1960, c. 183, § 3, eff. Jan. 18, 1961. Amended by L.1982, c. 113, § 2, eff. Aug. 14, 1982.

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40:37A-47. Dissolution of Authority

The governing body of any county which has created an authority pursuant to this act may be ordinance or resolution, as appropriate, dissolve such authority if either (1) such authority has no debts or obligations outstanding, or (2) all creditors or other obligees of the authority have consented to said ordinance or resolution. A copy of said ordinance or resolution, certified by the clerk of said governing body, shall be filed in the office of the Secretary of State and in the office of the Division of Local Government Services in the Department of Community Affairs. Upon proof of such filing and upon proof either that said authority had no debts or obligations outstanding at the time of the adoption of such ordinance or resolution or that all creditors or other obligees of the authority have consented to such ordinance or resolution, the authority shall be conclusively deemed to have been lawfully and properly dissolved. Thereupon, all right, title and interest in and to the property of the authority shall be vested in the county, except that any particular property shall vest in any other governmental unit or person if the terms of any lease or other agreement of the authority with respect thereto shall so provide. A copy of any such certified ordinance or resolution, duly certified by or on behalf of the Secretary of State, shall be admissible in evidence in any action or proceeding and shall be conclusive evidence of due and proper adoption and filing thereof as aforesaid.

P.L. 1960, c. 183, § 4, eff. Jan. 18, 1961. Amended by L.1982, c. 113, § 3, eff. Aug. 14, 1982.

40:37A-47.1. Legislative determination

It is hereby found and declared: (a) that there are located within this State various federal installations comprising substantial tracts of land including, in many cases, buildings and other improvements thereon; (b) that, as the defense and other requirements and plans of the federal government continue to change and develop, large areas of such lands are liable to become surplus to the needs of the federal government and it is probable that such surplus areas will from time to time be disposed of by the federal government and become available for other use and development; (c) that, unless developed or redeveloped in the public interest on a comprehensive basis and under appropriate controls, any such surplus land, when so disposed of by the federal government, will constitute or be in danger of becoming a blighted area which will impair economic values and tax revenues, result in increased unemployment, and cause an increase in and spread of poverty, disease and crime, and accordingly be a menace to the health, safety, morals and welfare of residents of this State necessitating excessive and disproportionate expenditure of public funds for relief, crime prevention and punishment, public health and safety, and other public services and facilities; (d) that the several counties of this State, by means and through the agency of or services provided by a county improvement authority, are best qualified and able to provide for public acquisition of such surplus lands and accordingly the orderly development and redevelopment thereof in the public interest in order to remove or prevent the conditions herein above recited and to encourage industrial, commercial, residential or other proper uses of such lands or restore or increase employment opportunities for residents of this State; and (e) that the acquisition of such surplus lands and development or redevelopment thereof as aforesaid

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are public uses and purposes for which public funds may be expended and private property taken or acquired, and are governmental functions of State concern. The necessity in the public interest for the provisions hereinafter enacted is hereby declared as a matter of legislative determination.

P.L. 1962, c.224, s.1; amended 1994, c.76, s.2.

40:37A-48. Appointment of members; terms; vacancies

a. After expiration of the period of 45 days following the first publication as provided in section 3 hereof of a notice regarding creation of an authority, 5 persons shall be appointed as the members of the authority. The members first appointed shall, by the resolution of appointment, be designated to serve for terms respectively expiring on the first days of the first, second, third, fourth and fifth Februarys next ensuing after the date of their appointment. On or after January 1 in each year after such first appointments, one person shall be appointed as a member of the authority for a term commencing on or after February 1 in such year and expiring on February 1 in the fifth year after such year. Each member shall hold office for the term of appointment and until his successor shall have been appointed and qualified. Any vacancy in the membership of the authority during an unexpired term shall be filled by appointment of a person as member for the unexpired term. A copy of any resolution appointing any such members, certified by the clerk of the governing body, may be filed in the office of the Secretary of State. A copy of any such certified resolution, duly certified by or on behalf of the Secretary of State, shall be admissible in evidence in any action or proceeding and shall be conclusive evidence of due and proper adoption and filing thereof as aforesaid and, except in an action or proceeding seeking only exclusion of the appointee from office, shall be conclusive evidence of the due and proper appointment of the members named therein.

b. Notwithstanding the provisions of subsection a. of this section and section 3 of P.L. 1960, c. 183 (C. 40:37A-46), whenever any county governed by the "Optional County Charter Law," P.L. 1972, c. 154 (C. 40:41A-1 et seq.) shall proceed to reorganize its county improvement authority pursuant to the reorganization powers granted under section 30 of that act (C. 40:41A-30), the ordinance adopted for that purpose shall prescribe the number of members of the authority, their respective terms of office, and the dates upon which their respective terms of office shall expire.

P.L. 1960, c. 183, § 5, eff. Jan. 18, 1961. Amended by L.1982, c. 113, § 4, eff. Aug. 14, 1982.

40:37A-49. Election of officers; terms; appointment of agents and employees

Every authority, upon the first appointment of its members and thereafter on or after February 1 in each year, shall annually elect from among its members a chairman and a vice chairman who shall hold office until February 1 next ensuing and until their respective successors shall have been appointed and qualified. Every authority may also appoint and employ, without regard to the provisions of Title 11, Civil Service, of the

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Revised Statutes, a secretary, a treasurer, an executive director and a chief engineer and such other agents and employees as it may require, and it shall determine their qualifications, terms of office, duties and compensation.

P.L. 1960, c. 183, § 6, eff. Jan. 18, 1961.

40:37A-50. Vesting of powers; quorum

The powers of an authority shall be vested in the members thereof in office from time to time, and a majority of the entire authorized voting membership of the authority shall constitute a quorum at any meeting thereof. Action may be taken and motions and resolutions adopted by the authority at any meeting of the members thereof by the affirmative vote of a majority of the voting members present, unless in any case the bylaws of the authority shall require a larger number.

P.L. 1960, c. 183, § 7, eff. Jan. 18, 1961. Amended by L.1982, c. 113, § 5, eff. Aug. 14, 1982.

40:37A-51. Compensation of members; reimbursement for expenses

The members of an authority shall serve without compensation, but the authority may reimburse its members for necessary expenses incurred in the discharge of their duties.

P.L. 1960, c. 183, § 8, eff. Jan. 18, 1961.

40:37A-52. Ex officio member

No member of the governing body of the county or any existing or potential beneficiary county shall be appointed as a member of, or employed by, an authority; but the governing body of the county may, by ordinance or resolution, as appropriate, provide that, in addition to the members appointed pursuant to section 5 of P.L. 1960, c.183 (C.40:37A-48), the county executive in the case of a county having adopted article 3 of the "Optional County Charter Law, " P.L. 1972, c.154 (C.40:41A-31 et seq.), the county supervisor in the case of a county having adopted article 5 of that act (C.40:41A-59 et seq.), or the president of the board of chosen freeholders in case the county is any other type of county, shall be appointed to serve ex officio, as a non-voting member of an authority.

P.L. 1960, c.183, s.9; amended 1982, c.113, s.6; 1994, c.76, s.3.

40:37A-53. Removal of members of authority

A member of an authority may be removed by the governing body of the county for incapacity, inefficiency or neglect of duty or misconduct in office or other disqualifying

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cause and after he shall have been given a copy of the charges against him and, not sooner than 10 days thereafter, been afforded opportunity for a hearing, in person or by counsel, by such governing body with respect to such charges.

P.L. 1960, c. 183, § 10, eff. Jan. 18, 1961.

40:37A-54. Purposes

The purposes of every authority shall be (a) provision within the county or any beneficiary county of public facilities for use by the State, the county or any beneficiary county, or any municipality in any such county, or any two or more or any subdivisions, departments, agencies or instrumentalities of any of the foregoing for any of their respective governmental purposes, (b) provision within the county or any beneficiary county of public facilities for use as convention halls, or the rehabilitation, improvement or enlargement of any convention hall, including appropriate and desirable appurtenances located within the convention hall or near, adjacent to or over it within boundaries determined at the discretion of the authority, including but not limited to office facilities, commercial facilities, community service facilities, parking facilities, hotel facilities and other facilities for the accommodation and entertainment of tourists and visitors, (c) provision within the county or any beneficiary county of structures, franchises, equipment and facilities for operation of public transportation or for terminal purposes, including development and improvement of port terminal structures, facilities and equipment for public use in counties in, along or through which a navigable river flows, (d) provision within the county any beneficiary county of structures or other facilities used or operated by the authority or any governmental unit in connection with, or relative to development and improvement of, aviation for military or civilian purposes, including research in connection therewith, and including structures or other facilities for the accommodation of passengers, (e) provision within the county any beneficiary county of a public facility for a combination of governmental and nongovernmental uses; provided that not more than 50% of the usable space in any such facility shall be made available for nongovernmental use under a lease or other agreement by or with the authority, (f) acquisition of any real property within the county or any beneficiary county, with or without the improvements thereof or thereon or personal property appurtenant or incidental thereto, from the United States of America or any department, agency or instrumentality heretofore or hereafter created, designated or established by or for it, and the clearance, development or redevelopment, improvement, use or disposition of the acquired lands and premises in accordance with the provisions and for the purposes stated in this act, including the construction, reconstruction, demolition, rehabilitation, conversion, repair or alteration of improvements on or to said lands and premises, and structures and facilities incidental to the foregoing as may be necessary, convenient or desirable, (g) acquisition, construction, maintenance and operation of garbage and solid waste disposal systems for the purpose of collecting and disposing of garbage, solid waste or refuse matter, whether owned or operated by any person, the authority or any other governmental unit, within or without the county or any beneficiary county, (h) the improvement, furtherance and promotion of the tourist industries and recreational attractiveness of the county or any beneficiary county through the planning, acquisition,

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construction, improvement, maintenance and operation of facilities for the recreation and entertainment of the public, which facilities may include, without being limited to, a center for the performing and visual arts, (i) provision of loans and other financial assistance and technical assistance for the construction, reconstruction, demolition, rehabilitation, conversion, repair or alteration of buildings or facilities designed to provide decent, safe and sanitary dwelling units for persons of low and moderate income in need of housing, including the acquisition of land, equipment or other real or personal properties which the authority determines to be necessary, convenient or desirable appurtenances, all in accordance with the provisions of this act, as amended and supplemented, (j) planning, initiating and carrying out redevelopment projects for the elimination, and for the prevention of the development or spread of blighted, deteriorated or deteriorating areas and the disposition, for uses in accordance with the objectives of the redevelopment project, of any property or part thereof acquired in the area of such project, (k) any combination or combinations of the foregoing or following, and (l) subject to the prior approval of the Local Finance Board, the planning, design, acquisition, construction, improvement, renovation, installation, maintenance and operation of facilities or any other type of real or personal property within the county for a corporation or other person organized for any one or more of the purposes described in subsection a. of N.J.S. 15A:2-1 except those facilities or any other type of real or personal property which can be financed pursuant to the provisions of P.L.1972, c.29 (C.26:2I-1 et seq.) as amended.

P.L. 1960, c.183, s.11; amended 1962, c.224, s.4; 1967, c.242, s.1; 1968, c.66, s.2; 1973, c.330, s.2; 1978, c.112; 1979, c.275, s.32; 1981, c.460, s.1; 1982, c.113, s.7; 1994, c.76, s.4; 1994, c.110.

40:37A-55. Body politic and corporate; powers and duties

Every authority shall be a public body politic and corporate constituting a political subdivision of the State established as an instrumentality exercising public and essential governmental functions to provide for the public convenience, benefit and welfare and shall have perpetual succession and, for the effectuation of its purposes, have the following additional powers:

- (a) To adopt and have a common seal and to alter the same at pleasure;
- (b) To sue and be sued;
- (c) To acquire, hold, use and dispose of its facility charges and other revenues and other moneys;
- (d) To acquire, rent, hold, use and dispose of other personal property for the purposes of the authority;
- (e) Subject to the provisions of section 26 of this act, to acquire by purchase, gift, condemnation or otherwise, or lease as lessee, real property and easements or interests therein necessary or useful and convenient for the purposes of the authority, whether subject to mortgages, deeds of trust or other liens or otherwise, and to hold and to use the same, and to dispose of property so acquired no longer necessary for the purposes of the authority; provided that the authority may dispose of such property at any time to any

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governmental unit or person if the authority shall receive a leasehold interest in the property for such term as the authority deems appropriate to fulfill its purposes;

(f) Subject to the provisions of section 13 of this act, to lease to any governmental unit or person, all or any part of any public facility for such consideration and for such period or periods of time and upon such other terms and conditions as it may fix and agree upon;

(g) To enter into agreements to lease, as lessee, public facilities for such term and under such conditions as the authority may deem necessary and desirable to fulfill its purposes, and to agree, pursuant thereto, to be unconditionally obligated to make payments for the term of the lease, without set-off or counterclaim, whether or not the public facility is completed, operating or operable, and notwithstanding the destruction of, damage to, or suspension, interruption, interference, reduction or curtailment of the availability or output of the public facility to which the agreement applies;

(h) To extend credit or make loans to any governmental unit or person for the planning, design, acquisition, construction, equipping and furnishing of a public facility, upon the terms and conditions that the loans be secured by loan and security agreements, mortgages, leases and other instruments, the payments on which shall be sufficient to pay the principal of and interest on any bonds issued for the purpose by the authority, and upon such other terms and conditions as the authority shall deem reasonable;

(i) Subject to the provisions of section 13 of this act, to make agreements of any kind with any governmental unit or person for the use or operation of all or any part of any public facility for such consideration and for such period or periods of time and upon such other terms and conditions as it may fix and agree upon;

(j) To borrow money and issue negotiable bonds or notes or other obligations and provide for and secure the payment of any bonds and the rights of the holders thereof, and to purchase, hold and dispose of any bonds;

(k) To apply for and to accept gifts or grants of real or personal property, money, material, labor or supplies for the purposes of the authority from any governmental unit or person, and to make and perform agreements and contracts and to do any and all things necessary or useful and convenient in connection with the procuring, acceptance or disposition of such gifts or grants;

(l) To determine the location, type and character of any public facility and all other matters in connection with all or any part of any public facility which it is authorized to own, construct, establish, effectuate or control;

(m) To make and enforce bylaws or rules and regulations for the management and regulation of its business and affairs and for the use, maintenance and operation of any public facility, and to amend the same;

(n) To do and perform any acts and things authorized by this act under, through or by means of its own officers, agents and employees, or by contract with any governmental unit or person;

(o) To acquire, purchase, construct, lease, operate, maintain and undertake any project and to fix and collect facility charges for the use thereof;

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(p) To mortgage, pledge or assign or otherwise encumber all or any portion of its revenues and other income, real and personal property, projects and facilities for the purpose of securing its bonds, notes and other obligations or otherwise in furtherance of the purpose of this act;

(q) To extend credit or make loans to redevelopers for the planning, designing, acquiring, constructing, reconstructing, improving, equipping and furnishing any redevelopment project or redevelopment work;

(r) To conduct examinations and investigations, hear testimony and take proof, under oath at public or private hearings of any material matter, require the attendance of witnesses and the production of books and papers and issue commissions for the examination of witnesses who are out of the State, unable to attend, or excused from attendance;

(s) To authorize a committee designated by it consisting of one or more members, or counsel, or any officer or employee to conduct any such investigation or examination, in which case such committee, counsel, officer or employee shall have power to administer oaths, take affidavits and issue subpoenas or commissions; and

(t) To enter into any and all agreements or contracts, execute any and all instruments, and do and perform any and all acts or things necessary, convenient or desirable for the purposes of the authority or to carry out any power expressly given in this act subject to P.L. 1971, c. 198, "Local Public Contracts Law" (C. 40A:11-1 et seq.).

