

40A:20-1

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("Comprehensive Housing and
Redevelopment Tax Exemption
Law")

NJSA: 40A:20-1

LAWS OF: 1991 CHAPTER: 431

BILL NO: S291

SPONSOR(S): Lynch

DATE INTRODUCED: Pre-filed

COMMITTEE: ASSEMBLY: Housing

SENATE: County & Municipal Government;
Review, Finance & Appropriation

AMENDED DURING PASSAGE: Yes Amendments during passage
denoted by asterisks

DATE OF PASSAGE: ASSEMBLY: January 8, 1992

SENATE: June 27, 1991

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FOLLOWING STATEMENTS ARE ATTACHED IF AVAILABLE:

SPONSOR STATEMENT: Yes

COMMITTEE STATEMENT: ASSEMBLY: Yes

SENATE: Yes 9-24-90 & 6-10-91

FISCAL NOTE: No

VETO MESSAGE: No

MESSAGE ON SIGNING: No

FOLLOWING WERE PRINTED:

REPORTS: Yes

HEARINGS: No

Report mentioned in statements:
974.90 New Jersey. County and Municipal Government Study Commission.
M966 Local redevelopment in New Jersey: structuring a new
1987b partnership. January, 1987.

KBG:pp

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[THIRD REPRINT]

SENATE, No. 291

STATE OF NEW JERSEY

PRE-FILED FOR INTRODUCTION IN THE 1990 SESSION

By Senators LYNCH and STOCKMAN

1 AN ACT concerning urban renewal entities, authorizing
2 municipalities to enter into financial agreements with those
3 entities for redevelopment purposes, authorizing tax
4 exemptions with respect to their projects, supplementing Title
5 40A of the New Jersey Statutes, and revising or repealing
6 various parts of the statutory law.

7

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

10 1. This act shall be known and may be cited as the
11 ¹["Comprehensive Housing and Redevelopment] "Long Term¹ Tax
12 Exemption Law."

13 2. The Legislature finds that in the past a number of laws have
14 been enacted to provide for the clearance, replanning,
15 development, and redevelopment of blighted areas pursuant to
16 Article VIII, Section III paragraph 1 of the New Jersey
17 Constitution. These laws had as their public purpose the
18 restoration of deteriorated or neglected properties to a use
19 resulting in the elimination of the blighted condition, and sought
20 to encourage private capital and participation by private
21 enterprise to contribute toward this purpose through the use of
22 special financial arrangements, including the granting of property
23 tax exemptions.

24 The Legislature finds that these laws, separately enacted,
25 contain redundant and unnecessary provisions, or provisions which
26 have outlived their usefulness, and that it is necessary to revise,
27 consolidate and clarify the law in this area in order to preserve
28 and improve the usefulness of the law in promoting the original
29 public purpose.

30 The Legislature declares that the provisions of this act are one
31 means of accomplishing the redevelopment and rehabilitation
32 purposes of the "Local ¹[Housing and] ¹Redevelopment ¹and
33 Housing¹ Law," P.L. , c. (C.) (now pending before
34 the Legislature as ¹[this bill] Senate Bill No. 380 of 1990¹)
35 through the use of private entities and financial arrangements
36 pertaining thereto, and that this act should be construed in
37 conjunction with that act.

38 3. As used in this act:

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in the
above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹ Senate SCM committee amendments adopted September 24, 1990.

² Senate SRF committee amendments adopted June 10, 1991.

³ Assembly AHO committee amendments adopted January 6, 1992.

1 a. "Gross revenue" means annual gross revenue or gross
2 shelter rent or annual gross rents, as appropriate, and other
3 income, for each urban renewal entity designated pursuant to this
4 act. The financial agreement shall establish the method of
5 computing gross revenue for the entity, and the method of
6 determining insurance, operating and maintenance expenses paid
7 by a tenant which are ordinarily paid by a landlord, which shall be
8 included in the gross revenue.

9 b. "Limited-Dividend Entity" means an urban renewal entity
10 incorporated pursuant to Title 14A of the New Jersey Statutes, or
11 established pursuant to Title 42 of the Revised Statutes, for
12 which the profits and the entity are limited as follows. The
13 allowable net profits of the entity shall be determined by
14 applying the allowable profit rate to each total project unit cost,
15 if the project is undertaken in units, or the total project cost, if
16 the project is not undertaken in units, for the period commencing
17 on the date on which the construction of the unit or project is
18 completed, and terminating at the close of the fiscal year of the
19 entity preceding the date on which the computation is made,
20 where:

21 "Allowable profit rate" means the percentage per annum
22 arrived at by adding 1¼% to the annual interest percentage rate
23 payable on the entity's initial permanent mortgage financing. If
24 the initial permanent mortgage is insured or guaranteed by a
25 governmental agency, the mortgage insurance premium or similar
26 charge, if payable on a per annum basis, shall be considered as
27 interest for this purpose. If there is no permanent mortgage
28 financing the allowable profit rate shall be arrived at by adding
29 1¼% per annum to the interest rate per annum which the
30 municipality determines to be the prevailing rate on mortgage
31 financing on comparable improvements in the county.

