

RS. 32:1-35.28 et seq.

May 15, 1969

LEGISLATIVE HISTORY OF R.S. 32:1-35.28 et seq.
(Marine terminals)

L. 1947, Chapter 44 - S159.
March 3 - Introduced by Van Alstyne.
March 18 - Passed in Senate, amended.
March 24 - Passed in Assembly.
April 2 - Approved, Chapter 44
Amended during passage.
Statement.

L. 1948, Chapter 212 - S314 (Van Alstyne)
Not amended during passage.
Statement; copy enclosed.

L. 1953, Chapter 31 - S28
(Title 32 - Interstate)
One of series of Clapp bills.

L. 1953, Chapter 375 - A516
Not amended during passage.
Statement; copy enclosed.

The following reports may provide background on this legislation:

974.90	Port of New York Authority.
A252	Agreement with respect to the Newark
1947a	Marine and Air Terminals.
974.90	Port of New York Authority.
A252	Development of Newark Airport
1946	and Seaport.
974.90	Port of New York Authority.
A252	Development of Newark Seaport
1946c	... Appendices.
974.90	Port of New York Authority.
H255	Development of the Hoboken Piers.
1947	
974.90	Port of New York Authority.
H255	Marine terminal survey of the
1949	New Jersey waterfront.

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SENATE, No. 169

STATE OF NEW JERSEY

INTRODUCED MARCH 3, 1947

By Mr. VAN ALSTYNE

Referred to Committee on Federal and Interstate Relations

AN ACT to facilitate the development by the Port of New York Authority of marine terminals, and agreeing with the State of New York with respect thereto.

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

1 1. Upon the concurrence of the State of New York as provided in section
2 nine hereof, the States of New Jersey and New York hereby agree that
3 municipalities, as hereinafter defined, located in the State of New Jersey and
4 within the Port of New York District shall be and they hereby are author-
5 ized to co-operate with the Port of New York Authority (hereinafter called
6 the Port Authority) in the development of marine terminals, and the two said
7 States further agree that the State of New Jersey may authorize the Port
8 Authority to acquire by condemnation or the exercise of the right of eminent
9 domain real property in the State of New Jersey necessary, convenient or
10 desirable for marine terminal purposes, under and pursuant to the Revised
11 Statutes of New Jersey, Title 20:1-1, et seq., or at the option of the Port
12 Authority, pursuant to such other or alternate procedure as may be provided
13 by law by such State.

1 2. Nothing herein contained shall be construed to authorize the Port
2 Authority to acquire any marine terminal owned or operated by any munici-
3 pality or any other property now or hereafter vested in or held by any

4 municipality, without the authority or consent of such municipality as pro-
 5 vided in the compact of April thirtieth, one thousand nine hundred and
 6 twenty-one, between the States of New Jersey and New York, nor shall any-
 7 thing herein impair or invalidate in any way any bonded indebtedness of the
 8 State, or any municipality, nor impair the provisions of law regulating the
 9 payment into sinking funds of revenue derived from municipal property, or
 10 dedicating the revenues derived from municipal property to a specific purpose.

1 3. The following terms as used herein shall mean:

2 "Marine terminals" shall mean developments, consisting of one or more
 3 piers, wharves, docks, bulkheads, slips, basins, vehicular roadways, railroad
 4 connections, side tracks, sidings or other buildings, structures, facilities or
 5 improvements, necessary or convenient to the accommodation of steamships
 6 or other vessels and their cargoes or passengers.

7 "Marine terminal purposes" shall mean the effectuation, establishment,
 8 acquisition, construction, rehabilitation, improvement, maintenance or oper-
 9 ation of marine terminals.

10 "Municipality" shall mean a county, city, borough, village, township,
 11 town, public agency, public authority or political subdivision.

12 "Real property" shall mean lands, structures, franchises and interests
 13 in land, including waters, lands under water and riparian rights, and any and
 14 all things and rights usually included within the said term, and includes not
 15 only fees simple absolute but also any and all lesser interests, including but
 16 not limited to easements, rights-of-way, uses, leases, licenses and all other in-
 17 corporeal hereditaments and every estate, interest or right, legal or equitable,
 18 including terms for years and liens thereon by way of judgments, mortgages
 19 or otherwise.

1 4. Notwithstanding any contrary provision of law, any municipality of
 2 the State of New Jersey located within the Port of New York District is au-
 3 thorized and empowered to consent to the use by the Port Authority of any
 4 marine terminal owned by such municipality or of any real or personal prop-
 5 erty owned by such municipality and necessary, convenient or desirable in

6 the opinion of the Port Authority for marine terminal purposes, including
7 such real property as has already been devoted to a public use and as an
8 incident to such consent, to grant, convey, lease or otherwise transfer to the
9 Port Authority any such marine terminal or real or personal property. Every
10 such municipality is also authorized and empowered to vest in the Port Au-
11 thority the control, operation, maintenance, rents, tolls, charges and any and
12 all other revenues of any marine terminal now owned by such municipality,
13 the title to such marine terminal remaining in such municipality. Such
14 consent shall be given, and the execution of any agreement, deed, lease, con-
15 veyance or other instrument evidencing such consent or given as an incident
16 thereto shall be authorized in the manner provided in Article XXII of the
17 compact of April thirtieth, one thousand nine hundred and twenty-one, be-
18 tween the two States creating the Port Authority.

1 5. This section and the preceding sections hereof constitute an agreement
2 between the States of New Jersey and New York supplementary to the com-
3 pact between the two States dated April thirtieth, one thousand nine hundred
4 and twenty-one, and amendatory thereof and shall be liberally construed to
5 effectuate the purposes of said compact and of the comprehensive plan here-
6 tofore adopted by the two States pursuant thereto, and the powers vested in
7 the Port Authority hereby shall be construed to be in aid of and supplemental
8 to and not in limitation or derogation of any of the powers heretofore con-
9 ferred upon or delegated to the Port Authority.

1 6. If for the purposes of establishing marine terminals or purposes inci-
2 dental thereto, including temporary construction purposes, the Port Authority
3 shall find it necessary or convenient to acquire any real property as herein
4 defined, whether for immediate or future use, the Port Authority may find
5 and determine that such property, whether a fee simple absolute or a lesser
6 interest, is required for a public use, and upon such determination the said
7 property shall be and shall be deemed to be required for such public use until
8 otherwise determined by the Port Authority.

9 The Port Authority may acquire and is hereby authorized to acquire
10 such property, whether a fee simple absolute or a lesser estate, by condemna-
11 tion or the exercise of the right of eminent domain under and pursuant to
12 the Revised Statutes of New Jersey, Title 20:1-1 et seq., or at the option of
13 the Port Authority pursuant to such other and alternate procedure as may
14 be provided by law. Nothing herein contained shall be construed to prevent
15 the Port Authority from bringing any proceedings to remove a cloud on title
16 or such other proceedings as it may, in its discretion, deem proper and neces-
17 sary, or acquiring any such property by negotiation or purchase.