P.L. 1960, c. 183, § 12, eff. Jan. 18, 1961. Amended by L.1975, c. 96, § 6, eff. May 16, 1975; P.L. 1977, c. 291, § 1, eff. Dec. 12, 1977; L.1979, c. 275, § 33, eff. Jan. 3, 1980; L.1982, c. 113, § 8, eff. Aug. 14, 1982.

40:37A-55.1. Power of authority for purposes of redevelopment of blighted, deteriorated or deteriorating areas

For purposes of the redevelopment of blighted, deteriorated or deteriorating areas, and subject to the provisions of this act, an authority may:

a. Acquire or contract to acquire from any person, firm or corporation, public or private, by contribution, gift, grant, bequest, devise, purchase, condemnation 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 and in any area designated by the municipal governing body as necessary for carrying out the relocation of the residents, industry and commerce displaced from a redevelopment area;

b. Demolish, remove or rehabilitate buildings or other improvements in any area 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;

c. Relocate or arrange for the relocation of residents and occupants of an area;

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d. Dispose of land so acquired for the uses specified in the redevelopment plan as determined by it to any person, firm, or corporation or to any public agency by sale, lease or exchange;

e. Request the municipal planning board, if any, to recommend and the municipal governing body pursuant to existing law to designate blighted areas in need of redevelopment and to make recommendations for such development;

f. Study the recommendations of the municipal planning board for redevelopment of any area and to make its own investigations and recommendations as to current trends in the municipality, blighted areas and blighting factor, to the governing body of the municipality thereon;

g. Publish and disseminate information;

h. Prepare or arrange by contract for preparation of plans by registered architects or licensed professional engineers or planners for the carrying out of the redevelopment projects;

i. Arrange or contract with public agencies or redevelopers for the planning, replanning, conservation, rehabilitation, construction, or undertaking of any project, or redevelopment work, or any part thereof, to provide as part of any such arrangement or contract for extension of credit or making of loans to redevelopers to finance any project or redevelopment work, and to arrange or contract with public agencies 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;

j. 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, and to have such other agency provide and maintain parks, recreation centers, schools, sewerage, transportation, water and other municipal facilities adjacent to or in connection with redevelopment areas;

k. Enter upon any building or property in any redevelopment area in order to conduct investigations or make surveys, soundings or test borings necessary to carry out the purposes of this act;

l. Arrange or contract with a public agency for the relocation of residents, industry or commerce displaced from a redevelopment area;

m. Make (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 of land and the use and occupancy of buildings and improvements, and to the compulsory repair, rehabilitation, demolition, or removal of buildings and improvements;

n. Develop, test, and report methods and techniques, and carry out demonstrations and other activities, for the prevention and the elimination of blight; and

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o. To finance by mortgage loans or otherwise the construction or establishment of retail food outlets and to make temporary loans or advances in anticipation of permanent loans.

P.L. 1979, c. 275, § 34, eff. Jan. 3, 1980. Amended by L.1983, c. 273, § 1, eff. July 18, 1983.

40:37A-56. Report to governing body; powers limited

(1) Whenever an authority after investigation and study shall plan to undertake any public facility or facilities (other than a development project or redevelopment project) for the purposes of the authority, the authority shall make to the governing body of the county and if the public facility or facilities (including a development project or redevelopment project) benefit any beneficiary county, to the governing body of any such beneficiary county a detailed report dealing with the proposed public facility or facilities. Notwithstanding any other provision of this act, the authority shall not construct or acquire such public facility or facilities (other than a development project or redevelopment project within the county which created the authority), or make any lease or other agreement relating to use by any governmental unit or person of all or any part of any such public facility or facilities for a term in excess of five years, until there has been filed with the authority a copy of a resolution adopted by the governing body of the county and, if applicable, by any beneficiary county, certified by its clerk, describing such public facility or facilities in terms sufficient for reasonable identification and consenting to the construction or acquisition thereof by the authority or the making of such leases or other agreements.

(2) Unless otherwise required by any agreement of the authority with holders of its bonds, no authority shall sell any part of a development project or make any lease or other agreement relating to use by any governmental unit or person of said part for a term in excess of five years (A) Until the Commissioner of Community Affairs (hereinafter called the "commissioner") has approved a plan (hereinafter called, with respect to such part, the "development plan") prepared by the authority which provides an outline for the development of said part sufficient, in the opinion of the commissioner: (i) to indicate its relationship to appropriate land uses in the area and proper traffic, public transportation, public utility, recreational and community facilities, and other public improvements, (ii) to indicate proposed land uses and building requirements and restrictions in said part, and (iii) to provide reasonable assurance that said part will not be in danger of becoming a blighted area and will be developed in a manner reasonably designed in the public interest to encourage industrial, commercial, residential or other proper uses thereof or restore or increase employment opportunities for residents of the State; or (B) Unless such sale, lease or other agreement, in the opinion of the authority, is necessary or desirable in order to effectuate and carry out the said development plan.

(3) Every authority shall have power, subject to the provisions of subsection (2) of this section, to sell or otherwise dispose of all or any part of any development project or to lease the same to any governmental unit or person or make agreement of any kind with any governmental unit or person for the use or operation thereof, for such consideration

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and for such period or periods of time and upon such other terms and conditions as it may fix and agree upon. In the exercise of such power, the authority may make any land or structure in the development project available for use by private enterprise or governmental units in accordance with the development plan at its use value, being the value (whether expressed in terms of rental or capital price) at which the authority determines such land or structure should be made available in order that it may be developed or used for the purpose or purposes specified in such plan. In order to assure that land or other property included in the development project is developed or used in accordance with the development plan, the authority, upon the sale, lease or other disposition of such land or property, shall obligate purchasers, lessees or other users: A) to use the land or property for the purpose designated in such plan, (B) to begin the building or installation of their improvements or other property (if any), and to complete the same, within such periods of time as the authority may fix as reasonable, and (C) to comply with such other conditions as are necessary or desirable to carry out the purposes stated in this act. Any such obligations imposed on a purchaser of land shall be covenants and conditions running with the land where the authority so stipulates.

P.L. 1960, c.183, s.13; amended 1962, c.224, s.5; 1979, c.275, s.35; 1994, c.76, s.5.

40:37A-57. Facility charges

Every authority is hereby authorized to charge and collect tolls, rents, rates, fares, fees or other charges (in this act sometimes referred to as "facility charges") in connection with, or for the use or services of, or otherwise relating to, any public facility or other property owned, leased or controlled by the authority. If the public facility is a system of solid waste disposal, including, but not limited to, a resource recovery facility, recycling plant or transfer station owned, leased or controlled by the authority, the authority may charge and collect in connection with that system from any governmental unit included within the jurisdiction of the authority or which contracts for service with that authority or from any owner or occupant of any real property situated in a constituent municipality or in a municipality which contracts for service with that authority. Such facility charges may be charged to and collected from any governmental unit or person and such governmental unit or person shall be liable for and shall pay such facility charges to the authority at the time when and place where such facility charges are due and payable.

P.L. 1960, c. 183, s. 14; amended 1968, c.66, s.3; 1982, c.113, s.9; 1988, c.140.

40:37A-58. Compliance of facility charges with terms of lease or other agreement regarding facility; adjustment of charges

The facility charges fixed, charged and collected by an authority with respect to any public facility shall comply with the terms of any lease or other agreement of the authority with regard to such public facility, and the facility charges fixed, charged and collected by an authority may be so adjusted that the revenues of the authority will at all times be adequate to pay all expenses of the authority, including the expenses of

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operation and maintenance of any public facility or other property owned or controlled by the authority, including insurance, improvements, replacements, reconstruction and any other required payments, and to pay the principal of and interest on any bonds, and to maintain such reserves or sinking funds for any of the foregoing purposes as may be required by the terms of any lease or other agreement of the authority or as may be deemed necessary or convenient and desirable by the authority.

P.L. 1960, c. 183, § 15, eff. Jan. 18, 1961.

40:37A-60. Purpose of issuance; bonds authorized; pledge of contributions or revenue, or real or personal property

For the purpose of (1) financing the cost of any public facility or facilities (in this act sometimes referred to as the "project"), or (2) funding or refunding any bonds, the authority shall authorize and provide for the issuance of bonds by a resolution (in this act sometimes referred to as the "bond resolution"). Pursuant to the bond resolution, bonds may be issued in one or more series and shall bear such date or dates, mature at such time or times not exceeding 40 years from the date thereof, bear interest at such rate or rates, which may be fixed or may change, at such time or times and according to such formula or method of determination, be in such denomination or denominations, be in such form either coupon or registered, carry such conversion or registration privileges, have such rank or priority, be executed in such manner, be payable from such sources, in such medium of payment, at such place or places within or without the State, and be subject to such terms of redemption (with or without premium) as the bond resolution may provide. The authority may also authorize bonds to be issued and sold from time to time and delegate to such officer or agent of the authority as the authority shall designate the power to determine the time and manner (public or private) of sale, the maturities and rate or rates of interest (which may be fixed or may change, at such time or times and in accordance with a specified formula or method of determination), and such other terms and conditions as may be deemed appropriate by the officer or agent of the authority so designated; provided, however, that the amounts and maturities of and interest rate or rates on such bonds shall be within the limits prescribed by the authority in its delegation to the officer or agent of the power to authorize the sale and issuance of bonds. The authority may issue such types of bonds as it may determine, including (without limiting the generality of the foregoing) bonds on which the principal and interest are payable (a) exclusively from the income and revenues of the project financed with the proceeds of such bonds; (b) exclusively from the income and revenues of certain designated projects whether or not they are financed in whole or in part with the proceeds of such bonds; or (c) from its revenues generally. Any such bonds may be additionally secured by a pledge of any grant or contributions from any governmental unit or person or a pledge of any income or revenues of the authority from any source whatsoever, or by a mortgage or pledge of all or any part of the real or personal property of the authority, including property which is acquired, improved, constructed, financed or refinanced by the proceeds of such bonds.

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P.L. 1960, c. 183, § 17, eff. Jan. 18, 1961. Amended by L.1977, c. 80, § 1, eff. May 2, 1977; P.L. 1977, c. 291, § 2, eff. Dec. 12, 1977; L.1982, c. 113, § 10, eff. Aug. 14, 1982.

40:37A-61. Sale of bonds

Bonds of an authority may be sold at public or private sale at such price or prices as the authority shall determine.

P.L. 1960, c. 183, § 18. Amended by L.1977, c. 80, § 2, eff. May 2, 1977.

40:37A-62. Filing copy of bond resolution; publication; effect

An authority shall cause a copy of any bond resolution adopted by it to be filed for public inspection in its office and in the office of the clerk of the governing body of the county, and if the public facility financed by such bond resolution benefits a beneficiary county, in the office of the clerk of the governing body of the beneficiary county, and may thereupon cause to be published at least once in a newspaper published or circulating in the county, and if applicable, any beneficiary county, a notice stating the fact and date of such adoption and the places where such bond resolution has been so filed for public inspection and also the date of the first publication of such notice and also stating that any action or proceeding of any kind or nature in any court questioning the validity or proper authorization of bonds provided for by the bond resolution, or the validity of any covenants, agreements or contracts provided for by the bond resolution shall be commenced within 20 days after the first publication of such notice. If any such notice shall at any time be published and if no action or proceeding questioning the validity or proper authorization of bonds provided for by the bond resolution referred to in said notice, or the validity of any covenants, agreements or contracts provided for by said bond resolution shall be commenced or instituted within 20 days after the first publication of said notice, then all residents and taxpayers and owners of property in the county and, if applicable, any beneficiary county and all other persons shall be forever barred and foreclosed from instituting or commencing any action or proceeding in any court, or from pleading any defense to any action or proceeding, questioning the validity or proper authorization of such bonds, or the validity of such covenants, agreements or contracts, and said bonds, covenants, agreements and contracts shall be conclusively deemed to be valid and binding obligations in accordance with their terms and tenor.

P.L. 1960, c.183, s.19; amended 1994, c.76, s.6.

40:37A-63. Covenants and agreements with holders of bonds

Any bond resolution of an 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:

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- (a) The custody, security, use, expenditure or application of the proceeds of the bonds;
- (b) The construction and completion, or replacement, of any public facility or facilities;
- (c) The use, regulation, operation, maintenance, insurance or disposition of any public facility or facilities, or restrictions on the exercise of the powers of the authority to dispose, or to limit or regulate the use, of any public facility or facilities;
- (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 any such bonds or obligations as to any lien or security, or the acceleration of the maturity of any such bonds or obligations;
- (e) The use and disposition of any moneys of the authority, including revenues (in this act sometimes called "facility revenues") derived or to be derived from the operation of any public facility or facilities, including any parts thereof theretofore constructed or acquired and any parts, extensions, replacements or improvements thereof thereafter constructed or acquired:
- (f) Pledging, setting aside, depositing or trusteeing all or any part of the facility revenues or other moneys of the authority, and mortgaging, pledging or otherwise encumbering all or any part of its real or personal property, then owned or thereafter acquired, 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 public facility or facilities, and the powers and duties of any trustee with regard thereto;
- (g) The setting aside out of the facility revenues or other moneys of the authority of reserves and sinking funds, and the source, custody, security, regulation, application and disposition thereof;
- (h) Determination or definition of the facility revenues or of the expenses of operation and maintenance of a public facility or facilities;
- (i) The rents, rates, fares, fees, or other charges in connection with, or for the use or services of, or otherwise relating to any public facility or facilities, 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 facility 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 public facility or facilities or any obligations having or which may have a lien on any part of the facility revenues;
- (k) Limitations on the issuance of additional bonds or any other obligations or on the incurrance of indebtedness of the authority;
- (l) Limitations on the powers of the authority to construct, acquire or operate any structures, facilities or properties which may compete or tend to compete with any of its public facilities;

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(m) Vesting in a trustee or trustees within or without the State such property, rights, powers and duties in trust as the 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 section 21 of this act, and limiting or abrogating the right of such holders to appoint a trustee pursuant to section 21 of 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 the provisions of the bond resolution or of any covenant or agreement of the authority with the holders of bonds;

(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 such provisions of said bond resolution and all such covenants and agreements shall constitute valid and legally binding contracts between the authority and the several holders of the bonds, regardless of the time or 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. 1960, c. 183, § 20, eff. Jan. 18, 1961. Amended by L.1968, c. 66, § 4, eff. June 18, 1968; P.L.1977, c. 291, § 3, eff. Dec. 12, 1977.