32 c. "Net profit" means the gross revenues of the urban renewal
33 entity less ¹[all operating and nonoperating expenses of the
34 entity, all determined in accordance with generally accepted
35 accounting principles, but:

36 (1) there shall be included in expenses all annual service
37 charges paid pursuant to section 12 of P.L. , c. (C.)
38 (now pending before the Legislature as this bill), all payments to
39 the municipality of excess profits pursuant to section 14 or 15 of
40 P.L. , c. (C.) (now pending before the Legislature as
41 this bill), and an annual amount sufficient to amortize the total
42 project cost over the life of the improvements, as set forth in the
43 financial agreement, which shall not be less than the term of the
44 financial agreement;

45 (2) there shall not be included in expenses either depreciation
46 or obsolescence, interest on debt, income taxes, or salaries,
47 bonuses or other compensation paid, directly or indirectly to
48 directors, officers and stockholders of the entity, or officers,

1 partners or other persons holding any proprietary or ownership
 2 interest in the entity.] ²[cost of all management fees; brokerage
 3 commissions; wages and benefits; insurance premiums; all taxes,
 4 fees or service charges paid; legal, accounting or other
 5 professional service fees; utilities; building maintenance charges;
 6 debt service; building and office supplies; operating, repair or
 7 maintenance reserve accounts; office supplies; all payments to
 8 municipality of excess profits; and amount sufficient to amortize
 9 the improvements over the term of the tax exemption; and other
 10 generally accepted operating or non-operating expenses.¹] all
 11 operating and non-operating expenses of the entity, all
 12 determined in accordance with generally accepted accounting
 13 principles, but:

14 (1) there shall be included in expenses: (a) all annual service
 15 charges paid pursuant to section 12 of P.L. _____, c. _____
 16 (C. _____) (now pending before the Legislature as this bill; (b) all
 17 payments to the municipality of excess profits pursuant to
 18 section ³[14 or]³ 15 ³or 16³ of P.L. _____, c. _____ (C. _____)
 19 (now pending before the Legislature as this bill); (c) an annual
 20 amount sufficient to amortize the total project cost over the life
 21 of the improvements, as set forth in the financial agreement,
 22 which shall not be less than the terms of the financial agreement;
 23 and, (d) all reasonable annual operating expenses of the urban
 24 renewal entity, including the cost of all management fees,
 25 brokerage commissions, insurance premiums, all taxes or service
 26 charges paid, legal, accounting, or other professional service
 27 fees, utilities, building maintenance costs, building and office
 28 supplies, and payments into repair or maintenance reserve
 29 accounts;

30 (2) there shall not be included in expenses either depreciation
 31 or obsolescence, interest on debt, income taxes, or salaries,
 32 bonuses or other compensation paid, directly or indirectly to
 33 directors, officers and stockholders of the entity, or officers,
 34 partners or other persons holding any proprietary ownership
 35 interest in the entity.

36 The urban renewal entity shall provide to the municipality an
 37 annual audited statement which clearly identifies the calculation
 38 of net profit for the urban renewal entity during the previous
 39 year. The annual audited statement shall be prepared by a
 40 certified public accountant and shall be submitted to the
 41 municipality within 90 days of the close of the fiscal year.²

42 d. "Non-Profit entity" means an urban renewal entity
 43 incorporated pursuant to Title 15A of the New Jersey Statutes
 44 for which no part of its net profits inures to the benefit of its
 45 members.

46 e. "Project" means any work or undertaking pursuant to a
 47 redevelopment plan adopted pursuant to the "Local ¹[Housing
 48 and]¹ Redevelopment ¹and Housing¹ Law" P.L. _____, c. _____

1 (C.) (now pending before the Legislature as ¹[this bill] Senate
2 Bill No. 380 of 1990¹), which has as its purpose the
3 redevelopment of all or any part of a redevelopment area
4 including any industrial, commercial, residential or other use, and
5 may include any buildings, land, including demolition, clearance
6 or removal of buildings from land, equipment, facilities, or other
7 real or personal properties which are necessary, convenient, or
8 desirable appurtenances, such as, but not limited to, streets,
9 sewers, utilities, parks, site preparation, landscaping, and
10 administrative, community, health, recreational, educational and
11 welfare facilities.

12 f. "Redevelopment area" means an area determined to be in
13 need of redevelopment ¹[pursuant to] and for which¹ a
14 redevelopment plan ¹has been¹ adopted by a municipality
15 pursuant to the "Local ¹[Housing and]¹ Redevelopment ¹and
16 Housing¹ Law," P.L. , c. (C.) (now pending before
17 the Legislature as ¹[this bill] Senate Bill No. 380 of 1990¹.