18 In the event the Port Authority shall deem that the use by it of any
19 real property for any purpose hereunder will be necessary either immediately
20 or by a definite future date, it may file with any petition in any condemnation
21 proceeding brought pursuant to law or at any time thereafter a notice that it
22 requires the possession thereof, either immediately or at a date specified in
23 such notice. In such event, the Port Authority shall cause a duplicate of
24 such notice and an affidavit of the filing thereof to be recorded in the office
25 in which deeds are required to be recorded in the county wherein the land
26 involved is situated and upon such recording the Port Authority may enter
27 upon and shall be entitled to the possession, use and occupation of such real
28 property at the time specified in said notice without suit or other judicial
29 proceedings; *provided*, that it shall first deposit with the court a sum equal to
30 the assessed valuation of such real property, or in the event that the assessed
31 valuation thereof cannot be readily ascertained such sum as in the judgment
32 of the Port Authority shall be sufficient as compensation for the real property
33 acquired. The sum so deposited with the court shall be applied to the satis-
34 faction of any award thereafter made in any condemnation proceeding. Such
35 filing and recording of said notice shall be conclusive evidence of the entry
36 upon and appropriation of said property by the Port Authority, and title to
37 said property shall vest in the Port Authority on the date specified in such
38 notice. The power of the Port Authority to acquire real property by con-
39 demnation hereunder shall be a continuing power, and no exercise thereof
40 shall be deemed to exhaust it.

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41 Nothing herein contained shall be construed to permit the taking by the
42 Port Authority of any property owned by any railroad or railway corpora-
43 tion, or by any other corporation which is a "public utility" as defined in
44 section 48:2-13 of the Revised Statutes, and devoted to use by such corpora-
45 tion in its operations, or acquired prior to the effective date of this act and
46 held for such use, without the authority or consent of such corporation.

1 7. The Port Authority may exercise the right of eminent domain or
2 condemnation to acquire real property for marine terminal purposes as set
3 forth in this section:

4 (a) As used in this section, unless otherwise expressly stated or unless
5 context or subject matter otherwise requires, the following terms shall mean:

6 (1) "Days." Calendar days exclusive of Sundays and full legal
7 holidays.

8 (2) "Owner." A person having an estate, interest or easement in
9 the real property being acquired or a lien, charge or encumbrance thereon.

10 (b) Whenever the Port Authority shall determine that it is necessary to
11 acquire real property for marine terminal purposes for the public use by the
12 exercise of the right of eminent domain or condemnation, it shall prepare
13 three similar surveys, diagrams, maps, plans or profiles of the real property
14 being acquired, stating thereon that the Port Authority has determined that
15 it is necessary to acquire said property, and the amount or valuation at
16 which each parcel of real property to be acquired has been assessed for pur-
17 poses of taxation on the tax rolls for each of the three years preceding, and
18 if the interest being taken shall be less than the fee, the estimated value of
19 such interest; one of such surveys, diagrams, maps, plans or profiles shall be
20 filed in the office of the secretary of the Port Authority, the second shall be
21 filed in the office in which instruments affecting real property are required
22 to be recorded, in the county in which such real property is situated, and
23 the third copy shall be filed in the office of the clerk of the Supreme Court;
24 and it shall file in the office of the clerk of the county where the real property
25 to be acquired or any part thereof is situated a notice of the pendency of a

26 proceeding for the acquisition of such property. Such notice shall briefly
27 state the object of the proceeding and shall contain a brief description of the
28 real property being acquired thereby. It shall also state the names of such
29 of the owners of such real property as may be known to the Port Authority,
30 and in case any of the owners are unknown, a statement to that effect shall
31 be made in such notice. Such notice, from the time of filing, shall be con-
32 structive notice to a purchaser or encumbrancer of the real property affected
33 thereby from or against any person interested as owner with respect to whom
34 the notice is directed to be indexed.

35 It shall be lawful for the duly authorized agents of the Port Authority,
36 and all persons acting under its authority and by its direction, to enter in the
37 daytime into and upon such real property which it shall be necessary so to
38 enter, for the purpose of making such surveys, diagrams, maps or plans, or
39 for the purpose of making such soundings or borings as the Port Authority
40 may deem necessary.

41 (c) Whenever any land or other property taken for public use shall lie
42 or be in two or more counties, all reports, petitions, orders and other papers
43 required to be filed shall be filed in the clerk's office of the county in which
44 the greater part in value of the land or other property is situate and a
45 certified copy thereof shall be filed and recorded in the clerk's office of the
46 other county or counties. The commissioners, if any be designated, shall be
47 residents of the county in which the greater part in value of the land or
48 other property is situate.

49 (d) Upon the filing of the lis pendens, the Port Authority shall cause
50 notice by advertisement to be published on one day in each of four successive
51 weeks in a newspaper published and of general circulation in the county in
52 which the real property to be acquired is located, of its intention to make
53 application to one of the justices of the Supreme Court, at a time and place
54 to be stated in such notice, to have the compensation which should justly be
55 made to the respective owners of the real property proposed to be taken,
56 ascertained and determined by the justice. Such notice shall indicate the real

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57 property to be taken by a general description and by reference to the map on
58 file in the office of the Port Authority, in the office in which instruments
59 affecting real property are required to be recorded, and in the office of the
60 clerk of the Supreme Court.

61 (e) In addition to the provisions contained in subdivision (d) above,
62 written notice of the application shall be given by the Port Authority to the
63 owners of all property affected by the proceeding at least ten days prior to
64 such application, by mailing the same to such owners at the address registered
65 or filed with the collector of taxes for the purpose of forwarding to them
66 bills for taxes or assessments. Such notice shall state the purpose for which
67 the property is to be acquired and the date when such application will be
68 presented and shall contain a copy of such application. Failure to comply
69 with the directions contained in this subdivision shall not invalidate or affect
70 the proceeding.

71 (f) Upon the application to condemn, the Port Authority shall present
72 to the justice a verified petition setting forth:

73 (1) The action had by the Board of Commissioners of the Port
74 Authority with reference to the proceeding;

75 (2) The real property to be acquired therein by setting forth a specific
76 description thereof, and its location with reasonable certainty and by
77 reference to the map on file in the office of the Port Authority, in the
78 office in which instruments affecting real property are required to be
79 recorded, and in the office of the clerk of the Supreme Court, a copy of
80 which shall be attached to the petition;

81 (3) The amount of valuation at which each parcel of the real prop-
82 erty to be acquired has been assessed for purposes of taxation on the
83 tax rolls for each of the three years preceding the date of the petition, or
84 if the interests being taken shall be less than the fee, the estimated
85 value of such interest;

86 (4) A prayer that the real property described therein be condemned.

87 (g) At the time and place mentioned in the notice published pursuant
88 to subdivision (d) hereof, unless the justice shall adjourn the application to
89 a subsequent day, and in that event, at the time and place to which such
90 application may be adjourned, upon due proof to his satisfaction of the
91 publication and mailing of such notice and upon filing such petition, the
92 justice shall enter an order granting the application, which order shall be filed
93 in the office of the clerk of the Supreme Court. The Port Authority shall,
94 within ten days after the entry of such order, cause a certified copy thereof
95 to be recorded in the office where instruments affecting real property are
96 required to be recorded, in every county in which any part of the real prop-
97 erty affected is situated, in the same manner as deeds are recorded, and the
98 register of deeds or county clerk with whom such certified copy shall be
99 recorded, shall index the same in the same manner as recorded deeds are
100 indexed.