40:37A-64. Bond provisions

(1) If the bond resolution of an 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 such default shall continue for a period of 30 days, or if the 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 any such bonds and such failure or refusal shall continue for a period of 30 days after written notice to the 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.

(2) Such 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:

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(a) By any action or proceeding, enforce all rights of the holders of such bonds, including the right to require the authority to charge and collect facility charges adequate to carry out any contract as to, or pledge of, facility 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;

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

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

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

(e) Declare all such bonds due and payable, whether or not in advance of maturity, upon 30 days' prior notice in writing to the 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.

(3) Such trustee shall, in addition to the foregoing, have and possess all of the powers necessary or appropriate 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.

(4) In any action or proceeding by such trustee, the 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 facility charges and facility revenues of the authority pledged for the payment or security of bonds of such series.

P.L. 1960, c. 183, § 21, eff. Jan. 18, 1961.

40:37A-65. Receivers

If the bond resolution of an 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 21 of this act and shall further provide in substance that any trustee appointed pursuant to said section or having the powers of such a trustee shall have the powers provided by this section, then such 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 public facility or facilities of the authority, and such receiver may enter upon and take possession of such public facility or facilities and, subject to any pledge or contract with the holders of bonds of the authority, shall take possession of all moneys and other property derived from or applicable to the acquisition, construction, operation, maintenance, reconstruction, sale, lease or disposition of such public facility or facilities and proceed with such acquisition, construction, operation, maintenance, reconstruction, sale, lease or disposition which the authority is under any

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obligation to do, and operate, maintain, reconstruct, and prosecute such public facility or facilities and fix, charge, collect, enforce and receive the facility charges and all facility revenues and other moneys 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 authority in the same manner as the authority itself might do and under the direction of the court.

P.L. 1960, c. 183, § 22. Amended by L.1962, c. 224, § 7, eff. Jan. 14, 1963.

40:37A-66. Liability on bonds

Neither the members of an authority nor any person executing bonds issued pursuant to this act shall be liable personally on the bonds by reason of the issuance thereof. Bonds or other obligations issued by an authority pursuant to this act shall not be in any way a debt or liability of the State or any subdivision thereof and shall not create or constitute any indebtedness, liability or obligation of the State or any such subdivision, except the authority and any county which in accordance with this act shall have guaranteed payment of the principal of and interest on such bonds.

P.L. 1960, c. 183, § 23, eff. Jan. 18, 1961.

40:37A-67. Negotiability of bonds

Any provision of any law to the contrary notwithstanding, any bond or other obligation issued pursuant to this act shall be fully negotiable within the meaning and for all purposes of the negotiable instruments law of the State, and each holder or owner of such a bond or other obligation, or of any coupon appurtenant thereto, by accepting such bond or coupon shall be conclusively deemed to have agreed that such bond, obligation or coupon is and shall be fully negotiable within the meaning and for all purposes of said negotiable instruments law.

P.L. 1960, c. 183, § 24, eff. Jan. 18, 1961.

40:37A-68. Act as complete authority for issuance of bonds

This act shall be complete authority for the issuance of bonds by an authority, and the provisions of any other law shall not apply to the issuance of such bonds.

P.L. 1960, c. 183, § 25, eff. Jan. 18, 1961.

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40:37A-68.1. Contract or agreement to meet deficiency in revenues; approval

No county improvement authority shall enter into any contract or agreement to meet any deficiency in its revenues in order to meet debt services on bonds, notes, or any other financing obligations for one or more housing projects or developments on any housing or mortgage financing, or for any operating or maintenance expenses of such authority for one or more housing projects or developments, unless the Director of the Division of Local Government Services, after reviewing such contract or agreement and the ability of any party to such contract or agreement to make any payments which may be required, shall give his approval.

P.L. 1979, c. 275, § 42, eff. Jan. 3, 1980.

40:37A-69. Eminent domain

Every authority is hereby empowered, in its own name but for the county or any beneficiary county, to acquire by purchase, gift, grant or devise and to take for public use real property, within or without the county or any beneficiary county, or any interest therein which may be deemed by the authority necessary for its purposes, including public lands owned by or in which any municipality within the county or any beneficiary county has a right, title or interest. Such authority is hereby empowered to acquire and take such real property including such public property or interests therein, by condemnation, in the manner provided for in the "Eminent Domain Act of 1971, " P.L. 1971, c.361 (C.20:3-1 et seq.) and, to that end, may invoke and exercise in the manner or mode of procedure prescribed in that act, either in its own name or in the name of the county or any beneficiary county, all of the powers of such county to acquire or take property for public use; provided, however, that, notwithstanding the foregoing or any other provision of this act, no authority shall take, by condemnation, any real property except upon consent thereto by the county which created the authority or, if applicable, any beneficiary county given by resolution adopted by its governing body and further provided, in the case of authorities operating a public transportation facility, every taking by condemnation in connection with such powers, shall be subject to the provisions of sections 48, 49 and 63 of P.L. 1962, c.198 (C.48:3-17.6 to 48:3-17.8).

P.L. 1960, c.183, s.26; amended 1968, c.66, s.5; 1994, c.76, s.7.

40:37A-70. Declaration of taking; effect

Upon the filing by an authority of a complaint in any action to fix the compensation to be paid for any property or at any time thereafter, the authority may file with the clerk of the county in which such property is located and also with the Clerk of the Superior Court a declaration of taking, signed by the authority, declaring that possession of 1 or more of the tracts or parcels of land or property described in the complaint is thereby being taken by and for the use of the authority. The said declaration of taking shall be sufficient if it sets forth (a) a description of each tract or parcel of land or property to be so taken

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sufficient for the identification thereof to which there may or may not be attached a plan or map thereof, (b) a statement of the estate or interest in the said land or property being taken, (c) a statement of the sum of money estimated by the authority by resolution to be just compensation for the taking of the estate or interest in each tract or parcel of land or property described in said declaration, and (d) an allegation that, in compliance with the provisions of this act, the authority has established and is maintaining a trust fund as hereinafter provided.

P.L. 1960, c. 183, § 27, eff. Jan. 18, 1961.

40:37A-71. Deposit of estimated compensation

Upon the filing by an authority of a declaration of taking of property as provided in this act, the authority shall deposit with the Clerk of the Superior Court the amount of the estimated compensation stated in said declaration. In addition to the said deposits with the Clerk of the Superior Court, the authority at all times shall maintain a fund on deposit with a bank or trust company doing business in the State in an amount at least equal to the aggregate amount deposited with the Clerk of the Superior Court as estimated compensation for all property described in declarations of taking with respect to which the compensation has not been finally determined and paid to the persons entitled thereto or into court. Said fund shall consist of cash or securities readily convertible into cash constituting legal investments for trust funds under the laws of the State or may consist of all or some part of the proceeds of bonds of the authority held by any trustee for the holders of such bonds and available for payment for the land or other property described in such declarations of taking. Said fund shall be held by or on behalf of the authority to secure and may be applied to the payment of just compensation for the land or other property described in such declarations of taking. The authority shall be entitled to withdraw from said fund from time to time so much as may then be in excess of the aggregate amount deposited with the Clerk of the Superior Court as estimated compensation for all land or other property described in declarations of taking with respect to which the compensation has not been finally determined and paid to the persons entitled thereto or into court.

P.L. 1960, c. 183, § 28, eff. Jan. 18, 1961.

40:37A-72. Right of entry and use of land

Upon the filing by an authority of a declaration of taking of property as provided in this act and the depositing with the Clerk of the Superior Court of the amount of the estimated compensation stated in said declaration, the authority, without other process or proceedings, shall be entitled to the exclusive possession and use of each tract of land or property described in said declaration and may forthwith enter into and take possession of said land or property, it being the intent of this provision that the action to fix compensation to be paid or any other proceedings relating to the taking of said land or interest therein or other property shall not delay the taking of possession thereof and the

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use thereof by the authority for the purpose or purposes for which the authority is authorized by law to acquire or condemn such land or other property or interest therein.

P.L. 1960, c. 183, § 29, eff. Jan. 18, 1961.

40:37A-73. Service of notice; payment

Each authority shall cause notice of the filing of a declaration of taking of property as provided in this act and of the making of the deposit required by this act with respect thereto to be served upon each party to the action to fix the compensation to be paid who resides in the State, either personally or by leaving a copy thereof at his residence if known, and upon each such party who resides out of the State, by mailing a copy thereof to him at his residence if known. In the event that the residence of any such party or the name of such party is unknown, such notice shall be published at least once in a newspaper published or circulating in the county or counties in which the property is located. Such service, mailing or publication shall be made within 30 days after filing such declaration. Upon the application of any party in interest and after notice to other parties in interest, including the authority, the Superior Court may direct that the money deposited with the Clerk of the Superior Court or any part thereof be paid forthwith to the person or persons entitled thereto for or on account of the just compensation to be awarded in said action, provided that each such person shall have filed with the Clerk of the Superior Court a consent in writing that, in the event the award in the said action shall be less than the amount deposited, the court, after such notice as the court prescribes and hearing, may determine his liability, if any, for the return of the difference or any part thereof and enter judgment therefor. If the amount of the award as finally determined shall exceed the amount so deposited, the person or persons to whom the award is payable shall be entitled to recover from the authority the difference between the amount of the deposit and the amount of the award, with interest at the rate of 6% per annum thereon from the date of making the deposit. If the amount of the award as so determined shall be less than the amount so deposited, the Clerk of the Superior Court shall return the difference between the amount of the award and the deposit to the authority unless the deposit or any part thereof shall have theretofore been distributed, in which event the court, on application of the authority and notice to all persons interested in the award and affording them an opportunity to be heard, shall enter judgment in favor of the authority for the difference against the party or parties liable for the return thereof.

P.L. 1960, c. 183, § 30, eff. Jan. 18, 1961.

40:37A-74. Abandonment of condemnation proceedings

The authority shall not abandon any condemnation proceeding subsequent to the date upon which it has taken possession of the land or property as provided in this act.

P.L. 1960, c. 183, § 31, eff. Jan. 18, 1961.

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40:37A-75. Additional powers

In addition to the other powers conferred upon it by this act or by any other law and not in limitation thereof, every authority, in connection with construction or operation of any public facility, shall have power to make reasonable regulations for the installation, construction, maintenance, repair, renewal, relocation and removal of tracks, pipes, mains, conduits, cables, wires, towers, poles or any other equipment and appliances (in this section called "works") of any public utility as defined in section 48:2-13 of the Revised Statutes, in, on, along, over or under any real property, including public lands or waters. Whenever in connection with construction or operation of any public facility, any authority shall determine that it is necessary that any such works, which now are or hereafter may be located in, on, along, over or under any such real property, should be relocated in such real property or should be removed therefrom, the public utility owning or operating such works shall relocate or remove the same in accordance with the order of the authority, provided, however, that the cost and expenses of such relocation or removal, including the cost of installing such works 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 such relocation or removal, less the cost of any lands or any rights or interests in lands or any other rights of the public utility paid to the public utility in connection with the relocation or removal of such works, shall be paid by the authority and may be included in the cost of such public facility. In case of any such relocation or removal of works as aforesaid, the public utility owning or operating the same, its successors or assigns, may maintain and operate such works, 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 such works in their former location.

P.L. 1960, c. 183, § 32, eff. Jan. 18, 1961.

40:37A-76. Actions by municipalities or county

For the purpose of aiding an authority and co-operating in the planning, undertaking, acquisition, construction or operation of any public facility, the county or any beneficiary county or any municipality in any such county may (a) acquire real property in its name for such public facility or for the widening of existing roads, streets, parkways, avenues or highways or for new roads, streets, parkways, avenues or highways to any such public facility, or partly for such purposes and partly for other county or municipal purposes, by purchase or condemnation in the manner provided by law for the acquisition of real property by such county or municipality, (b) furnish, dedicate, close, vacate, pave, install, grade, regrade, plan or replan parks, streets, roads, roadways, alleys, sidewalks or other places which it is otherwise empowered to undertake, and (c) do any and all things necessary or convenient to aid and co-operate in the planning, undertaking, construction or operation of any such public facility, and cause services to be furnished to the authority of any character which such county or municipality is otherwise empowered to furnish, and to incur the entire expense thereof.

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P.L. 1960, c.183, s.33; amended 1994, c.76, s.8.

40:37A-77. Sale, lease, loan, grant or conveyance of, or permit to use, real or personal property of county or municipality

Any county by resolution of its governing body, municipality by ordinance of its governing body, governmental unit or person is hereby empowered, without any referendum or public or competitive bidding, to sell, lease, lend, grant or convey to an authority, or to permit an authority to use, maintain or operate as part of any public facility, any real or personal property which may be necessary or useful and convenient for the purposes of the authority and accepted by the authority. Any such sale, lease, loan, grant, conveyance or permit may be made or given with or without consideration and for a specified or an unlimited period of time and under any agreement and on any terms and conditions which may be approved by such county, municipality, governmental unit or person and which may be agreed to by the authority in conformity with its contracts with the holders of any bonds. Subject to any such contracts with the holders of bonds, the authority may enter into and perform any and all agreements with respect to property so purchased, leased, borrowed, received or accepted by it, including agreements for the assumption of principal or interest or both of indebtedness of such county, municipality, governmental unit or person or of any mortgage or lien existing with respect to such property or for the operation and maintenance of such property as part of any public facility.

P.L. 1960, c. 183, § 34, eff. Jan. 18, 1961.

40:37A-78. Lease or other agreement with authority to use public facilities

Any county, municipality, governmental unit or person is hereby empowered to enter into and perform any lease or other agreement with an authority for the lease to or use by such county, municipality, governmental unit or person of all or any part of any public facility or facilities. Any such lease or other agreement may provide for the payment to the authority by such county, municipality, governmental unit or persons annually or otherwise of such sum or sums of money, computed at fixed amounts or by any formula or in any other manner, as may be fixed in or pursuant thereto. Any such lease or other agreement 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 approved by such county, municipality, governmental unit or person and which may be agreed to by the authority in conformity with its contracts with the holders of any bonds, and shall be valid and binding on such county, municipality, governmental unit or person whether or not an appropriation is made thereby prior to authorization or execution of such lease or other agreement. Every such county, municipality, governmental unit or person is hereby authorized and directed to do and perform any and all acts and things necessary, convenient or desirable to carry out and perform any such lease or other agreement entered into by it and to provide for

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the payment or discharge of any obligation thereunder in the same manner as other obligations of such county, municipality, governmental unit or person.

P.L. 1960, c. 183, § 35, eff. Jan. 18, 1961.

40:37A-79. Appropriations by county or municipality

For the purpose of aiding an authority and co-operating in the planning, undertaking, acquisition, construction or operation of any public facility, the county or any beneficiary county by resolution of its governing body, or any municipality in the county or beneficiary county by ordinance of its governing body, shall have power from time to time and for such period and upon such terms, with or without consideration, as may be provided by such resolution or ordinance and accepted by the authority (a) to appropriate moneys for the purposes of the authority, and to loan or donate such money to the authority in such installments and upon such terms as may be agreed upon with the authority, (b) to covenant and agree with the authority to pay to or on the order of the authority annually or at shorter intervals as a subsidy for the promotion of its purposes not exceeding such sums of money as may be stated in such resolution or ordinance or computed in accordance therewith, (c) upon authorization by it in accordance with law of the performance of any act or thing which it is empowered by law to authorize and perform and after appropriation of the moneys (if any) necessary for such performance, to covenant and agree with the authority to do and perform such act or thing and as to the time, manner and other details of its doing and performance, and (d) to appropriate money for all or any part of the cost of acquisition or construction of such public facility, and, in accordance with the limitations and any exceptions thereto and in the manner or mode of procedure prescribed by the local bond law to incur indebtedness, borrow money and issue its negotiable bonds for the purpose of financing such public facility and appropriation, and to pay the proceeds of such bonds to the authority.

P.L. 1960, c.183, s.36; amended 1994, c.76, s.9.

40:37A-80. Guaranty of bonds

For the purpose of aiding an authority in the planning, undertaking, acquisition, construction, financing or operation of any facility which the authority is authorized to undertake pursuant to section 11 of P.L. 1960, c.183 (C.40:37A-54), the county or any beneficiary county may, pursuant to resolution duly adopted by its governing body, or any municipality in the county or beneficiary county may, by ordinance of its governing body, in the manner provided for adoption of a bond ordinance as provided in the local bond law and with or without consideration and upon such terms and conditions as may be agreed to by and between the county or beneficiary county or the municipality and the authority, unconditionally guarantee the punctual payment of the principal of and interest on any bonds of the authority. Any guaranty of bonds of an authority made pursuant to this section shall be evidenced by endorsement thereof on such bonds, executed in the name of the county or beneficiary county or the municipality and on its behalf by such

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officer thereof as may be designated in the resolution or ordinance authorizing such guaranty, and such county or municipality shall thereupon and thereafter be obligated to pay the principal of and interest on said bonds in the same manner and to the same extent as in the case of bonds issued by it. Any such guaranty of bonds of an authority may be made, and any resolution authorizing such guaranty may be adopted, notwithstanding any statutory debt or other limitations, including particularly any limitation or requirement under or pursuant to the local bond law, but the principal amount of bonds so guaranteed, shall, after their issuance, be included in the gross debt of such county or municipality for the purpose of determining the indebtedness of such county or municipality under or pursuant to the local bond law. The principal amount of said bonds so guaranteed and included in gross debt shall be deducted and is hereby declared to be and to constitute a deduction from such gross debt under and for all the purposes of said local bond law (a) from and after the time of issuance of said bonds until the end of the fiscal year beginning next after the completion of acquisition or construction of the facility to be financed from the proceeds of such bonds and (b) in any annual debt statement filed pursuant to said local bond law as of the end of said fiscal year or any subsequent fiscal year if the revenues or other receipts or moneys of the authority in such year are sufficient to pay its expenses of operation and maintenance in such year and all amounts payable in such year on account of the principal and interest on all such guaranteed bonds, all bonds of any such county or any municipality issued as provided in section 36 of P.L. 1960, c.183 (C. 40:37A-79), and all bonds of the authority issued under this act.

P.L. 1960, c.183, s.37; amended 1962, c.224, s.8; 1981, c.460, s.2; 1982, c.113, s.11; 1994, c.76, s.10.

40:37A-81. Pledge or assignment of lease or other agreement to secure bonds of authority

Any lease or other agreement, and any instruments making or evidencing the same, may be pledged or assigned by the authority to secure its bonds and thereafter may not be modified except as provided by the terms of such instrument or by the terms of such pledge or assignment.

P.L. 1960, c. 183, § 38, eff. Jan. 18, 1961.

40:37A-82. Exemption of property of authority from levy and sale

All property of an 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 an 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 remedy for the enforcement of any pledge, mortgage or lien given by an authority on its facility revenues or other moneys, or on its real or personal property.

P.L. 1960, c. 183, § 39, eff. Jan. 18, 1961. Amended by L.1977, c. 291, § 4, eff. Dec. 12, 1977.

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40:37A-83. Payments to municipalities or political subdivisions in lieu of taxes

Every authority and every municipality in which any property of the authority is located are hereby authorized and empowered to enter into agreements with respect to the payment by the authority to such municipality of annual sums of money in lieu of taxes on such property in such amounts as may be agreed upon between the authority and the municipality, and each such authority is empowered to make such payments and each such municipality is empowered to accept such payments and to apply them in the manner in which taxes may be applied in such municipality; provided, however, that no such annual payment with respect to any parcel of such property shall exceed the amount to be derived by applying the current general tax rate for the taxing district in which such property is located to the assessed and taxable value of such property for the taxable year immediately prior to the time of its acquisition by the authority. In the case of a new facility constructed and owned by the authority, the authority is empowered to enter into an agreement with the municipality to make payments in lieu of taxes on such facility, so long as such payments do not exceed the amount derived by applying the current local purposes tax rate for such taxing district to the actual cost of construction of the facility; provided, however, that in the first through fourth years of such payments they shall not exceed 40% of the amount so derived, in the fifth through eighth years 50% of the amount so derived, in the ninth through twelfth years 65% of the amount so derived, and in the thirteenth through sixteenth years 80% of the amount so derived, until in the seventeenth year and all subsequent years the payments shall not exceed the amount derived as herein before described. Notwithstanding the aforesaid provisions of this section, whenever any person, pursuant to subsection e. orj. of section 11 of this act (C. 40:37A-54), shall occupy space within a public facility for a non governmental use which is not itself tax exempt, whether as lessee, vendee or otherwise, such person shall, as long as title thereto shall remain in the authority, pay to the political subdivision in which such facility is located a payment in lieu of taxes which shall equal the taxes on real and personal property, including water and sewer service charges or assessments, which such person would have been required to pay had it been the owner of such property or portion thereof during the period, and neither the authority nor its projects, properties, money or bonds and notes shall be obligated, liable or subject to lien of any kind for the enforcement, collection or payment thereof. Further, notwithstanding the aforesaid provisions of this section, during the time an authority is managing, operating and maintaining real property for a redevelopment project prior to actual rehabilitation, clearance, development, or redevelopment of such property or sale, lease or other disposal of such property pursuant to the provisions hereof, it may pay to the municipality in which the real property is situated out of the net income from the property, in lieu of taxes, an annual service charge for municipal services supplied to said property in an amount not exceeding the tax on the property for the year it was acquired by the authority. The amount of such annual service charge shall be as set forth in a written agreement to be entered into between the municipality and the authority.

P.L. 1960, c. 183, § 40, eff. Jan. 18, 1961. Amended by L.1977, c. 80, § 3, eff. May 2, 1977; P.L. 1977, c. 109, § 1, eff. June 1, 1977; L.1979, c. 275, § 40, eff. Jan. 3, 1980; L.1982, c. 113, § 12, eff. Aug. 14, 1982.

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40:37A-84. Bonds as legal investments

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, moneys 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. 1960, c. 183, § 41, eff. Jan. 18, 1961.

40:37A-85. Tax exemptions

All properties of an authority are hereby declared to be public property of a political subdivision of the State and those properties, and all public facilities, whether or not owned by the authority, are 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 hereby 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 facility 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.

P.L. 1960, c. 183, § 42, eff. Jan. 18, 1961. Amended by L.1982, c.113, § 13, eff. Aug. 14,1982.

40:37A-86. Guarantee of vested rights of bondholders

The State of New Jersey does hereby pledge to and covenant and agree with the holders of any bonds issued pursuant to a bond resolution of an authority adopted pursuant to this act that the State will not limit or alter the rights hereby vested in the authority to acquire, construct, maintain, reconstruct, operate, sell, lease or dispose of any public facility or to fix, establish, charge and collect its facility charges or other moneys and to fulfill the terms of any agreement made with the holders of such bonds or other obligations, so as to in any way impair the rights or remedies of such holders, and will not modify in any way the exemptions 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. 1960, c. 183, §43. Amended by L.1962, c. 224, § 9, eff. Jan. 14, 1963.

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40:37A-87. Undertakings for deposits of authority

All banks, trust companies, savings banks, investment companies and other persons carrying on a banking business are hereby authorized to give to any authority a good and sufficient undertaking with such sureties as shall be approved by the authority to the effect that such bank or banking institution as herein before described shall faithfully keep and pay over to the order of or upon the warrant of the authority or its authorized agent all such funds as may be deposited with it by the authority and agreed interest thereon, at such times or upon such demands as may be agreed with the authority or in lieu of such sureties, deposit with the authority or its authorized agent or any trustee therefor or for the holders of any bonds, as collateral, such securities as the authority may approve. The deposits of the authority may be evidenced by a depository collateral agreement in such form and upon such terms and conditions as may be agreed upon by the authority and such bank or banking institution.

P.L. 1960, c. 183, § 44, eff. Jan. 18, 1961.

40:37A-88. Annual audit

Each authority shall cause an annual audit of its accounts to be made, and for this purpose it shall employ a registered municipal accountant of New Jersey or a certified public accountant of New Jersey. The audit shall be completed and filed with the authority within 4 months after the close of the fiscal year of the authority and a certified duplicate copy thereof shall be filed in the office of the Division of Local Government in the Department of the Treasury and in the office of the treasurer of the county within 5 days after the original report is filed with the authority.

P.L. 1960, c. 183, § 45, eff. Jan. 18, 1961.

40:37A-89. Filing of copy of bond resolution

Each authority shall file a certified copy of each bond resolution adopted by it in the office of the Division of Local Government in the Department of the Treasury, together with a certified summary of the dates, amounts, maturities and interest rates of all bonds to be issued pursuant thereto prior to the issuance of any such bonds. Upon the adoption of each annual budget of an authority or amendment thereof, a certified copy thereof shall be filed forthwith in the office of said Division of Local Government.

P.L. 1960, c. 183, § 46, eff. Jan. 18, 1961.

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40:37A-90. Construction of act

This act shall be construed liberally to effectuate the legislative intent and as complete and independent authority for the performance of each and every act and thing herein authorized, and an authority shall not constitute or be deemed to be a county or municipality or agency or component of a municipality for the purposes of any other law; provided, however, that no authority, other than an authority created in or performing services for a county of the second class having a population in excess of 265,000, but less than 350,000 inhabitants, in a county of the third class having a population not in excess of 70,000 inhabitants, or in a county of the fifth class having a population in excess of 150,000, but less than 300,000 inhabitants, shall exercise the powers of a common carrier in any such county, and, except as herein above in this section set forth, nothing contained in this act shall in any way affect or limit the jurisdiction, rights, powers or duties of any State regulatory agencies.

P.L. 1960, c.183, s.47; amended 1968, c.66, s.6; 1977, c.154; 1994, c.76, s.11.

40:37A-91. Severability

If any section, subsection, clause or provision of this act shall be adjudged unconstitutional or to be 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 1 or more instances or under any 1 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. 1960, c. 183, p. 759, § 48, eff. Jan. 1, 1961.

40:37A-92. Public transportation facility; employees; self-organization

Employees of a public transportation facility operated by any county improvement authority shall have the right to self-organization, to form, join or assist labor organizations and to bargain collectively through representatives of their own choosing. It shall be the obligation of such authority to recognize and bargain exclusively with a labor organization representing a majority of its employees in an appropriate unit with respect to wages, salaries, hours, working conditions and welfare and pension and retirement provisions, and, upon reaching agreement with such labor organization, to enter into and execute a written contract incorporating therein the agreements so reached. No agreement relating to hours of employment shall require or permit employees to work a number of hours per day or per week in excess of such hours as may be provided by Federal or State laws relating to similar employment in private industry.

P.L. 1968, c. 66, § 7, eff. June 18, 1968.

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40:37A-93. Representation of majority of employees; election

If there is a question whether a labor organization represents a majority of employees in the appropriate unit such question shall be submitted by either the county improvement authority operating the public transportation facility or the labor organization to an election conducted under the auspices of the New Jersey State Board of Mediation, which shall have authority to conduct such an election and to certify the result thereof. If there is a question as to whether the proposed unit is appropriate, that matter shall be referred to arbitration as hereinafter set forth. In determining the unit or units appropriate for the purposes of collective bargaining, the arbitrator shall be guided by the standards developed under the Federal labor laws in determining unit questions and applied to comparable industries.

P.L. 1968, c. 66, § 8, eff. June 18, 1968.

40:37A-94. Acquisition of privately-owned transportation system; transfer of employees

Whenever a county improvement authority shall acquire an existing privately-owned transportation system pursuant to authorization by the board of chosen freeholders, such acquisition may be subject to the assumption by the authority of all contracts and agreements of every kind and nature of the privately-owned transportation system acquired. All of the employees of such system except executive or supervisory officers and employees, shall be transferred to the employment of such authority with all employment rights, privileges and benefits which they previously enjoyed in such transportation system, including sick leave, seniority, vacation and pension credits. Such employees and former employees who are members or beneficiaries of any pension or other benefit plan or arrangement shall be entitled to a continuation of all benefits with respect to welfare, sickness, vacations, pension or retirement benefits as they previously enjoyed prior to the acquisition by such authority. The authority shall assume the obligations of any transportation system acquired by it with regard to wages, salary, hours, working conditions, sick leave, health and welfare and pension or retirement provisions or employees. It shall assume the provisions of any collective bargaining agreement between such acquired transportation system and the representatives of its employees. No employee of any acquired transportation system who is transferred to a position with such authority, shall, by reason of such transfer, be placed in any lesser or adverse position with respect to workmen's compensation, pension, seniority, wages, sick leave, vacation, health and welfare, insurance or any other benefits that he enjoyed as an employee of such acquired transportation system, unless the employee shall consent thereto in writing or that such conditions of employment, benefits or rights are incorporated in a collective bargaining agreement entered into between the authority and the labor organization representing a majority of its employees.

P.L. 1968, c. 66, § 9, eff. June 18, 1968.

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40:37A-95. Protective conditions and benefits for employees

No county improvement authority authorized to operate a public transportation facility shall acquire any existing transportation system or part thereof whether by purchase, lease, condemnation or otherwise, nor shall the authority dispose of or lease any transportation system or part thereof, nor merge, consolidate, or co-ordinate any transportation system or part thereof, nor substitute any type of equipment on any such system or part thereof for the then existing equipment, or reduce or limit the lines or service of any such existing system, or of its system, unless it shall first have made adequate provision for any employees who are or may be displaced, or whose wages, hours, place, or conditions of employment are or may be adversely affected. The terms and conditions of such provisions shall be a proper subject of collective bargaining with the labor organizations that represent such employees. In no event, however, shall such protective conditions and benefits for any employee be less than those established pursuant to section 10(c) of the Urban Mass Transportation Act of 1964 (49 U.S.C. 1609(c), 78 Stat. 307).

P.L. 1968, c. 66, § 10, eff. June 18, 1968.