101 (h) The Port Authority, after the filing of the order granting the ap-
102 plication to condemn, shall cause to be published on one day in each of four
103 successive weeks in a newspaper published and of general circulation in the
104 county in which the real property to be acquired is located, a notice contain-
105 ing a general description of the real property to be acquired, a statement
106 that such order has been filed and requiring that all owners of such real prop-
107 erty shall, on or before a date specified in the order granting the applica-
108 tion, file in the office of the Clerk of the Supreme Court, a written claim or
109 demand, duly verified, setting forth the real property owned by the claimant,
110 his post-office address, and the nature of his interest in said real property.
111 The claimant shall within the same time serve on the Port Authority a copy
112 of such verified claim.

113 (i) Proof of title to the real property to be acquired, where the same is
114 undisputed, together with proof of liens or encumbrances thereon, shall be
115 submitted by the claimant to the Port Authority. The Port Authority shall
116 serve upon all parties or their attorneys who have served upon it copies of
117 their verified claims, a notice of the time and place at which it will receive

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118 such proof of title. Where the title of the claimant is disputed, such dispute
119 shall not act as a stay of the proceeding to determine the value of the prop-
120 erty to be taken, but the proceeding shall continue in the same manner as it
121 would if there were no dispute as to the title, and the award, if any, shall be
122 paid into the Court of Chancery by order of the Chancellor, and shall there
123 be distributed, according to law, on the application of any person interested
124 therein. Written notice given to the owner or owners and to persons inter-
125 ested that such moneys have been so paid into court shall have the same
126 effect as if the moneys so awarded had been actually tendered to the owner
127 or persons entitled thereto. Notice by advertisement in such manner as the
128 Chancellor shall direct shall be deemed sufficient notice.

129 (j) After all parties who have filed verified claims, as provided in sub-
130 division (h) hereof, have proved their titles, or have failed to do so after
131 being notified by the Port Authority of the time and place where such proof
132 of title would be received, the Port Authority shall apply to a justice of the
133 Supreme Court for leave to bring on before him upon a day to be fixed by
134 said justice a hearing upon the claim so filed, or in case no claims are filed,
135 to fix the amount to be paid for such lands.

136 In order to advise the said justice, he may appoint three commissioners
137 to view said lands, and to advise him what damages, if any, should be
138 assessed for the taking of such lands. The commissioners shall proceed
139 under such directions and rules as shall from time to time be fixed by the
140 said justice to view the lands, to hear such evidence as they may desire, and
141 to fix such sum, if any, that in their judgment will represent the fair value
142 of the lands so taken. The said justice may review such findings and shall
143 not be bound thereby, but may alter or reject such findings in such manner
144 as will, in his judgment, fairly protect the interests of the parties, and such
145 review may be made either with or without further hearing. The commis-
146 sioners so appointed to advise said justice shall make their report to him
147 within one hundred days from the date of their qualification.

148 After said justice shall have ascertained and estimated the compensa- 17
149 tion which should justly be made by the Port Authority to the respective 18
150 owners of the real property being acquired, he shall then order that judgment 18
151 be entered in the amount so determined. 18

152 (k) It shall be the duty of the justice, or the commissioners designated 18
153 by him, to view the real property to be acquired. Where title to real property 18
154 being acquired in a proceeding shall have been vested in the Port Authority, 18
155 and buildings or improvements situated thereon shall have been removed or 18
156 destroyed by the Port Authority or pursuant to its authority prior to the pro- 18
157 ceeding, and whereby the justice is, or the commissioners are, deprived of a 18
158 view of the buildings or improvements so removed or destroyed, the fact that 18
159 the justice has not had, or the commissioners have not had a view thereof, 19
160 shall not preclude the justice or the commissioners from receiving in the 19
161 proceeding, testimony and evidence as to the damage sustained by the 19
162 claimant by reason of the taking thereof, when offered on behalf of either 19
163 the claimant or the Port Authority. 19

164 (l) No evidence shall be admitted in the proceeding, as against an owner 19
165 of real property being acquired, of an offer made by or on behalf of such 19
166 owner for the sale of his property or any part thereof to the Port Authority, 19
167 or for the sale or assignment of any right and title to the award or awards, 19
168 or any part thereof, to be made for such property or any part thereof, in 19
169 the proceeding; nor shall any evidence be received, as against the Port 20
170 Authority, of any offer made to such owner, by or on its behalf, for the 20
171 purchase of such property or any part thereof or for the purchase of the 2
172 award or awards or any part thereof, to be made for such property, or any 2
173 part thereof, in the proceeding. 2

174 (m) The Port Authority shall furnish to the justice such surveys, 2
175 diagrams, maps, plans and profiles as the justice shall require, to enable the 2
176 justice to hear and determine the claims of the owners of the real property 2
177 affected by the proceeding. Such surveys, diagrams, maps, plans and profiles 2
178 shall distinctly indicate by separate numbers, the names of the claimants to, 2

179 or of the owners of the respective parcels of real property to be taken in such
180 proceeding, so far as the same are known, and shall also specify in figures
181 with sufficient accuracy the dimensions and bounds of such real property.
182 Where possible, such real property shall be designated on such maps by the
183 same ward or block and lot numbers or other designations as shall be used
184 to designate such real property on the tax books and tax maps of the taxing
185 agency in which it is located. The justice may require the Port Authority to
186 furnish such other surveys, diagrams, maps, plans and profiles and such
187 other information as shall aid and assist the justice in the proceeding.

188 (n) The Port Authority, or any party or person affected by the proceed-
189 ing and aggrieved by the judgment made therein, as to awards may petition
190 the Supreme Court or a justice thereof for a writ of certiorari to review the
191 proceeding in accordance with the provisions contained in chapter eighty-one
192 of Title 2 of the Revised Statutes. If the judgment entered in the proceeding
193 to condemn should be reversed upon any subsequent review, such reversal
194 shall not divest the Port Authority of title to the real property thereby
195 affected.

196 (o) All damages awarded by the justice, with interest thereon from the
197 date of the filing of the judgment, of if the title to the real property acquired
198 shall have vested in the Port Authority prior thereto, from the date of such
199 vesting, shall be paid by the Port Authority to the respective owners to whom
200 the damages were awarded in the judgment, within two calendar months
201 after the entry of the judgment, without further order of the court, or
202 application for such payment by said owners. Property owners appearing
203 in the proceeding shall not be entitled to recover counsel fees, costs, dis-
204 bursements or allowances. Any outstanding taxes, assessments or other
205 liens shall be deducted from the amount of the award and no interest shall
206 be paid by the Port Authority upon the sum or sums so deducted. Payment
207 of an award to a person named in the judgment as the owner thereof, if not
208 under legal disability, shall in the absence of notice in writing to the Port
209 Authority of adverse claims thereto protect the Port Authority and shall be
210 a full acquittance and release of all claims to said award.