40:37A-96. Labor disputes; arbitration

In the case of any labor dispute between a county improvement authority operating a public transportation facility and its employees where collective bargaining does not result in agreement, irrespective of whether such dispute relates to the making or maintaining of collective bargaining agreements, the terms to be included in such agreements, the interpretation or application of such agreements, the adjustment of any grievance or any difference or any question that may arise between the authority and the labor organization representing its employees concerning wages, salaries, hours, working conditions or benefits including health and welfare, sick leave, insurance, or pension or retirement provisions, the authority shall offer to submit such dispute to final and binding arbitration by a single arbitrator or by a tripartite board of arbitrators. Upon acceptance by the labor organization of such arbitration proposal, if the dispute is referred to a single arbitrator, such arbitrator shall be one who may be agreed upon by the authority and the labor organization involved, and, in the event that said parties cannot agree upon the identity of the arbitrator then such arbitrator shall be selected through the use of the New Jersey State Board of Mediation in accordance with its usual procedure and rules relating to the selection of arbitrators in labor disputes. Should the matter be referred to a tripartite board, the authority shall designate one such arbitrator, the labor organization shall designate one such arbitrator and the third, impartial arbitrator, who shall be the chairman of the board, shall be selected by the 2 arbitrators thus designated; in the event of their inability to select such third arbitrator they shall seek the appointment of the third arbitrator by use of the New Jersey State Board of Mediation which shall proceed to select such arbitrator in the manner provided by the rules and practices of said State Board of Mediation with respect to arbitrators of labor disputes. The cost of arbitration

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shall be borne equally by both parties except that in the event that a tripartite board is sued, the services of the arbitrator designated by each party shall be paid for by such party. The arbitration proceeding shall take place in the manner provided by the rules of the New Jersey State Board of Mediation applicable to arbitration of labor disputes and the decision of the arbitrator or board of arbitrators shall be final and binding upon the parties.

P.L. 1968, c. 66, § 11, eff. June 18, 1968.

40:37A-97. Authority and power

County improvement authorities operating a public transportation facility shall have the following authority and power:

(1) To execute a collective bargaining agreement requiring, as a condition of employment on or after the thirtieth day following the beginning of employment or the effective date of the agreement, whichever is the later, membership in good standing of all employees within the bargaining unit in the labor organization representing a majority of the employees in such unit.

(2) To enter into a collective bargaining agreement under which it will withhold union dues, fees or assessments from the wages of the employees and pay the same on behalf of said employees to the labor organization.

(3) To agree to pay and to pay contributions for the establishment or maintenance of any health and welfare plan or any pension or retirement plan.

(4) To make deductions from wages of employees, upon authorization of such employees for any purposes for which any private employer may make such deductions.

P.L. 1968, c. 66, § 12, eff. June 18, 1968.

40:37A-98. Authorization to engage in public transportation within and beyond county limits

Any county improvement authority may engage in the business of operation of public transportation facilities for the transportation of passengers and property on scheduled routes, within and beyond the territorial limits of the county or any beneficiary county, with the consent of the governing bodies of the municipalities into which such operation is extended, and on nonscheduled routes, by contract. A copy of each contract for charter or operation on a nonscheduled route shall be maintained in the office of the authority as a public record available for inspection during normal business hours.

Any county improvement authority which establishes or acquires public transportation facilities may contract with any person or corporation for the operation thereof upon such terms and conditions as the authority shall determine.

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P.L. 1968, c.66, s.13; amended 1994, c.76, s.12.

40:37A-99. Authority deemed a public utility; powers and operations

A county improvement authority engaged in the operation of a public transportation facility shall be deemed to be a public utility and its powers and operations shall be subject to the provisions of Title 48 of the Revised Statutes and the regulation and control of the Board of Public Utility Commissioners.

P.L. 1968, c. 66, § 14, eff. June 18, 1968.

40:37A-100. Solid waste disposal systems; applicability of Solid Waste Management Act

Any solid waste disposal system operated by a county improvement authority shall be subject to the provisions of the "Solid Waste Management Act (1970)" (P.L. 1970, c. 39, C. 13:1E-1 et seq.), and to any rules and regulations adopted thereunder by the State Department of Environmental Protection.

P.L. 1973, c. 330, § 3, eff. Dec. 27, 1973.

40:37A-101. Selection of site location for disposal system

Whenever any county improvement authority chooses to exercise the powers granted by P.L. 1973, c.330 (C.40:37A-100 et al.) with respect to the selection of a site location or locations for any facility of its garbage and solid waste disposal system, it shall so inform the Commissioner of Environmental Protection, and shall make or cause to be made, after consultation with the commissioner, such preliminary surveys, investigations, studies, borings, maps, plans, drawings and estimates of costs and revenues relating to the type and location of such garbage and solid waste disposal facilities, or any part thereof, which the authority may deem necessary to purchase or construct in order to protect the health, safety and welfare of the inhabitants of the county or any beneficiary county. In addition, the authority may make or cause to be made a study and a map of all existing garbage and solid waste disposal treatment and disposal facilities proposed for or already operating in the county or any beneficiary county. The undertaking of all such studies and surveys and the provision of the necessary maps, sketches, data and plans in connection therewith, shall be deemed a county purpose and the costs thereof may be paid out of general funds of the county or beneficiary county; but all such costs shall be reimbursed to the county or any beneficiary county by the county improvement authority.

P.L. 1973, c.330, s.4; amended 1994, c.76, s.13.

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40:37A-102. Responsibility for selection of final site; approval required

Subject to an enabling resolution adopted by the governing body of the county which has created such an authority or by the governing body of any beneficiary county (hereinafter referred to as the host county) pursuant to P.L. 1960, c.183 (C.40:37A-44 et seq.), the county improvement authority shall have the responsibility for selecting a final site location or locations for any garbage and solid waste collection, treatment or disposal facilities to be operated by said authority. The governing body of such county shall not, however, adopt any such enabling resolution until the site location or locations tentatively designated by the improvement authority shall have been approved by:

- a. The Commissioner of Environmental Protection after an evaluation of all studies, surveys and plans, and any accompanying maps and data, as may be required by the commissioner pursuant to section 4 of P.L. 1973, c.330 (C.40:37A-101);
- b. The governing bodies of the several municipalities situate within such county, by the adoption of concurring resolutions by any combination of such municipalities with an aggregate population of at least 75% of the total population of said county, as determined by the last decennial census; and
- c. The planning board of the host county, by a resolution affirming that such site location or locations are compatible with the host county's master plan, or such county planning policies as may exist.

PL. 1973, c.330, s.5; amended 1994, c.76, s.14.

40:37A-103. Classification of solid waste facility as public utility

Any solid waste facilities owned or operated by a county improvement authority pursuant to the provisions of this amendatory and supplementary act, shall be deemed a public utility and shall be subject to such rules and regulations as may be adopted by the Board of Public Utilities in accordance with the provisions of the "Solid Waste Utility Control Act" (P.L. 1970, c.40, C.48:13A-1 et seq.). The improvement authority's application to operate any solid waste facility shall be considered at a public hearing by the Board of Public Utilities.

P.L. 1973, c.330, s.6; amended 1991, c.381, s.46.

40:37A-104. Municipalities; use of facilities

All facilities of a solid waste disposal system operated by a county improvement authority shall be open to use by any municipality or municipalities situate in the host county. Such facilities shall also be open to use by any municipality or municipalities situate in any county contiguous to the host county, provided that the population of said municipality, or the aggregate population of any several such municipalities, would not by itself or when added to the nonhost county population already using the improvement

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authority's facilities, be in excess of 10% of the total population of the host county. When the prospective nonhost county user population would exceed the foregoing 10% limit, the applications for use of the petitioning nonhost county municipalities shall require the prior approval of the governing bodies of the host county, and of any combination of municipalities situate therein, in accordance with the requirements and procedures set forth in section 5 of this amendatory and supplementary act.

P.L. 1973, c. 330, § 7, eff. Dec. 27, 1973.

40:37A-105. Exclusion of alternate method of solid waste disposal by municipality with contract with county

Upon contracting with a county improvement authority for the collection, treatment or disposal of garbage or solid waste as herein provided, no municipality shall, during the term of the contract, engage in, or grant, permit or enter into any new contract for, the collection, treatment and disposal of garbage and solid waste that might be competitive with the facilities or services being provided under contract to that municipality by the improvement authority.

This section shall in no way be construed so as to prevent or prohibit any municipality from erecting, constructing, operating and maintaining an incinerator or garbage and solid waste disposal plant or other means for the disposition of garbage and solid wastes in any manner or by any means by which the same may be lawfully erected, constructed, operated or maintained.

P.L. 1973, c. 330, § 8, eff. Dec. 27, 1973.

40:37A-106. Legislative findings and declarations

The Legislature finds and declares that:

a. The supply of decent and affordable housing, particularly for families of low and moderate income has become increasingly scarce, especially in certain areas of this State.

b. In communities experiencing rapid development and the problems associated with the economic impact of land speculation, the cost of developing comprehensive housing programs is prohibitive, thus calling for action in the form of mortgage and housing finance assistance for the development of private housing programs by appropriate governmental agencies.

c. The "county improvement authorities law, " P.L.1960, c. 183 (C. 40:37A-44 et seq.) provides for the creation of a county level agency which, with the cooperation and approval of the governing body of a municipality, may undertake certain improvement and development projects within that municipality. Such an agency, and county and municipal government interaction, are appropriate to provide a means of addressing the

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need to create a supply of decent and affordable housing, based upon programs which, at the State level, have shown substantial success in providing new and rehabilitated housing units, particularly in urban areas.

P.L. 1979, c. 275, § 1, eff. Jan. 3, 1980.

40:37A-107 Definitions

As used in this act:

a. "Authority" means any public body created pursuant to the "county improvement authorities law, " P.L. 1960, c.183 (C.40:37A-44 et seq.).

b. "Bonds, bond anticipation notes and other notes and obligations, " or "bonds, bond anticipation notes or other notes or obligations" mean any bonds, notes, debentures or other evidences of financial indebtedness issued by the authority pursuant to this act.

c. "Family" means two or more persons related by blood, marriage or adoption who live or expect to live together as a single household in the same dwelling unit; provided, however, that any individual who (1) has attained retirement age as defined in section 216a of the Federal Social Security Act, or (2) is under a disability as defined in section 223 of that act, or (3) is the surviving member of a family whose other members died during occupancy of a housing project, shall be considered as a family for purposes of permitting continued occupancy of the dwelling unit occupied by such family. The authority may provide by rule or regulation that any other individual not specified in this subsection shall be considered as a family for the purpose of this subsection.

d. "Family of low and moderate income" means a family (1) whose income is too low to compete successfully in the normal rental or mutual housing market, and (2) whose gross aggregate family income does not exceed the limits established under this act.

e. "Gross aggregate family income" means the total annual income of all members of a family, from whatever source derived, including, but not limited to, pension, annuity, retirement and social security benefits; except that the authority may, by rule or regulation, exclude therefrom: (1) such reasonable allowances for dependents, (2) such reasonable allowances for medical expenses, (3) all or any part of the earnings of any family members below the age of 18 years, or of any other family members, other than the chief wage earner, (4) such income as is not received regularly by any family member, or (5) any two or more such items.

f. "Housing project" or "project" means any work or undertaking, whether new construction or rehabilitation, which is designed for the primary purpose of providing decent, safe and sanitary dwelling units for families of low and moderate income in need of housing, including any buildings, land, equipment, facilities, or other real or personal properties, such as streets, sewers, utilities, parks, site preparation, landscaping, stores, offices, and administrative, community, health, recreational, educational and welfare facilities, all as determined by the authority to be necessary, convenient or desirable

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appurtenances to improve or enhance the housing project and the neighborhood or area in which the housing project is located.

g. "Municipality" means any municipality located within the county wherein the authority has been established or within any beneficiary county.

h. "Mutual housing" means a housing project operated or to be operated upon completion of construction or rehabilitation exclusively for the benefit of the families of moderate income who are entitled to occupancy by reason of ownership of stock in the qualified housing sponsor, or as a co-owner in a horizontal property regime pursuant to the "Horizontal Property Act, " P.L. 1963, c.168 (C.46:8A-1 et seq.) or as a condominium unit owner pursuant to the "Condominium Act, " P.L. 1969, c.257 (C.46:8B-1 et seq.); provided, however, the authority may adopt rules and regulations permitting a reasonable percentage of space in such project to be rented for residential or for commercial use.

i. "Project cost" means the sum total of all costs incurred in the development of a housing project, which are approved by the authority as reasonable and necessary, less any and all net rents and other net revenues received from the operation of the real and personal property on the project site during construction. Costs shall include, but are not necessarily limited to:zz(1) cost of land acquisition and any buildings thereon, (2) cost of site preparation, demolition and development, (3) architect, engineer, legal, authority and other fees paid or payable in connection with the planning, execution and financing of the project, (4) cost of necessary studies, surveys, plans and permits, (5) insurance, interest, financing, tax and assessment costs and other operating and carrying costs during construction, (6) cost of construction, reconstruction, fixtures, and equipment related to the real property, (7) cost of land improvements, (8) necessary expenses in connection with initial occupancy of the project, (9) a reasonable profit or fee to the builder and developer, (10) an allowance established by the authority for working capital and contingency reserves, and reserves for any anticipated operating deficits during the first two years of occupancy, and (11) the cost of such other items, including tenant relocation, as the authority shall determine to be reasonable and necessary for the development of the project.

All project costs shall be subject to approval and audit by the authority. The authority may adopt rules and regulations specifying in detail the types and categories of costs which shall be allowable if actually incurred in the construction or reconstruction of a housing project.

j. "Qualified housing sponsor" means:zz(1) any housing corporation heretofore qualified under the provisions of the "Limited-Dividend Nonprofit Housing Corporations or Associations Law, " P.L. 1949, c.184 (C.55:16-1 et seq.), repealed by P.L. 1991, c.431, (2) any urban renewal corporation or association heretofore qualified under the provisions of the "Urban Renewal Corporation and Association Law of 1961, " P.L.1961, c.40 (C.40:55C-40 et seq.), repealed by P.L. 1991, c.431, or any urban renewal nonprofit corporation or association heretofore qualified under the provisions of the "Urban Renewal Nonprofit Corporation Law of 1965, " P.L. 1965, c.95 (C.40:55C-77 et seq.), repealed by P.L. 1991, c.431, which has as one of its purposes the construction, rehabilitation or operation of housing projects, (3) any general corporation formed under the provisions of Title 14 of the Revised Statutes or Title 14A of the New Jersey Statutes,

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which has as one of its purposes the construction, rehabilitation or operation of housing projects, (4) any corporation or association organized not for profit under the provisions of Title 15 of the Revised Statutes or any other law of this State, which has as one of its purposes the construction, rehabilitation or operation of housing projects, (5) any horizontal property regime formed under the "Horizontal Property Act, " P.L. 1963, c.168 (C.46:8A-1 et seq.) or any condominium formed under the "Condominium Act, " P.L. 1969, c.257 (C.46:8B-1 et seq.), which has as one of its purposes the construction, rehabilitation or operation of housing projects, and (6) any individual, partnership, limited partnership, joint venture or other association, including a partnership, limited partnership, joint venture or association in which the authority is a general or limited partner or participant, approved by the authority as qualified to own, construct, rehabilitate, operate, manage and maintain a housing project.

k. "Required minimum capital reserve" means the reserve amount required to be maintained in each housing finance fund under the provisions of this act.

l. "Amortized value" means for securities purchased at a premium above or a discount below par, the value as of any given date obtained by dividing the total amount of the premium or the discount at which such securities were purchased by the number of days remaining to maturity on such securities at the time of such purchase and by multiplying the amount so calculated by the number of days having passed from the date of such purchase; and (1) in the case of securities purchased at a premium, by deducting the product thus obtained from the purchase price, and (2) in the case of securities purchased at a discount, by adding the product thus obtained to the purchase price.

P.L. 1979, c.275, s.2; amended 1982, c.113, s.14; 1994, c.76, s.15.

40:37A-108. Powers of authority

a. The authority, for the purpose of carrying out the purposes of this act, may:

(1) Accept from qualified housing sponsors applications for loans;

(2) Enter into agreements with qualified housing sponsors for permanent loans and temporary loans or advances in anticipation of such permanent loans for the construction or rehabilitation of housing projects;

(3) Make permanent loans and temporary loans or advances in anticipation of such permanent loans to qualified housing sponsors under the provisions of this act;

(4) Enter into lease, loan, mortgage, security or any other type of agreements with other agencies or instrumentalities of the State or any political subdivisions of the State for the purpose of providing loans and other financial assistance in order to promote housing projects in any municipality, including, without limitation, agreements to purchase bonds, notes or other debt obligations issued by municipalities and lease, loan, mortgage, security or any other type of agreements to be entered into by municipalities in order to finance a fair share housing obligation pursuant to P.L. 1985, c.222 (C.52:27D-301 et al.). The period of usefulness in which such municipal debt obligations or such

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agreements must mature shall, notwithstanding any provision of law to the contrary, be based on the reasonable life of such housing projects directly or indirectly financed with such municipal debt obligations or such agreements, but in no event shall the period of usefulness be less than the minimum established under the "Fair Housing Act, " P.L. 1985, c.222 (C.52:27D-301 et al.); and

(5) Prepare, carry out, acquire, own, lease and operate housing projects and provide for the construction, reconstruction, improvement, alteration or repair of those housing projects, and to lease or rent any dwellings, accommodations, lands, buildings, structures or other facilities comprising a housing project, subject to the limitations of this act.

b. No application for a loan for the construction or rehabilitation of a housing project to be located in any municipality shall be processed unless there shall be filed with the secretary of the authority prior to such application a certified copy of a resolution adopted by said municipality reciting that there is a need for low and moderate income housing projects in said municipality.

P.L. 1979, c.275, s.3; amended 1982, c.113, s.15; 1994, c.31.

40:37A-109. Application for loan; forms; contents

Every application for a loan to a qualified housing sponsor shall be made on forms furnished by the authority and shall contain such information as the authority shall require.

P.L. 1979, c. 275, § 4, eff. Jan. 3,1980.

40:37A-110. Priority in grant of loans; considerations

In considering any application for a loan, the authority shall give first priority to applications for loans for the construction or rehabilitation of housing projects, designed primarily to serve families whose incomes do not exceed the median for the standard metropolitan statistical area in which the project is located, and wherein 10% or more units will be subsidized by, or occupied by tenants whose rents will be subsidized by, any program of housing assistance, and which will be a part of, or constructed in connection with, an urban renewal program, and also shall give consideration to:

a. The comparative need of the area to be served by the proposed project for housing for families of low and moderate income, with particular emphasis on the needs of individuals and families displaced or caused to be displaced by public or private action;

b. The ability of the applicant to construct, operate, manage and maintain the proposed housing project;

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c. The existence of zoning or other regulations to protect adequately the proposed housing project against detrimental future uses which could cause undue depreciation in the value of the project;

d. The proximity of the proposed project to, and the accessibility of, adequate parks, recreational areas, utilities, schools, transportation and parking;

e. The proximity of the proposed project to, and the accessibility of, places of adequate employment opportunities and,

f. Where applicable, the eligibility of the applicant to make payments in lieu of taxes to the municipality in which the housing project is located.

P.L. 1979, c. 275, § 5, eff. Jan. 3, 1980.

40:37A-111. Terms and conditions of loans

Loans made by the authority shall be subject to the following terms and conditions:

a. The loan shall be for a period of time not in excess of 50 years as determined by the authority;

b. The amount of the loan shall not exceed 90% of the project cost as determined by the authority, except that in the case of projects to be owned, constructed, rehabilitated, operated, managed and maintained as mutual housing or by any corporation or association organized not for profit which has as one of its purposes the construction or rehabilitation of housing projects, the amount of the loan shall not exceed 100% of the project cost as determined by the authority; provided, however, that any such loan shall be subject to an agreement between the authority and any such corporation or association organized not for profit or for mutual housing, prohibiting the transfer of ownership or management responsibilities by said corporation or association at any time prior to repayment of at least 10% of the original loan, unless the transfer of ownership or management responsibilities is ordered by a court of competent jurisdiction to a qualified housing sponsor;

c. The interest rate on the loan shall be established by the authority at the lowest level consistent with the authority's cost of operation and its responsibilities to the holders of its bonds, bond anticipation notes and other obligations;

d. The loan shall be evidenced by a mortgage note or bond and by a mortgage which shall be a first lien on the project, except as provided in subsection i. of this section, and which shall contain such terms and provisions and be in such form, as approved by the authority. The authority shall require the qualified housing sponsor receiving a loan or its contractor to post labor and materials, and construction performance, surety bonds in amounts related to the project cost as established by rule or regulation, and to execute such other assurances and guarantees as the authority may deem necessary, and may require its principals or stockholders to also execute such other assurances and guarantees as the authority shall deem necessary;

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e. The loan shall be subject to an agreement between the authority and the qualified housing sponsor which will subject said qualified housing sponsor and its principals or stockholders to limitations established by the authority as to rentals and other charges, builders' and developers' profits and fees, and the disposition of its property and franchises, to the extent more restrictive limitations are not provided by the law under which the borrower is incorporated or organized;

f. The loan shall be subject to an agreement between the authority and the qualified housing sponsor limiting said qualified housing sponsor, and its principals or stockholders, to a return of 8% per annum of its investment in any housing project assisted with a loan from the authority. No qualified housing sponsor which is permitted by the provisions of the law under which it is organized or incorporated to earn a return on its investment, nor any of the principals or stockholders of such qualified housing sponsor, shall at any time earn, accept or receive a return greater than 8% per annum of its investment in any housing project assisted with a loan from the authority whether upon the completion of the construction or rehabilitation of such project, or upon the operation thereof, or upon the sale, assignment or lease of such project to any other person, association or corporation;

g. No loan shall be executed, except a loan made to a corporation or association organized not for profit which has as one of its purposes the construction or rehabilitation of housing projects or for mutual housing, unless the qualified housing sponsor agrees:zz(1) to certify upon completion of project construction or rehabilitation, subject to audit by the authority, either that the project cost as defined in this act exceeded the amount of the loan proceeds by 10% or more, or the amount by which the loan proceeds 90% of the project cost; and (2) to pay forthwith to the authority, to be applied to reduce the principal of the loan, the amount, if any, of such excess loan proceeds, subject to audit and determination by the authority. No loan shall be made to a corporation or association organized not for profit or for mutual housing unless it agrees to certify the project cost upon completion of the project, subject to audit and determination by the authority, and further agrees to pay forthwith to the authority, to be applied to reduce the principal of the loan, the amount, if any, by which the proceeds of the loan exceed the certified project cost, subject to audit and determination by the authority. Notwithstanding the provisions of this subsection, the authority may accept, in lieu of any certification of project cost as provided herein, such other assurances of the said project cost, in any form or manner whatsoever, as will enable the authority to determine with reasonable accuracy the amount of said project cost;

h. No loan shall be made for the construction or rehabilitation of a housing project for which tax exemption is granted by a municipality unless such tax exemption remains in effect during the entire term of the loan, unless a lesser period of tax exemption is approved by the authority; and

i. Notwithstanding any other provisions of this section to the contrary, the authority may, if it shall determine that the construction or rehabilitation of low and moderate income housing would be facilitated thereby and that financial benefits may as a result be obtained for families who would reside in the housing, make a loan to a qualified housing sponsor that shall be subordinated to one or more loans holding senior

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liens on the land on which the project is to be constructed, or on the building or buildings, the rehabilitation of which is to be financed in whole or in part by the authority.

P.L. 1979, c. 275, § 6, eff. Jan. 3, 1980. Amended by L.1982, c. 113, § 16, eff. Aug. 14, 1982.

40:37A-112. Additional conditions; powers of authority

As a condition of the loan, the authority shall have the power at all times during the construction and rehabilitation of a housing project and the operation thereof:

a. To enter upon and inspect without prior notice any project, including all parts thereof, for the purpose of investigating the physical and financial condition thereof, and its construction, rehabilitation, operation, management and maintenance, and to examine all books and records with respect to capitalization, income and other matters relating thereto and to make such charges as may be required to cover the cost of such inspections and examinations;

b. To order such alterations, changes or repairs as may be necessary to protect the security of its investment in a housing project or the health, safety, and welfare of the occupants thereof;

c. To order any managing agent, project manager or owner of a housing project to so such acts as may be necessary to comply with the provisions of all applicable laws or ordinances, or of any rule or regulation of the authority, or of the terms of any agreement concerning the said project, or to refrain from doing any acts in violation thereof, and in this regard the authority shall be a proper party to file a complaint and to prosecute thereon for any violations of laws or ordinances as set forth herein;

d. To require the adoption and continuous use of uniform systems of accounts and records for a project and to require all owners or managers of same to file annual reports containing such information and verified in such manner as the authority shall require, and to file at such times and on such forms as it may prescribe, reports and answers to specific inquiries required by the authority to determine the extent of compliance with any agreement, the terms of the loan, the provisions of this act, or any other applicable law; and,

e. To enforce, by court action if necessary, the terms and provisions of any agreement between the authority and the qualified housing sponsor and the terms of any agreement between the qualified housing sponsor and any municipality granting tax exemption, as to schedules of rental or carrying charges, income limits as applied to tenants or occupants, or any other limitation imposed upon the qualified housing sponsor concerning the finances, construction or operation of the project.

In the event of a violation by the qualified housing sponsor of the terms of any agreement between the authority and the qualified housing sponsor, or between the municipality granting tax exemption and the qualified housing sponsor, or in the event of a violation by the qualified housing sponsor of this act, or of the terms of the mortgage loan agreement or other loan agreement, or of any rules and regulations of the authority duly

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promulgated pursuant to this act, the authority may remove any or all of the existing officers and directors of such qualified housing sponsor and appoint such person or persons whom the authority in its sole discretion deems advisable, who may be officers or employees of the authority, as new officers or directors to serve in place of those removed. Officers or directors so appointed need not be stockholders or meet other qualifications which may be prescribed by the certificate of incorporation or bylaws of such qualified housing sponsor. In the absence of fraud or bad faith, officers or directors so appointed shall not be personally liable for debts, obligations or liabilities of such qualified housing sponsor. Officers or directors so appointed shall serve only for a period coexistent with the duration of such violation or until the authority is satisfied that such violation, or violations of a similar nature, have not and will not reoccur. Officers or employees of the authority who are so appointed as officers or directors shall serve in such capacity without compensation, but shall be reimbursed, if and as the certificate of incorporation or bylaws of such qualified housing sponsor may provide, for all necessary expenses incurred in the discharge of their duties as officers or directors so appointed of such qualified housing sponsor and for such other necessary expenses incurred in the discharge of their duties as officers or directors of such qualified housing sponsor as determined by the authority.

P.L. 1979, c. 275, § 7, eff. Jan. 3, 1980.

40:37A-113. Eligibility for admission to housing projects; periodic examination of income; removal due to excessive income

a. Admission to housing projects constructed or rehabilitated under this act shall be limited to families of low and moderate income whose gross aggregate family income at the time of admission does not exceed six times the annual rental or carrying charges, including the value or cost of heat, light, water, sewerage, parking facilities and cooking fuel, of the dwellings that may be furnished to such families, or seven times said charges if there are three or more dependents. There may be included in the carrying charges to any family for residence in any mutual housing project constructed or rehabilitated with a loan from the authority an amount equal to 6% of the original cash investment of the family in said mutual housing project and, to the extent authorized by the authority where not included in said carrying charges, the value or cost of repainting the apartment and replacing any fixtures or appliances. Notwithstanding the provisions of this section, no family or individual shall be eligible for admission to any housing project constructed or rehabilitated with a loan from the authority whose gross aggregate family income exceeds \$32,100.00 as adjusted from time to time by the authority, by rules or regulations promulgated hereunder, so as to reflect changes in any wage or salary indices for this State as determined and prepared by any department, division, office or agency of this State; provided however, that with respect to any project financed by an authority mortgage insured or guaranteed by the United States of America or any agency or instrumentality thereof, the authority may adopt the admission standards for such projects then currently utilized or required by the guarantor or insurer.

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b. The authority shall by rules and regulations provide for the periodic examination of the income of any person or family residing in any housing project constructed or rehabilitated with a loan from the authority. In the event that the gross aggregate family income of a family residing in any such housing project increases, and the ratio of such family income to the current rental or carrying charges of the dwelling unit becomes greater than the ratio prescribed for admission in subsection a. of this section but does not exceed by more than 25% the maximum family income permitted for admission to the project specified in such subsection, the owner or managing agent of such housing project shall permit the family to continue to occupy the unit. The authority or, with the approval of the authority, the qualified housing sponsor of any housing project constructed or rehabilitated with a loan from the authority, may terminate the tenancy or interest of any family residing in such housing project whose gross aggregate family income continues to exceed by more than 25% the maximum family income so permitted for a period of 6 months or more; provided, that no tenancy or interest of any such family in any such housing project shall be terminated except upon reasonable notice and opportunity to obtain suitable alternate housing, in accordance with rules and regulations of the authority; provided further, that any such family, with the approval of the authority, may be permitted to continue to occupy the unit, subject to payment of a rent or carrying charge surcharge to the qualified housing sponsor in accordance with a schedule of surcharges fixed by the authority. Said qualified housing sponsor shall pay such surcharge to the municipality granting tax exemption, but only up to an amount that, together with payments made to the municipality in lieu of taxes and for any land taxes, equals 25% of the total rents or carrying charges of the housing project for the current and any prior years that the project has been in operation. Any remainder of the surcharge, or the total surcharge if tax exemption has not been granted, shall be paid to the authority.

c. Any family residing in a mutual housing project required to remove from the project because of excessive income as herein provided shall be discharged from liability on any note, bond or other evidence of indebtedness relating thereto and shall be reimbursed, in accordance with the rules of the agency, for all sums paid by such family to the qualified housing sponsor on account of the purchase of stock or debentures as a condition of occupancy or on account of the acquisition of title for such purpose.

P.L. 1979, c. 275, § 8, eff. Jan. 3, 1980.