211 In case there shall be a dispute as to title, or the party entitled to receive
 212 the amount assessed by the justice shall refuse upon tender thereof to receive
 213 the same, or shall be out of the State or under any legal disability, or in
 214 case several parties being interested in the fund shall not agree as to the
 215 distribution thereof, or in case the lands or other property taken are encum-
 216 bered by mortgage, judgment or other lien, or if for any other reason the
 217 Port Authority cannot safely pay the amount awarded to any person, in all
 218 such cases, on petition to the Chancellor, to which shall be annexed a copy
 219 of the petition in condemnation and of the findings of the justice or commis-
 220 sioners, if there be any, the amount awarded may be paid into the Court of
 221 Chancery by order of the Chancellor, and shall there be distributed accord-
 222 ing to law, on the application of any person interested therein. Written notice
 223 given to the owner or owners and to persons interested that such moneys
 224 have been so paid into court shall have the same effect as if the moneys so
 225 awarded had been actually tendered to the owner or persons entitled thereto.
 226 Notice by advertisement in such manner as the Chancellor shall direct shall
 227 be deemed sufficient notice.

228 (p) The Port Authority may pay to the person entitled to an award for
 229 real property acquired in a proceeding, in advance of the final judgment, a
 230 sum to be determined by the Port Authority, not exceeding sixty per centum
 231 (60%) of the assessed value of the real property taken less the liens and
 232 encumbrances of record thereon; *provided*, that when the real property taken
 233 shall be less than the fee, then such sum shall not exceed sixty per centum
 234 (60%) of the amount set forth in the petition as the estimated value of such
 235 interest, less the liens and encumbrances thereon. If the Port Authority
 236 shall make a partial payment in advance either pursuant to this subsection
 237 or pursuant to section six hereof, interest on the sum so paid in advance
 238 shall cease to run on and after a date five days after such person shall have
 239 been notified by mail or otherwise that the Port Authority is ready to pay the
 240 same. In case the person entitled to an award at the date of the vesting of
 241 title to the real property in the Port Authority shall have transferred or

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242 assigned his claim, such transfer or assignment made by him, or by his
243 successor in interest or legal representative, shall not become binding upon
244 the Port Authority unless the instrument or instruments evidencing such
245 transfer or assignment shall have been filed in the office of the Port Authority
246 prior to any such advance payment. When any such advance payment shall
247 have been made, the Port Authority, on paying the awards for the real
248 property acquired, shall deduct from the total amount allowed as compensa-
249 tion the sum advanced plus interest thereon from the date of the payment of
250 such advance to the date of the final judgment, and the balance shall be
251 paid as hereinbefore provided in subdivision (o) hereof.

252 (q) In any proceeding hereunder, in which title to the real property to
253 be acquired shall have become vested in the Port Authority prior to the
254 entry of final judgment, the Port Authority shall have power and is hereby
255 authorized to purchase from the owners of such real property at the date of
256 the vesting of title thereto, or their successors in interest or legal repre-
257 sentatives, their right and title to the award or awards, or any part thereof,
258 to be made in such proceeding and to take an assignment thereof to the Port
259 Authority.

260 (r) No pledge, sale, transfer or assignment of an award by the person
261 entitled to receive the same by virtue of the judgment or by other order of
262 the justice, shall be valid unless the instrument evidencing such pledge,
263 sale, transfer or assignment shall be acknowledged or proved as instruments
264 are required to be acknowledged or proved for the recording of transfers of
265 real property and shall be filed in the office of the Port of New York
266 Authority. Every such instrument not so filed shall be void as against any
267 subsequent pledgee or assignee in good faith and for a valuable consideration
268 from the same pledgor or assignor, his heirs, administrators or assigns, of
269 the same award or any portion thereof, the assignment of which is first duly
270 filed in the office of the Port Authority. The Port Authority shall maintain
271 in its office a record of all pledges or assignments filed with it under the
272 provisions hereof.

273 (s) The justice at any time may correct any defect or informality in
274 any notice, petition, pleading, order or judgment in the proceeding, or cause
275 real property affected by such defect, informality or lack of jurisdiction to
276 be excluded therefrom or any other real property affected by such defect,
277 informality or lack of jurisdiction to be included therein by amendment
278 upon ten days' notice published as provided for the institution of the proceed-
279 ing and may direct such further notices to be given to any party in interest
280 as it shall deem proper.

281 (t) The Board of Commissioners of the Port Authority by resolution
282 may abandon any proceeding as to the whole or a part of the lands to be
283 acquired in such proceeding, at any time before title to the real property to
284 be thereby acquired shall have vested in the Port Authority, and may cause
285 new proceedings to be taken for the condemnation of such real property. In
286 case of such abandonment, however, the reasonable actual cash disburse-
287 ments, necessarily incurred and made in good faith by any party interested,
288 shall be paid by the Port Authority, after the same shall have been taxed by
289 a justice of the Supreme Court, upon ten days' notice of such taxation being
290 previously given to the Port Authority; *provided*, the application to have
291 such disbursements taxed shall be made and presented to the justice within
292 one year after the adoption of the resolution of the board discontinuing the
293 proceeding in whole or in part. For the purposes of this section, the fair
294 and reasonable value of the services of an attorney retained by any inter-
295 ested party to represent his interests in said condemnation proceeding,
296 whether on a contingent fee basis or otherwise, if such retainer be made in
297 good faith, shall be deemed to be an actual cash disbursement, necessarily
298 incurred by such interested party and shall be taxable in the same manner
299 as other disbursements. The amounts taxed as disbursements shall be due
300 and payable thirty days after written demand for payment thereof shall
301 have been filed with the Port Authority.

302 (u) The title to any piece or parcel of the real property, or any interest
303 therein, authorized to be acquired hereunder shall be vested in the Port
304 Authority upon the entry of the order granting the application to condemn.

305 The Port Authority, however, may direct that the title shall be vested in the
306 Port Authority upon a specified date after the date of the entry of the order
307 granting the application to condemn, or upon the date of the filing of the
308 final judgment, but not later than the date of the filing of the final judgment.
309 Upon the date when title to the real property shall have vested as herein
310 provided, the Port Authority shall become and be seized in fee of or of an
311 easement in, over, above, through, upon or under such real property or such
312 other interest therein as may have been specified, the same to be held, appro-
313 priated, converted and used for the purposes for which the proceeding was
314 instituted. The Port Authority or any person acting under its authority
315 shall immediately or at any time thereafter take possession of such property
316 without suit or other judicial proceedings.

317 (v) Where the whole of any lot or parcel of real property, under lease
318 or other contract, shall be taken, all the covenants, contracts and engage-
319 ments between landlords and tenant and other contracting parties touching
320 the same or any part thereof, upon the vesting of title in the Port Authority,
321 shall cease and determine and be absolutely discharged. Where a part only
322 of any lot or parcel of real property so under lease or other contract shall
323 be so taken, all contracts and engagements respecting the same, upon such
324 vesting of title, shall cease and determine and be absolutely discharged as to
325 the part thereof so taken, but shall remain valid and obligatory as to the
326 residue thereof. All tenants in possession of such premises at the time of
327 the vesting of title thereto in the Port Authority shall become tenants at
328 will of the Port Authority unless within ten days after the vesting of title
329 they shall elect to vacate and give up their respective holdings.

1 8. In the event that the Port Authority shall find it necessary or desir-
2 able to acquire any lands under water in the State of New Jersey for marine
3 terminal purposes, the Division of Navigation of the Department of Conserva-
4 tion of that State may grant, transfer or convey such lands under water
5 to the Port Authority in accordance with the statutes of that State governing
6 the making of riparian grants and leases, upon such terms and conditions as
7 may be determined by said Division.