40:37A-114. Priorities in eligibility for admission

The authority shall establish rules and regulations concerning admissions to any housing project financed in whole or in part by loans authorized hereunder which shall provide priority categories for persons displaced or caused to be displaced by public or private action or by urban renewal projects, highway programs or other public works, persons living in substandard housing, persons and families who, by reason of family income, family size or disabilities have special needs, elderly persons, and families living under conditions violative of minimum health and safety standards.

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P.L. 1979, c. 275, § 9, eff. Jan. 3, 1980.

40:37A-115. Actions or proceedings; standing of authority; jurisdiction and venue; receiver; reorganizations

The authority may institute any action or proceeding against any qualified housing sponsor receiving a loan under the provisions of this act, or owning any housing project hereunder, in any court of competent jurisdiction to enforce the provisions of this act, or to foreclose its mortgage, or to protect the public interest, the tenants, the stockholders or creditors of such sponsor. In connection with any such action or proceeding, the authority may apply for the appointment of a receiver to take over, manage, operate and maintain the affairs of such qualified housing sponsor, and the authority through such agent as it shall designate is hereby authorized to accept appointment as receiver of any such sponsor when so appointed by a court of competent jurisdiction.

The reorganization of any qualified housing sponsor shall be subject to the supervision and control of the authority and no such reorganization shall be had without the consent of the authority. Upon any such reorganization the amount of capitalization, including therein all stocks, income debentures and bonds and other evidence of indebtedness, shall be such as is authorized by the authority but not in excess of the fair value of the property received.

P.L. 1979, c. 275, § 10, eff. Jan. 3, 1980.

40:37A-116. Foreclosure action; parties; powers of court; sales

In any foreclosure action involving a qualified housing sponsor, other than a foreclosure action instituted by the authority, the authority and the municipality in which any tax exemption is provided shall, in addition to other necessary parties, be made parties defendant. The authority and the municipality shall take all steps in such action necessary to protect the interest of the public therein, and no costs shall be awarded against the authority or the municipality.

Subject to the terms of any applicable agreement, contract or other instrument entered into or obtained pursuant to section 23 of this act, judgment of foreclosure shall not be entered unless the court to which application therefor is made shall be satisfied that the interest of the lien holder or holders cannot be adequately secured or safeguarded except by the sale of the property; and in such proceeding the court shall be authorized to make an order increasing the rental or carrying charges to be charged for the housing accommodations in the housing project involved in such foreclosure, or appoint a member of the authority or any officer of the municipality in which any tax exemption with respect to the projects provided, as a receiver of the property, or grant such other and further relief as may be reasonable and proper; and in the event of a foreclosure or other judicial sale, the property shall be sold only to a qualified housing sponsor which will manage, operate and maintain the project subject to the provisions of this act, unless the

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court shall find that the interest and principal on the obligations secured by the lien which is the subject of foreclosure cannot be earned under the limitations imposed by the provisions of this act and that the proceeding was brought in good faith, in which event the property may be sold free of limitations imposed by this act or subject to such limitations as the court may deem advisable to protect the public interest.

P.L. 1979, c. 275, § 11, eff. Jan. 3, 1980.

40:37A-117. Judgment against qualified housing sponsor not pertaining to foreclosure; written notice to authority

In the event of a judgment against any qualified housing sponsor in any action not pertaining to the foreclosure of a mortgage, there shall be no sale of any of the real property included in any housing project of such qualified housing sponsor except upon 60 days' written notice to the authority. Upon receipt of such notice the authority shall take such steps as in its judgment may be necessary to protect the rights of all parties.

P.L. 1979, c. 275, § 12, eff. Jan. 3, 1980.

40:37A-118. Bonds, bond anticipation notes and other notes and obligations

a. The 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 the opinion of the authority shall be necessary to provide sufficient funds for achieving any of its corporate purposes, including: 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 of the authority incident to and necessary or convenient to carry out its corporate purposes and powers.

b. Except as may be otherwise expressly provided in this act or by resolution of the authority, every issue of bonds, bond anticipation notes or other notes or obligations shall be general obligations payable out of any moneys or revenues of the authority, subject only to any agreements with the holders of particular bonds, bond anticipation notes or other notes or obligations pledging any particular moneys or revenues. The authority may issue such types of 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 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 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 such bonds, bond anticipation notes or other notes or obligations may be additionally

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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 authority from any source whatsoever.

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 said Title 12A, subject only to the provisions of the bonds and notes for registration.

d. Bonds, bond anticipation notes or other notes or obligations of the authority shall be authorized by resolution or resolutions of the authority and may be issued in one or more series and shall bear such date or dates, mature at such time or times, bear interest at such rate or rates per annum or within such maximum rate, be in such denomination or denominations, be in such form, either coupon or registered, carry such conversion or registration privileges, have such rank or priority, be executed in such manner, be payable from such sources in such medium of payment at such place or places within or without this State, and be subject to such terms of redemption (with or without premium) all as such resolution or resolutions may provide.

e. Bonds, bond anticipation notes or other notes or obligations of the authority may be sold at public or private sale at such price or prices and in such manner as the authority shall determine. Every bond shall mature and be paid not later from the date thereof than 50 years. Every note shall mature and be paid not later than 5 years from the date thereof.

f. Bonds, bond anticipation notes and other notes and obligations of the 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 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 authority shall be payable solely 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 authority is obligated to pay the principal thereof or the interest thereon only from the revenues or funds of the 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.

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g. 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 the authority to incur indebtedness or liability on behalf of or payable by this State or any political subdivision thereof.

P.L. 1979, c. 275, § 13, eff. Jan. 3, 1980.

40:37A-119. Resolution authorizing issuance; provisions; inclusion in contract

Any resolution or resolutions authorizing the issuance of bonds, bond anticipation notes or other notes or obligations or any issue thereof may contain provisions, except as expressly limited in this act, and except as otherwise limited by subsisting agreements with the holders of bonds, bond anticipation notes or other notes or obligations, which shall be a part of the contract with the holders thereof, as to the following:

a. The pledging of or creating a lien on, as security for the payment of the principal and redemption price of and interest on any bonds, bond anticipation notes, or other notes or obligations of the authority or of any issue thereof, all or any part of the revenues or assets of the authority to which its right then exists or may thereafter come into existence, and the moneys derived therefrom, including, but not limited to, loans to qualified housing sponsors, mortgages and other obligations securing same, the moneys received in payment of such loans and interest thereon, fees and charges payable from qualified housing sponsors, all or any part of any money, funds or property held in trust or otherwise by others for the payment of any bonds, bond anticipation notes or other notes or obligations of the authority, and all or any part of the proceeds of any bonds, bond anticipation notes or other notes or obligations, and covenanting against pledging all or any part of such revenues, assets, moneys, funds or property, or against permitting or suffering any lien thereon;

b. Other provisions for the custody, collection, securing, investment and payment of any revenues, assets, moneys, funds or property of the authority or with respect to which the authority may have any rights or interest;

c. The use and disposition of the gross income from, and the payments of principal or interest received by the authority with respect to loans to qualified housing sponsors, or any income or proceeds from investments held by the authority or other income, revenues or receipts of the authority;

d. The establishment and setting aside of reserves or sinking funds, the making of charges and fees to provide for the same, and the regulation and disposition thereof;

e. The custody, application and disposition of the proceeds of any bonds, bond anticipation notes or other notes or obligations;

f. Limitations on the purpose to which the proceeds of sale of bonds, bond anticipation notes or other notes or obligations may be applied and pledging such

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proceeds to secure the payment of the bonds, bond anticipation notes, or other notes or obligations, or of any issue thereof;

g. Limitations on the issuance of additional bonds, bond anticipation notes or other notes or obligations, the terms upon which additional bonds, bond anticipation notes or other notes or obligations may be issued and secured, and on the refunding or purchase of outstanding bonds, bond anticipation notes or other notes or obligations of the authority;

h. The rank or priority of any such bonds, bond anticipation notes or other notes or obligations with respect to any lien or security or as to the acceleration of the maturity of any such bonds, bond anticipation notes or other notes or obligations;

i. The creation of special funds or moneys to be held in trust or otherwise for operating expenses, payment or redemption of bonds, bond anticipation notes or other notes or obligations, or for other purposes, and provisions for the use and disposition of the moneys held in such funds;

j. The procedure, if any, by which the terms of any contract or covenant with or for the benefit of the holders of any bonds, bond anticipation notes or other notes or obligations of the authority may be amended or abrogated, the amount of bonds, bond anticipation notes or other notes or obligations the holders of which must consent thereto, and the manner in which such consent may be given;

k. The custody of any of its properties or investments, the safekeeping thereof, the insurance to be carried thereon, and the use and disposition of insurance moneys;

l. The time or manner of enforcement or restraint from enforcement of any rights of the authority arising by reason of or with respect to nonpayment of principal or interest with respect to loans to qualified housing sponsors, mortgages securing such loans;

m. The definition of those acts or omissions to act which shall constitute a default in the obligations and duties of the authority and providing for the rights and remedies of the holders of bonds, bond anticipation notes or other notes or obligations in the event of such default; provided, however, that such rights and remedies shall not be inconsistent with the general laws of the State and other provisions of the act

n. The vesting in a trustee or trustees within or without the State of such property, rights, powers and duties in trust as the authority may determine, which may include any or all of the rights, powers and duties of any trustee appointed by the holders of any bonds, bond anticipation notes or other notes or obligations and limiting or abrogating the right of the holders of any bonds, bond anticipation notes or other notes or obligations of the authority to appoint a trustee under this act or limiting the rights, powers and duties of such trustee;

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o . Provision for a trust agreement by and between the authority and a corporate trustee which may be any trust company or bank having the powers of a trust company within the State, which agreement may provide for the pledging or assigning of any assets or income from assets to which or in which the authority has any rights or interest, and may further provide for such other rights and remedies exercisable by the trustee as may be proper for the protection of the holders of any bonds, bond anticipation notes or other notes or obligations of the authority and not otherwise in violation of law, and the said agreement may provide for the restriction of the rights of any individual holder of bonds, bond anticipation notes or other notes or obligations of the authority. All expenses incurred in carrying out the provisions of such trust agreement may be treated as a part of the cost of operation of the authority. The trust agreement may contain any further provisions which are reasonable to delineate further the respective rights, duties, safeguards, responsibilities and liabilities of authority, individual and collective holders of bonds, bond anticipation notes and other notes or obligations of the authority, and the trustees;

p. The appointment of and provisions for the duties and obligations of a paying agent or paying agents or such other fiduciaries within or without the State;

q. Covenants to do or refrain from doing such acts and things as may be necessary or convenient or desirable in order to better secure any bonds, bond anticipation notes, or other notes or obligations of the authority, or which, in the discretion of the authority, will tend to make any bonds, bond anticipation notes or other notes or obligations to be issued more marketable, notwithstanding that such covenants, acts or things may not be enumerated herein;

r. Any other matters which in any way affect the security or protection of the bonds, bond anticipation notes or other notes or obligations.

P.L. 1979, c. 275, § 14, eff. Jan. 3, 1980.

40:37A-120. Pledge of revenues, moneys, funds or other property; validity; lien; recordation

Any pledge of revenues, moneys, funds or other property made by the authority shall be valid and binding from the time when the pledge is made; the revenues, moneys, funds or other property so pledged and thereafter received by the authority shall immediately be subject to the lien of such pledge without any physical delivery thereof or further act, and the lien of any such pledge shall be valid and binding as against all parties having claims of any kind in tort, contract or otherwise against the authority, irrespective of whether such parties have notice thereof. Neither the resolution nor any other instrument by which a pledge is created need be filed or recorded except in the records of the authority.

P.L. 1979, c. 275, § 15, eff. Jan. 3, 1980.

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40:37A-121. Members of authority or persons executing; nonliability

Neither the members of the authority nor any person executing bonds, bond anticipation notes or other notes or obligations issued pursuant to this act shall be liable personally on such bonds, bond anticipation notes or other notes or obligations by reason of the issuance thereof.

P.L. 1979, c. 275, § 16, eff. Jan. 3, 1980.

40:37A-122. Purchase; power of authority

The authority shall have power to purchase bonds, bond anticipation notes or other notes or obligations of the authority out of any funds available therefor. The authority may hold, cancel or resell such bonds, bond anticipation notes or other notes or obligations subject to and in accordance with agreements with holders of its bonds, bond anticipation notes and other notes or obligations.

P.L. 1979, c. 275, § 17, eff. Jan. 3, 1980.

40:37A-123. Housing finance funds; limitations on issuance of bonds or other obligations

a. The authority may create and establish one or more special funds to be known as housing finance funds and may pay into such housing finance funds: (1) any proceeds of the sale of the bonds, notes or other obligations to the extent provided in the resolution of the authority authorizing the issuance thereof; (2) the moneys directed to be transferred by the authority to such funds; and, (3) any other moneys which may be made available to the authority for the purposes of such funds from any other source or sources. The moneys held in or credited to any housing finance fund established under this act, except as hereinafter provided, shall be used solely for the payment of the principal of and interest on bonds or other obligations of the authority secured by such housing finance fund, as the same mature, required payments to any sinking fund established for the amortization of such bonds or other obligations (hereinafter referred to as "sinking fund payments"), the purchase or redemption of such bonds or other obligations of the authority or the payment of any redemption premium to be paid when such bonds or other obligations are redeemed prior to maturity; provided, however, that moneys in any such fund shall not be withdrawn therefrom at any time in such amount as would reduce the amount of such fund to less than the amount of principal (including sinking fund payments) and interest maturing and becoming due in the succeeding calendar year on the bonds or other obligations of the authority then outstanding and secured by such housing finance fund (such amount being hereafter referred to as the "required minimum capital reserve"), except for the purpose of paying principal and interest on the bonds or other obligations of the authority secured by such housing finance fund maturing and becoming due and sinking fund payments for the payment of which other moneys of the authority are not available. Any income or interest earned by or increment to, any such

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housing finance fund due to the investment thereof may be transferred to any other fund or account of the authority to the extent it does not reduce the amount of such housing finance fund below the required minimum capital reserve. In computing the amount of any housing finance fund for the purposes of this section, securities in which all or a portion of such housing finance fund are invested shall be valued at par, if purchased at par, or, if purchased at other than par, at amortized value.

b. The authority shall not issue bonds or other obligations at any time when the maximum amount of principal (including sinking fund payments) and interest maturing and becoming due in the succeeding calendar year on the bonds or other obligations outstanding and then to be issued and secured by a housing finance fund will exceed the amount of such housing finance fund at the time of issuance, unless the authority, at the time of issuance of such bonds or other obligations, shall deposit in such housing finance fund, from the proceeds of the bonds or other obligations so to be issued or otherwise, an amount which, together with the amount then in such housing finance fund, will be not less than the required minimum capital reserve.

P.L. 1979, c. 275, § 18, eff. Jan. 3, 1980.

40:37A-124. Pledge and agreement of state not to impair rights or remedies of bondholders

The State of New Jersey does hereby pledge to and covenant and agree with the holders of any bonds, bond anticipation notes or other notes or obligations issued pursuant to the authority of this act that the State will not limit or alter the rights or powers hereby vested in the authority to perform and fulfill the terms of any agreement made with the holders of such bonds, bond anticipation notes or other notes or obligations, or in any way impair the rights or remedies of such holders until such bonds, bond anticipation notes and other notes or obligations, together with interest thereon, with interest on any unpaid installments of interest, and all costs and expenses in connection with any action or proceedings by or in behalf of such holders, are fully met and discharged or provided for. The authority may include this pledge and agreement of the State in any agreement with the holders of bonds, bond anticipation notes and other notes or obligations issued by the authority.