1 9. This act shall take effect upon the enactment into law by the State of
2 New York of legislation having an identical effect with sections one to five,
3 inclusive, of this act; but if the State of New York shall have already enacted
4 such legislation, then this act shall take effect immediately.

STATEMENT

At the request of the Board of Commissioners of the City of Newark, the Port of New York Authority conducted a survey to determine the feasibility of the operation of the Newark Airport and Marine Terminal by the Port Authority. As a result of this survey, the Port Authority has submitted a proposal to the City of Newark to go forward with the financing and development of the Newark Airport and Marine Terminal.

This bill constitutes an agreement with the State of New York which grants certain supplemental powers to the Port Authority in connection with marine terminals which will be necessary if Newark accepts the proposal. A separate bill has been introduced to cover airports.

It authorizes the Port Authority to proceed with the acquisition by conveyance, lease or otherwise and with the operation of marine terminals situated in the State of New Jersey and within the Port District. The bill also contains a grant of the right of condemnation for marine terminal purposes.

It authorizes municipalities located in the State of New Jersey and within the Port of New York District to co-operate with the Port of New York Authority in the development of marine terminals. It provides, however, that no marine terminal or other property owned by any municipality within the Port District may be acquired by the Port Authority without the consent of such municipality.

The purpose of this bill is to implement the powers of the Port Authority and municipalities situated in the State of New Jersey and within the Port District to go forward with the plans now in process of preparation if the municipalities or any of them so desire.

[OFFICIAL COPY REPRINT]

SENATE, No. 169

STATE OF NEW JERSEY

INTRODUCED MARCH 3, 1947

By Mr. VAN ALSTYNE

Referred to Committee on Federal and Interstate Relations

AN ACT to facilitate the development by the Port of New York Authority of marine terminals, and agreeing with the State of New York with respect thereto.

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

1 1. Upon the concurrence of the State of New York as provided in section
2 nine hereof, the States of New Jersey and New York hereby agree that
3 municipalities, as hereinafter defined, located in the State of New Jersey and
4 within the Port of New York District shall be and they hereby are author-
5 ized to co-operate with the Port of New York Authority (hereinafter called
6 the Port Authority) in the development of marine terminals, and the two said
7 States further agree that the State of New Jersey may authorize the Port
8 Authority to acquire by condemnation or the exercise of the right of eminent
9 domain real property in the State of New Jersey necessary, convenient or
10 desirable for marine terminal purposes, under and pursuant to the Revised
11 Statutes of New Jersey, Title 20:1-1, et seq., or at the option of the Port
12 Authority, pursuant to such other or alternate procedure as may be provided
13 by law by such State.

1 2. Nothing herein contained shall be construed to authorize the Port
2 Authority to acquire any marine terminal owned or operated by any munici-
3 pality or any other property now or hereafter vested in or held by any

4 municipality, without the authority or consent of such municipality as pro-
5 vided in the compact of April thirtieth, one thousand nine hundred and
6 twenty-one, between the States of New Jersey and New York, nor shall any-
7 thing herein impair or invalidate in any way any bonded indebtedness of the
8 State, or any municipality, nor impair the provisions of law regulating the
9 payment into sinking funds of revenue derived from municipal property, or
10 dedicating the revenues derived from municipal property to a specific purpose.

1 3. The following terms as used herein shall mean:

2 "Marine terminals" shall mean developments, consisting of one or more
3 piers, wharves, docks, bulkheads, slips, basins, vehicular roadways, railroad
4 connections, side tracks, sidings or other buildings, structures, facilities or
5 improvements, necessary or convenient to the accommodation of steamships
6 or other vessels and their cargoes or passengers.

7 "Marine terminal purposes" shall mean the effectuation, establishment,
8 acquisition, construction, rehabilitation, improvement, maintenance or oper-
9 ation of marine terminals.

10 "Municipality" shall mean a county, city, borough, village, township,
11 town, public agency, public authority or political subdivision.

12 "Real property" shall mean lands, structures, franchises and interests
13 in land, including waters, lands under water and riparian rights, and any and
14 all things and rights usually included within the said term, and includes not
15 only fees simple absolute but also any and all lesser interests, including but
16 not limited to easements, rights-of-way, uses, leases, licenses and all other in-
17 corporeal hereditaments and every estate, interest or right, legal or equitable,
18 including terms for years and liens thereon by way of judgments, mortgages
19 or otherwise.

1 4. Notwithstanding any contrary provision of law, any municipality of
2 the State of New Jersey located within the Port of New York District is au-
3 thorized and empowered to consent to the use by the Port Authority of any
4 marine terminal owned by such municipality or of any real or personal prop-
5 erty owned by such municipality and necessary, convenient or desirable in

6 the opinion of the Port Authority for marine terminal purposes, including
7 such real property as has already been devoted to a public use and as an
8 incident to such consent, to grant, convey, lease or otherwise transfer to the
9 Port Authority any such marine terminal or real or personal property. Every
10 such municipality is also authorized and empowered to vest in the Port Au-
11 thority the control, operation, maintenance, rents, tolls, charges and any and
12 all other revenues of any marine terminal now owned by such municipality,
13 the title to such marine terminal remaining in such municipality. Such
14 consent shall be given, and the execution of any agreement, deed, lease, con-
15 veyance or other instrument evidencing such consent or given as an incident
16 thereto shall be authorized in the manner provided in Article XXII of the
17 compact of April thirtieth, one thousand nine hundred and twenty-one, be-
18 tween the two States creating the Port Authority.

1 5. This section and the preceding sections hereof constitute an agreement
2 between the States of New Jersey and New York supplementary to the com-
3 pact between the two States dated April thirtieth, one thousand nine hundred
4 and twenty-one, and amendatory thereof and shall be liberally construed to
5 effectuate the purposes of said compact and of the comprehensive plan here-
6 tofore adopted by the two States pursuant thereto, and the powers vested in
7 the Port Authority hereby shall be construed to be in aid of and supplemental
8 to and not in limitation or derogation of any of the powers heretofore con-
9 ferred upon or delegated to the Port Authority.

1 6. If for the purposes of establishing marine terminals or purposes inci-
2 dental thereto, including temporary construction purposes, the Port Authority
3 shall find it necessary or convenient to acquire any real property as herein
4 defined, whether for immediate or future use, the Port Authority may find
5 and determine that such property, whether a fee simple absolute or a lesser
6 interest, is required for a public use, and upon such determination the said
7 property shall be and shall be deemed to be required for such public use until
8 otherwise determined by the Port Authority.

9 The Port Authority may acquire and is hereby authorized to acquire
10 such property, whether a fee simple absolute or a lesser estate, by condemna-
11 tion or the exercise of the right of eminent domain under and pursuant to
12 the Revised Statutes of New Jersey, Title 20:1-1 et seq., or at the option of
13 the Port Authority pursuant to such other and alternate procedure as may
14 be provided by law. Nothing herein contained shall be construed to prevent
15 the Port Authority from bringing any proceedings to remove a cloud on title
16 or such other proceedings as it may, in its discretion, deem proper and neces-
17 sary, or acquiring any such property by negotiation or purchase.

18 In the event the Port Authority shall deem that the use by it of any
19 real property for any purpose hereunder will be necessary either immediately
20 or by a definite future date, it may file with any petition in any condemnation
21 proceeding brought pursuant to law or at any time thereafter a notice that it
22 requires the possession thereof, either immediately or at a date specified in
23 such notice. In such event, the Port Authority shall cause a duplicate of
24 such notice and an affidavit of the filing thereof to be recorded in the office
25 in which deeds are required to be recorded in the county wherein the land
26 involved is situated and upon such recording the Port Authority may enter
27 upon and shall be entitled to the possession, use and occupation of such real
28 property at the time specified in said notice without suit or other judicial
29 proceedings; *provided*, that it shall first deposit with the court a sum equal to
30 the assessed valuation of such real property, or in the event that the assessed
31 valuation thereof cannot be readily ascertained such sum as in the judgment
32 of the Port Authority shall be sufficient as compensation for the real property
33 acquired. The sum so deposited with the court shall be applied to the satis-
34 faction of any award thereafter made in any condemnation proceeding. Such
35 filing and recording of said notice shall be conclusive evidence of the entry
36 upon and appropriation of said property by the Port Authority, and title to
37 said property shall vest in the Port Authority on the date specified in such
38 notice. The power of the Port Authority to acquire real property by con-
39 demnation hereunder shall be a continuing power, and no exercise thereof
40 shall be deemed to exhaust it.

41 Nothing herein contained shall be construed to permit the taking by the
42 Port Authority of any property owned by any railroad or railway corpora-
43 tion, or by any other corporation which is a "public utility" as defined in
44 section 48:2-13 of the Revised Statutes, and devoted to use by such corpora-
45 tion in its operations, or acquired prior to the effective date of this act and
46 held for such use, without the authority or consent of such corporation.

1 7. The Port Authority may exercise the right of eminent domain or
2 condemnation to acquire real property for marine terminal purposes as set
3 forth in this section:

4 (a) As used in this section, unless otherwise expressly stated or unless
5 context or subject matter otherwise requires, the following terms shall mean:

6 (1) "Days." Calendar days exclusive of Sundays and full legal
7 holidays.

8 (2) "Owner." A person having an estate, interest or easement in
9 the real property being acquired or a lien, charge or encumbrance thereon.

10 (b) Whenever the Port Authority shall determine that it is necessary to
11 acquire real property for marine terminal purposes for the public use by the
12 exercise of the right of eminent domain or condemnation, it shall prepare
13 three similar surveys, diagrams, maps, plans or profiles of the real property
14 being acquired, stating thereon that the Port Authority has determined that
15 it is necessary to acquire said property, and the amount or valuation at
16 which each parcel of real property to be acquired has been assessed for pur-
17 poses of taxation on the tax rolls for each of the three years preceding, and
18 if the interest being taken shall be less than the fee, the estimated value of
19 such interest; one of such surveys, diagrams, maps, plans or profiles shall be
20 filed in the office of the secretary of the Port Authority, the second shall be
21 filed in the office in which instruments affecting real property are required
22 to be recorded, in the county in which such real property is situated, and
23 the third copy shall be filed in the office of the clerk of the Supreme Court;
24 and it shall file in the office of the clerk of the county where the real property
25 to be acquired or any part thereof is situated a notice of the pendency of a

26 proceeding for the acquisition of such property. Such notice shall briefly
27 state the object of the proceeding and shall contain a brief description of the
28 real property being acquired thereby. It shall also state the names of such
29 of the owners of such real property as may be known to the Port Authority,
30 and in case any of the owners are unknown, a statement to that effect shall
31 be made in such notice. Such notice, from the time of filing, shall be con-
32 structive notice to a purchaser or encumbrancer of the real property affected
33 thereby from or against any person interested as owner with respect to whom
34 the notice is directed to be indexed.

35 It shall be lawful for the duly authorized agents of the Port Authority,
36 and all persons acting under its authority and by its direction, to enter in the
37 daytime into and upon such real property which it shall be necessary so to
38 enter, for the purpose of making such surveys, diagrams, maps or plans, or
39 for the purpose of making such soundings or borings as the Port Authority
40 may deem necessary.

41 (c) Whenever any land or other property taken for public use shall lie
42 or be in two or more counties, all reports, petitions, orders and other papers
43 required to be filed shall be filed in the clerk's office of the county in which
44 the greater part in value of the land or other property is situate and a
45 certified copy thereof shall be filed and recorded in the clerk's office of the
46 other county or counties. The commissioners, if any be designated, shall be
47 residents of the county in which the greater part in value of the land or
48 other property is situate.

49 (d) Upon the filing of the lis pendens, the Port Authority shall cause
50 notice by advertisement to be published on one day in each of four successive
51 weeks in a newspaper published and of general circulation in the county in
52 which the real property to be acquired is located, of its intention to make
53 application to one of the justices of the Supreme Court, at a time and place
54 to be stated in such notice, to have the compensation which should justly be
55 made to the respective owners of the real property proposed to be taken,
56 ascertained and determined by the justice. Such notice shall indicate the real

57 property to be taken by a general description and by reference to the map on
58 file in the office of the Port Authority, in the office in which instruments
59 affecting real property are required to be recorded, and in the office of the
60 clerk of the Supreme Court.

61 (e) In addition to the provisions contained in subdivision (d) above,
62 written notice of the application shall be given by the Port Authority to the
63 owners of all property affected by the proceeding at least ten days prior to
64 such application, by mailing the same to such owners at the address registered
65 or filed with the collector of taxes for the purpose of forwarding to them
66 bills for taxes or assessments. Such notice shall state the purpose for which
67 the property is to be acquired and the date when such application will be
68 presented and shall contain a copy of such application. Failure to comply
69 with the directions contained in this subdivision shall not invalidate or affect
70 the proceeding.

71 (f) Upon the application to condemn, the Port Authority shall present
72 to the justice a verified petition setting forth:

73 (1) The action had by the Board of Commissioners of the Port
74 Authority with reference to the proceeding;

75 (2) The real property to be acquired therein by setting forth a specific
76 description thereof, and its location with reasonable certainty and by
77 reference to the map on file in the office of the Port Authority, in the
78 office in which instruments affecting real property are required to be
79 recorded, and in the office of the clerk of the Supreme Court, a copy of
80 which shall be attached to the petition;

81 (3) The amount of valuation at which each parcel of the real prop-
82 erty to be acquired has been assessed for purposes of taxation on the
83 tax rolls for each of the three years preceding the date of the petition, or
84 if the interests being taken shall be less than the fee, the estimated
85 value of such interest;

86 (4) A prayer that the real property described therein be condemned.

87 (g) At the time and place mentioned in the notice published pursuant
88 to subdivision (d) hereof, unless the justice shall adjourn the application to
89 a subsequent day, and in that event, at the time and place to which such
90 application may be adjourned, upon due proof to his satisfaction of the
91 publication and mailing of such notice and upon filing such petition, the
92 justice shall enter an order granting the application, which order shall be filed
93 in the office of the clerk of the Supreme Court. The Port Authority shall,
94 within ten days after the entry of such order, cause a certified copy thereof
95 to be recorded in the office where instruments affecting real property are
96 required to be recorded, in every county in which any part of the real prop-
97 erty affected is situated, in the same manner as deeds are recorded, and the
98 register of deeds or county clerk with whom such certified copy shall be
99 recorded, shall index the same in the same manner as recorded deeds are
100 indexed.