P.L. 1979, c. 275, § 19, eff. Jan. 3, 1980.

40:37A-125. Bonds as legal investment and authorized security for public deposits

Notwithstanding any restriction contained in any other law, this 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 or investment business, all insurance companies, insurance associations and other persons carrying on an insurance business, and all executors,

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administrators, guardians, trustees and other fiduciaries, may legally invest any sinking funds, moneys or other funds belonging to them or within their control in any bonds, bond anticipation notes or other notes or obligations issued pursuant to this act, and such bonds, bond anticipation notes and other notes or obligations shall be authorized security for any and all public deposits.

P.L. 1979, c. 275, § 20, eff. Jan. 3, 1980.

40:37A-126. Tax exemptions; property and revenues of authority; interest and income of bonds

All property of the authority is hereby declared to be public property 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, bond anticipation notes or other notes or obligations issued pursuant to this act are hereby declared to be issued by a body corporate and public of this State and for an essential public and governmental purpose and such bonds, bond anticipation notes and other notes or obligations, and the interest thereon and the income therefrom, and all fees, charges, funds, revenues, income and other moneys received or to be received by the authority and pledged or available to pay or secure the payment of such bonds, bond anticipation notes or other notes or obligations, or interest thereon, shall at all times be exempt from taxation except for transfer, inheritance and estate taxes.

P.L. 1979, c. 275, § 21, eff. Jan. 3, 1980.

40:37A-127. Exemption from execution or other judicial process

All property of the authority, except as otherwise provided herein, 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 the authority be a charge or lien upon its property; provided, that nothing herein shall apply to or limit the rights of the holder of any bonds, bond anticipation notes or other notes or obligations to pursue any remedy for the enforcement of any pledge or lien given by the authority on its revenues or other moneys; and provided, further, that nothing herein shall limit the authority's ability to enter into partnerships, limited partnerships, joint ventures or other associations as a general partner, limited partner or participant therein.

P.L. 1979, c. 275, § 22, eff. Jan. 3, 1980. Amended by L. 1982, c. 113, § 17, eff. Aug. 14, 1982.

40:37A-128. Insurance or guarantee of loan; agreement with department or agency of federal government

The authority is authorized and empowered to obtain, or aid in obtaining, from any department or agency of the United States any insurance or guarantee as to, or of or for

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the payment or repayment of interest or principal, or both, or any part thereof, on any loan or any instrument evidencing or securing the same, made or entered into pursuant to the provisions of this act; and notwithstanding any other provisions of this act to enter into any agreement, contract or any other instrument whatsoever with respect to any such insurance or guarantee, and except payment in such manner and form as provided therein in the event of default by the borrower.

P.L. 1979, c. 275, § 23, eff. Jan. 3, 1980.

40:37A-129. Insurance or guarantee of bonds or other obligations; agreement with department or agency of federal government

Authority is authorized and empowered to obtain from any department or agency of the United States any insurance or guarantee as to, or of or for the payment or repayment of interest or principal, or both, or any part thereof, on any bonds, bond anticipation notes or other notes or obligations issued by the authority pursuant to the provisions of this act; and notwithstanding any other provisions of this act to enter into any agreement, contract or any other instrument whatsoever with respect to any such insurance or guarantee except to the extent that such action would in any way impair or interfere with the agency's ability to perform and fulfill the terms of any agreement made with the holders of the bonds, bond anticipation notes or other notes or obligations of the authority.

P.L. 1979, c. 275, § 24, eff. Jan. 3, 1980.

40:37A-130. Annual report; audit; contents

On or before the last day of February in each year the authority shall make an annual report for the preceding calendar year to the governing body of the county and of each municipality and beneficiary county in which a housing project financed by the authority is located.

The annual audit pursuant to section 45 of the "county improvement authorities law, " P.L. 1960, c. 183 (C.40:37A-88) shall include the activities of the authority pursuant to this act.

P.L. 1979, c. 275, s. 25; amended 1994, c. 76, s. 16.

40:37A-131. Powers of authority

In order to carry out the purposes and provisions of this act, the authority in addition to any powers granted to it elsewhere in this act or the "county improvement authorities law, " P.L. 1960, c. 183 (C. 40:37A-44 et seq.), shall have the following powers:

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- a. To conduct examinations and hearings and to hear testimony and take proof, under oath or affirmation, at public or private hearings, on any matter material for its information and necessary to carry out the provisions of this act;
- b. To issue subpoenas requiring the attendance of witnesses and the production of books and papers pertinent to any hearing before such authority or before one or more of the members of the authority appointed by it to conduct such hearing;
- c. To apply to any court, having territorial jurisdiction of the offense, to have punished for contempt any witness who refuses to obey a subpoena, or who refuses to be sworn or affirmed to testify, or who is guilty of any contempt after summons to appear;
- d. To acquire by purchase, gift, foreclosure or condemnation any real or personal property, or any interest therein, to enter into any lease of property and to hold, sell, assign, lease, encumber, mortgage or otherwise dispose of any real or personal property, or any interest therein, or mortgage lien interest owned by it or under its control, custody or in its possession and release or relinquish any right, title, claim, lien, interest, easement or demand however acquired, including any equity or right of redemption, in property foreclosed by it and to do any of the foregoing by public or private sale, with or without public bidding, notwithstanding the provisions of any other law;
- e. To adopt such rules and regulations as shall be expressly authorized by this act and such additional rules and regulations as shall be necessary or desirable to carry out the purposes of this act;
- f. To borrow money or secure credit on a temporary, short-term, interim or on a long-term basis, and to issue negotiable bonds, bond anticipation notes or other notes or obligations and to provide for and secure the payment thereof and to provide for the rights of the holders thereof;
- g. To make and enter into all contracts and agreements necessary or incidental to the performance of its duties and the execution of its powers under this act, including contracts or agreements with qualified financial institutions for the servicing and processing of mortgage loans pursuant to this act;
- h. To do and perform any acts and things authorized by this act under, through, or by means of its officers, agents or employees or by contract with any person, firm or corporation;
- i. To finance by mortgage loans or otherwise the construction or rehabilitation of housing projects and to make temporary loans or advances in anticipation of permanent loans, and to make funds for mortgage and other loans available to appropriate and qualified entities as may be designated by the authority;
- j. To receive and accept aid or contributions from any source of money, property, labor or other things of value, to be held, used and applied to carry out the purposes of this act, subject to such conditions upon which such grants and contributions may be made, including, but not limited to, gifts or grants from any department or agency of the United States or this State for payment of rent supplements or rental assistance to eligible families or for the payment in whole or in part of the interest expense for a housing project or for any other purpose consistent with this act;

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k. To enter into agreements to pay annual sums in lieu of taxes to any political subdivision of the State with respect to any real property owned or operated directly by the authority for purposes of this act;

l. To procure insurance against any loss in connection with its property, operations and assets (including mortgages and loans) in such amounts and from such insurers as it deems desirable;

m. To the extent permitted under its contract with the holders of bonds, bond anticipation notes and other notes or obligations of the authority, to consent to any modification with respect to rate of interest, time and payment of any installment of principal or interest, security or any other term of any mortgage, mortgage loan, mortgage loan commitment, contract or agreement of any kind to which the authority is a party;

n. To the extent permitted under its contract with the holders of bonds, bond anticipation notes and other notes or obligations, to enter into contracts with any qualified housing sponsor containing provisions enabling the said qualified housing sponsor to reduce the rental or carrying charges to persons unable to pay the regular schedule of charges where by reason of other income or payment from the authority, any department or agency of the United States or this State, such reductions can be made without jeopardizing the economic stability of the housing project;

o. To establish and revise from time to time and charge and collect such fees and charges including, but not limited to, payment for all costs of financing by the authority, services, mortgage insurance premiums, reserves against losses, reimbursement for advances made to the authority, as the authority shall determine are reasonable to enable the authority, to the extent feasible, to be self-sustaining;

p. Subject to any agreement with holders of bonds, bond anticipation notes or other notes or obligations, to invest and reinvest any moneys of the authority not required for immediate use or disbursement, including proceeds from the sale of any bonds, bond anticipation notes or other notes or obligations and any moneys held in the housing finance funds, reserve funds or sinking funds, in such obligations, securities and other investments as the authority shall deem prudent;

q. Subject to any agreement with the holders of bonds, bond anticipation notes or other notes or obligations, to purchase bonds, bond anticipation notes or other notes or obligations of the authority out of any funds or money of the authority available therefor, and to hold, cancel to resell such bonds, bond anticipation notes or other notes or obligations;

r. To provide, contract or arrange for, where by reason of the financing arrangement, review of the application and proposed construction of a project is required by or in behalf of any department or agency of the United States, consolidated processing of any such application or supervision to avoid duplication thereof by either undertaking the processing in whole or in part for any such department or agency or, in the alternative, delegating the processing in whole or in part to any such department or agency;

s. To make mortgage loans and to participate with any department or agency of the United States, this State, a municipality, or any banking institution, foundation, labor

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union, insurance company, trustee or fiduciary in a loan to a qualified housing sponsor secured by a single participating mortgage or by separate mortgages, the interest of each having equal priority as to lien in proportion to the amount of the loan so secured, but need not be equal as to interest rate, time or rate of amortization or otherwise and to undertake commitments to make such loans;

t. To sell, at public or private sale, with or without bidding, any mortgage or other obligation securing a mortgage loan made by the authority;

u. To make commitments to purchase, and to purchase, service and sell, mortgages insured by any department or agency of the United States, and to make loans directly upon the security of any such mortgage;

v. To enter into partnerships, limited partnerships, joint ventures or other associations as a general partner, limited partner or participant therein with qualified housing sponsors to carry out the purposes of the authority;

w. To provide qualified housing sponsors and other individuals and organizations with such advisory consultation, training and educational services as will increase the availability and supply of housing and increase housing opportunities for low and moderate income families, including but not limited to assistance in community development and organization, home management and advisory services for the residents of the housing projects, and to encourage community organizations to assist in developing such projects;

x. To administer funds established for the provision of loans and grants, including but not limited to revolving loan funds established pursuant to P.L. 1947, c. 71 (C. 40:48-8.15 et seq.), to qualified housing sponsors and other individuals and organizations, for the purpose of increasing the availability and supply of housing for low and moderate income families;

y. To encourage research in, and demonstration projects to develop, new and better techniques and methods for increasing the supply of housing for moderate income families and to engage in such research and demonstration projects and to receive and accept contributions, grants or aid, from any source, public or private, including, but not limited to the United States and this State, for carrying out this purpose;

z. To provide to qualified housing sponsors through mortgage loans or otherwise, financing or refinancing of fully completed, as well as partially completed, projects which may or may not be occupied, provided that said projects meet all the requirements of the act; and

aa. To provide to qualified housing sponsors through mortgage loans purposes and exercise the powers given and granted in the act.

P.L. 1979, c. 275, § 26, eff. Jan. 3, 1980. Amended by L. 1981, c. 460, § 3, eff. Jan. 8, 1982; PL. 1982, c. 113, § 18, eff. Aug. 14, 1982.

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40:37A-131.1. Payment in lieu of taxes not to exceed 20% of annual gross revenue; determination of assumed assessed value

a. For the purposes of the "county improvement authorities law, " P.L. 1960, c.183 (C.40:37A-44 et seq.), where by reason of the provisions of any other law a qualified housing sponsor has entered, or intends to enter, into any agreement with any municipality to make payments in lieu of taxes, or to obtain special tax treatment of any real property of the qualified housing sponsor to be financed by the authority, that agreement may, notwithstanding any provisions of any such other law to the contrary, require the qualified housing sponsor to pay to the municipality an amount not exceeding 20% of the annual gross revenue from each housing project situated on the real property for each year of the project's operation following its substantial completion. For the purpose of this section, "annual gross revenue" means the total annual gross rental or carrying charge and other income of a qualified housing sponsor from a housing project. Any agreement between any qualified housing sponsor and a municipality pursuant to this section shall be submitted to the authority for review in order to avoid duplicative or inconsistent regulations or provisions, and any municipality and any qualified housing sponsor may, with the approval of the authority, enter into any such agreement as is not inconsistent with P.L. 1960, c.183.

b. For the purposes of apportioning the amounts to be raised in the respective municipalities in each county pursuant to R.S. 54:4-49, the board of taxation for such county shall, for each municipality, include in the equalization table for such county the assumed assessed value of the property represented by the amount of payments in lieu of property taxes to any municipality pursuant to this section.

The assumed assessed value of such property in each municipality shall be determined by the county board of taxation in the following manner: (1) the amount of payments in lieu of real property taxes received by each municipality during the preceding tax year pursuant to this section shall be divided by the general tax rate of the municipality for such preceding tax year to obtain an assumed assessed value of such property; (2) this assumed assessed value shall be divided by the fraction produced by dividing the aggregate assessed value by the aggregate true value of the real property as determined by the county board of taxation for equalization purposes in the current tax year, exclusive of class II railroad property, in the municipality; (3) the resulting quotient shall be included in the net valuation of each municipality on which county taxes are apportioned.

For the first tax year during which any payments in lieu of real property taxes are made to any municipality pursuant to this section, there shall be included in the equalization table for such county the true value of the property as determined by the assessor in the tax year immediately prior to the tax year in which any payments in lieu of taxes are made pursuant to this section.

P.L. 1982, c.133, s.19; amended 1994, c.76, s.17.

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40:37A-132. Services to authority by units of state and county governments

All officers, departments, boards, agencies, divisions and commissions of the State and county are hereby authorized and empowered to render any and all of such services to the authority as may be within the area of their respective governmental functions as fixed or established by law, and as may be requested by the authority. The cost and expense of any such services shall be met and provided for by the authority.

P.L. 1979, c. 275, § 27, eff. Jan. 3, 1980.

40:37A-133. Discrimination; prohibition; violations; penalty

No person shall be discriminated against, because of race, religious principles, color, national origin or ancestry, by the authority or any qualified housing sponsor or any agent or employee thereof in connection with any housing project or mortgage loan. Any person who shall be found guilty of violating the provisions of this section shall be a disorderly person and subject to a fine of not less than \$500.00 or more than \$2,500.00.

P.L. 1979, c. 275, § 28, eff. Jan. 3, 1980.

40:37A-134. Broad construction of powers

The powers enumerated in this act shall be interpreted broadly to effectuate the purposes thereof and shall not be construed as a limitation of powers.

P.L. 1979, c. 275, § 29, eff. Jan. 3, 1980.

40:37A-135. Severability

If any clause, sentence, subdivision, paragraph, section or part of this act be adjudged to be unconstitutional or invalid, such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, subdivision, paragraph, section or part thereof directly involved in the controversy in which said judgment shall have been rendered.

P.L. 1979, c. 275, § 30, eff. Jan. 3, 1980.