101 (h) The Port Authority, after the filing of the order granting the ap-
102 plication to condemn, shall cause to be published on one day in each of four
103 successive weeks in a newspaper published and of general circulation in the
104 county in which the real property to be acquired is located, a notice contain-
105 ing a general description of the real property to be acquired, a statement
106 that such order has been filed and requiring that all owners of such real prop-
107 erty shall, on or before a date specified in the order granting the applica-
108 tion, file in the office of the Clerk of the Supreme Court, a written claim or
109 demand, duly verified, setting forth the real property owned by the claimant,
110 his post-office address, and the nature of his interest in said real property.
111 The claimant shall within the same time serve on the Port Authority a copy
112 of such verified claim.

113 (i) Proof of title to the real property to be acquired, where the same is
114 undisputed, together with proof of liens or encumbrances thereon, shall be
115 submitted by the claimant to the Port Authority. The Port Authority shall
116 serve upon all parties or their attorneys who have served upon it copies of
117 their verified claims, a notice of the time and place at which it will receive

118 such proof of title. Where the title of the claimant is disputed, such dispute
119 shall not act as a stay of the proceeding to determine the value of the prop-
120 erty to be taken, but the proceeding shall continue in the same manner as it
121 would if there were no dispute as to the title, and the award, if any, shall be
122 paid into the Court of Chancery by order of the Chancellor, and shall there
123 be distributed, according to law, on the application of any person interested
124 therein. Written notice given to the owner or owners and to persons inter-
125 ested that such moneys have been so paid into court shall have the same
126 effect as if the moneys so awarded had been actually tendered to the owner
127 or persons entitled thereto. Notice by advertisement in such manner as the
128 Chancellor shall direct shall be deemed sufficient notice.

129 (j) After all parties who have filed verified claims, as provided in sub-
130 division (h) hereof, have proved their titles, or have failed to do so after
131 being notified by the Port Authority of the time and place where such proof
132 of title would be received, the Port Authority shall apply to a justice of the
133 Supreme Court for leave to bring on before him upon a day to be fixed by
134 said justice a hearing upon the claim so filed, or in case no claims are filed,
135 to fix the amount to be paid for such lands.

136 In order to advise the said justice, he may appoint three commissioners
137 to view said lands, and to advise him what damages, if any, should be
138 assessed for the taking of such lands. The commissioners shall proceed
139 under such directions and rules as shall from time to time be fixed by the
140 said justice to view the lands, to hear such evidence as they may desire, and
141 to fix such sum, if any, that in their judgment will represent the fair value
142 of the lands so taken. The said justice may review such findings and shall
143 not be bound thereby, but may alter or reject such findings in such manner
144 as will, in his judgment, fairly protect the interests of the parties, and such
145 review may be made either with or without further hearing. The commis-
146 sioners so appointed to advise said justice shall make their report to him
147 within one hundred days from the date of their qualification.

148 After said justice shall have ascertained and estimated the compensa-
149 tion which should justly be made by the Port Authority to the respective
150 owners of the real property being acquired, he shall then order that judgment
151 be entered in the amount so determined.

152 (k) It shall be the duty of the justice, or the commissioners designated
153 by him, to view the real property to be acquired. Where title to real property
154 being acquired in a proceeding shall have been vested in the Port Authority,
155 and buildings or improvements situated thereon shall have been removed or
156 destroyed by the Port Authority or pursuant to its authority prior to the pro-
157 ceeding, and whereby the justice is, or the commissioners are, deprived of a
158 view of the buildings or improvements so removed or destroyed, the fact that
159 the justice has not had, or the commissioners have not had a view thereof,
160 shall not preclude the justice or the commissioners from receiving in the
161 proceeding, testimony and evidence as to the damage sustained by the
162 claimant by reason of the taking thereof, when offered on behalf of either
163 the claimant or the Port Authority.

164 (l) No evidence shall be admitted in the proceeding, as against an owner
165 of real property being acquired, of an offer made by or on behalf of such
166 owner for the sale of his property or any part thereof to the Port Authority,
167 or for the sale or assignment of any right and title to the award or awards,
168 or any part thereof, to be made for such property or any part thereof, in
169 the proceeding; nor shall any evidence be received, as against the Port
170 Authority, of any offer made to such owner, by or on its behalf, for the
171 purchase of such property or any part thereof or for the purchase of the
172 award or awards or any part thereof, to be made for such property, or any
173 part thereof, in the proceeding.

174 (m) The Port Authority shall furnish to the justice such surveys,
175 diagrams, maps, plans and profiles as the justice shall require, to enable the
176 justice to hear and determine the claims of the owners of the real property
177 affected by the proceeding. Such surveys, diagrams, maps, plans and profiles
178 shall distinctly indicate by separate numbers, the names of the claimants to,

179 or of the owners of the respective parcels of real property to be taken in such
180 proceeding, so far as the same are known, and shall also specify in figures
181 with sufficient accuracy the dimensions and bounds of such real property.
182 Where possible, such real property shall be designated on such maps by the
183 same ward or block and lot numbers or other designations as shall be used
184 to designate such real property on the tax books and tax maps of the taxing
185 agency in which it is located. The justice may require the Port Authority to
186 furnish such other surveys, diagrams, maps, plans and profiles and such
187 other information as shall aid and assist the justice in the proceeding.

188 (n) The Port Authority, or any party or person affected by the proceed-
189 ing and aggrieved by the judgment made therein as to awards may petition
190 the Supreme Court or a justice thereof for a writ of certiorari to review the
191 proceeding in accordance with the provisions contained in chapter eighty-one
192 of Title 2 of the Revised Statutes. If the judgment entered in the proceeding
193 to condemn should be reversed upon any subsequent review, such reversal
194 shall not divest the Port Authority of title to the real property thereby
195 affected.

196 (o) All damages awarded by the justice, with interest thereon from the
197 date of the filing of the judgment, or if the title to the real property acquired
198 shall have vested in the Port Authority prior thereto, from the date of such
199 vesting, shall be paid by the Port Authority to the respective owners to whom
200 the damages were awarded in the judgment, within two calendar months
201 after the entry of the judgment, without further order of the court, or
202 application for such payment by said owners. Property owners appearing
203 in the proceeding shall not be entitled to recover counsel fees, costs, dis-
204 bursements or allowances. Any outstanding taxes, assessments or other
205 liens shall be deducted from the amount of the award and no interest shall
206 be paid by the Port Authority upon the sum or sums so deducted. Payment
207 of an award to a person named in the judgment as the owner thereof, if not
208 under legal disability, shall in the absence of notice in writing to the Port
209 Authority of adverse claims thereto protect the Port Authority and shall be
210 a full acquittance and release of all claims to said award.

211 In case there shall be a dispute as to title, or the party entitled to receive
212 the amount assessed by the justice shall refuse upon tender thereof to receive
213 the same, or shall be out of the State or under any legal disability, or in
214 case several parties being interested in the fund shall not agree as to the
215 distribution thereof, or in case the lands or other property taken are encum-
216 bered by mortgage, judgment or other lien, or if for any other reason the
217 Port Authority cannot safely pay the amount awarded to any person, in all
218 such cases, on petition to the Chancellor, to which shall be annexed a copy
219 of the petition in condemnation and of the findings of the justice or commis-
220 sioners, if there be any, the amount awarded may be paid into the Court of
221 Chancery by order of the Chancellor, and shall there be distributed accord-
222 ing to law, on the application of any person interested therein. Written notice
223 given to the owner or owners and to persons interested that such moneys
224 have been so paid into court shall have the same effect as if the moneys so
225 awarded had been actually tendered to the owner or persons entitled thereto.
226 Notice by advertisement in such manner as the Chancellor shall direct shall
227 be deemed sufficient notice.

228 (p) The Port Authority may pay to the person entitled to an award for
229 real property acquired in a proceeding, in advance of the final judgment, a
230 sum to be determined by the Port Authority, not exceeding sixty per centum
231 (60%) of the assessed value of the real property taken less the liens and
232 encumbrances of record thereon; *provided*, that when the real property taken
233 shall be less than the fee, then such sum shall not exceed sixty per centum
234 (60%) of the amount set forth in the petition as the estimated value of such
235 interest, less the liens and encumbrances thereon. If the Port Authority
236 shall make a partial payment in advance either pursuant to this subsection
237 or pursuant to section six hereof, interest on the sum so paid in advance
238 shall cease to run on and after a date five days after such person shall have
239 been notified by mail or otherwise that the Port Authority is ready to pay the
240 same. In case the person entitled to an award at the date of the vesting of
241 title to the real property in the Port Authority shall have transferred or

242 assigned his claim, such transfer or assignment made by him, or by his
243 successor in interest or legal representative, shall not become binding upon
244 the Port Authority unless the instrument or instruments evidencing such
245 transfer or assignment shall have been filed in the office of the Port Authority
246 prior to any such advance payment. When any such advance payment shall
247 have been made, the Port Authority, on paying the awards for the real
248 property acquired, shall deduct from the total amount allowed as compensa-
249 tion the sum advanced plus interest thereon from the date of the payment of
250 such advance to the date of the final judgment, and the balance shall be
251 paid as hereinbefore provided in subdivision (o) hereof.

252 (q) In any proceeding hereunder, in which title to the real property to
253 be acquired shall have become vested in the Port Authority prior to the
254 entry of final judgment, the Port Authority shall have power and is hereby
255 authorized to purchase from the owners of such real property at the date of
256 the vesting of title thereto, or their successors in interest or legal repre-
257 sentatives, their right and title to the award or awards, or any part thereof,
258 to be made in such proceeding and to take an assignment thereof to the Port
259 Authority.

260 (r) No pledge, sale, transfer or assignment of an award by the person
261 entitled to receive the same by virtue of the judgment or by other order of
262 the justice, shall be valid unless the instrument evidencing such pledge,
263 sale, transfer or assignment shall be acknowledged or proved as instruments
264 are required to be acknowledged or proved for the recording of transfers of
265 real property and shall be filed in the office of the Port of New York
266 Authority. Every such instrument not so filed shall be void as against any
267 subsequent pledgee or assignee in good faith and for a valuable consideration
268 from the same pledgor or assignor, his heirs, administrators or assigns, of
269 the same award or any portion thereof, the assignment of which is first duly
270 filed in the office of the Port Authority. The Port Authority shall maintain
271 in its office a record of all pledges or assignments filed with it under the
272 provisions hereof.

273 (s) The justice at any time may correct any defect or informality in
274 any notice, petition, pleading, order or judgment in the proceeding, or cause
275 real property affected by such defect, informality or lack of jurisdiction to
276 be excluded therefrom or any other real property affected by such defect,
277 informality or lack of jurisdiction to be included therein by amendment
278 upon ten days' notice published as provided for the institution of the proceed-
279 ing and may direct such further notices to be given to any party in interest
280 as it shall deem proper.

281 (t) The Board of Commissioners of the Port Authority by resolution
282 may abandon any proceeding as to the whole or a part of the lands to be
283 acquired in such proceeding, at any time before title to the real property to
284 be thereby acquired shall have vested in the Port Authority, and may cause
285 new proceedings to be taken for the condemnation of such real property. In
286 case of such abandonment, however, the reasonable actual cash disburse-
287 ments, necessarily incurred and made in good faith by any party interested,
288 shall be paid by the Port Authority, after the same shall have been taxed by
289 a justice of the Supreme Court, upon ten days' notice of such taxation being
290 previously given to the Port Authority; *provided*, the application to have
291 such disbursements taxed shall be made and presented to the justice within
292 one year after the adoption of the resolution of the board discontinuing the
293 proceeding in whole or in part. For the purposes of this section, the fair
294 and reasonable value of the services of an attorney retained by any inter-
295 ested party to represent his interests in said condemnation proceeding,
296 whether on a contingent fee basis or otherwise, if such retainer be made in
297 good faith, shall be deemed to be an actual cash disbursement, necessarily
298 incurred by such interested party and shall be taxable in the same manner
299 as other disbursements. The amounts taxed as disbursements shall be due
300 and payable thirty days after written demand for payment thereof shall
301 have been filed with the Port Authority.

302 (u) The title to any piece or parcel of the real property, or any interest
303 therein, authorized to be acquired hereunder shall be vested in the Port
304 Authority upon the entry of the order granting the application to condemn.

305 The Port Authority, however, may direct that the title shall be vested in the
306 Port Authority upon a specified date after the date of the entry of the order
307 granting the application to condemn, or upon the date of the filing of the
308 final judgment, but not later than the date of the filing of the final judgment.
309 Upon the date when title to the real property shall have vested as herein
310 provided, the Port Authority shall become and be seized in fee of or of an
311 easement in, over, above, through, upon or under such real property or such
312 other interest therein as may have been specified, the same to be held, appro-
313 priated, converted and used for the purposes for which the proceeding was
314 instituted. The Port Authority or any person acting under its authority
315 shall immediately or at any time thereafter take possession of such property
316 without suit or other judicial proceedings.

317 (v) Where the whole of any lot or parcel of real property, under lease
318 or other contract, shall be taken, all the covenants, contracts and engage-
319 ments between landlord and tenant and other contracting parties touching
320 the same or any part thereof, upon the vesting of title in the Port Authority,
321 shall cease and determine and be absolutely discharged. Where a part only
322 of any lot or parcel of real property so under lease or other contract shall
323 be so taken, all contracts and engagements respecting the same, upon such
324 vesting of title, shall cease and determine and be absolutely discharged as to
325 the part thereof so taken, but shall remain valid and obligatory as to the
326 residue thereof. All tenants in possession of such premises at the time of
327 the vesting of title thereto in the Port Authority shall become tenants at
328 will of the Port Authority unless within ten days after the vesting of title
329 they shall elect to vacate and give up their respective holdings.

1 8. In the event that the Port Authority shall find it necessary or desir-
2 able to acquire any lands under water in the State of New Jersey for marine
3 terminal purposes, the Division of Navigation of the Department of Conserva-
4 tion of that State may grant, transfer or convey such lands under water
5 to the Port Authority in accordance with the statutes of that State governing
6 the making of riparian grants and leases, upon such terms and conditions as
7 may be determined by said Division.

1 9. This act shall take effect upon the enactment into law by the State of
2 New York of legislation having an identical effect with sections one to five,
3 inclusive, of this act; but if the State of New York shall have already enacted
4 such legislation, then this act shall take effect immediately.