18 g. "Urban renewal entity" means a limited-dividend entity or
19 a non-profit entity which enters into a financial agreement
20 pursuant to this act with a municipality to undertake a project
21 pursuant to a redevelopment plan for the redevelopment of all or
22 any part of a redevelopment area^{2,2} ¹or a project necessary,
23 useful, or convenient for the relocation of residents displaced or
24 to be displaced by the redevelopment of all or any part of one or
25 more redevelopment areas¹ ², or a low and moderate income
26 housing project².

27 h. "Total project unit cost" or "total project cost" means the
28 aggregate of the following items as related to a unit of a project,
29 if the project is undertaken in units, or to the total project, if the
30 project is not undertaken in units, all of which as limited by, and
31 approved as part of the financial agreement: (1) cost of the land
32 and improvements to the entity, whether acquired from a private
33 or a public owner, with cost in the case of leasehold interests to
34 be computed by capitalizing the aggregate rental at a rate
35 provided in the financial agreement; (2) architect, engineer and
36 attorney fees, paid or payable by the entity in connection with
37 the planning, construction and financing of the project; (3)
38 surveying and testing charges in connection therewith; (4) actual
39 construction costs which the entity shall cause to be certified and
40 verified to the municipality and the municipal governing body by
41 an independent and qualified architect, including the cost of any
42 preparation of the site undertaken at the entity's expense; (5)
43 insurance, interest and finance costs during construction; (6)
44 costs of obtaining initial permanent financing; (7) commissions
45 and other expenses paid or payable in connection with initial
46 leasing; (8) real estate taxes and assessments during the
47 construction period; (9) a developer's overhead based on a
48 percentage of actual construction costs, to be computed at not

1 more than the following schedule:

2			
3	\$500,000 or less	-	10%
4	\$500,000 through \$1,000,000	-	\$50,000 plus 8%
5			on excess above
6			\$500,000
7	\$1,000,001 through \$2,000,000	-	\$90,000 plus 7%
8			on excess above
9			\$1,000,000
10	\$2,000,001 through \$3,500,000	-	\$160,000 plus
11			5.6667% on excess
12			above \$2,000,000
13	\$3,500,001 through \$5,500,000	-	\$245,000 plus
14			4.25% on excess
15			above \$3,500,000
16	\$5,500,001 through \$10,000,000	-	\$330,000 plus
17			3.7778% on excess
18			above \$5,500,000
19	over \$10,000,000	-	5%

20 ²If the financial agreement so provides, there shall be excluded
 21 from the total project cost actual costs incurred by the entity
 22 and certified to the municipality by an independent and qualified
 23 architect or engineer which are associated with site remediation
 24 and clean-up of environmentally hazardous materials or
 25 contaminants in accordance with State or federal law.²

26 ¹i. "Housing Project" means any work or undertaking to
 27 provide decent, safe, and sanitary dwellings for families in need
 28 of housing; the undertaking may include any buildings, land
 29 (including demolition, clearance or removal of buildings from
 30 land), equipment, facilities, or other real or personal properties
 31 or interests therein which are necessary, convenient or desirable
 32 appurtenances of the undertaking, such as, but not limited to,
 33 streets, sewers, water, utilities, parks; site preparation;
 34 landscaping, and administrative, community, health, recreational,
 35 educational, welfare, commercial, or other facilities, or to
 36 provide any part of combination of the foregoing.

37 j. "Redevelopment relocation housing project" means a
 38 housing project which is necessary, useful or convenient for the
 39 relocation of residents displaced by redevelopment of all of any
 40 part of one or more redevelopment areas.¹

41 ²k. "Low and moderate income housing project" means a
 42 housing project which is occupied, or is to be occupied,
 43 exclusively by households whose incomes do not exceed income
 44 limitations established pursuant to any State or federal housing
 45 program.²

46 4. The governing body of a municipality which has adopted a
 47 redevelopment plan pursuant to the "Local ¹[Housing and]¹
 48 Redevelopment ¹and Housing¹ Law" P.L. , c. (C.) (now

1 pending before the Legislature as ¹[this bill] Senate Bill No. 380
2 of 1990¹) may enter into a financial agreement with an urban
3 renewal entity for the undertaking of a project set forth in the
4 redevelopment plan so adopted ¹or a project necessary, useful, or
5 convenient for the relocation of residents displaced or to be
6 displaced by the redevelopment of all of any part of one or more
7 redevelopment areas^{1 2}, or a low and moderate income housing
8 project². The financial agreement shall include, but not be
9 limited to, those provisions set forth in sections 8,9 and ¹[11] 10¹
10 of ¹[P.L. , c. (C.) (now pending before the
11 <sup>Legislature as this bill)] this act¹, and shall be subject to review
12 and approval as required by section 8 of P.L. , c. (C.)
13 (now pending before the Legislature as this bill) prior to
14 execution. The municipality which enters into the agreement
15 shall retain all necessary authority and control for the
16 redevelopment of the redevelopment area set forth in the plan,
17 and the undertaking of a project by an urban renewal entity
18 pursuant to that plan and this act shall be deemed a delegation of
19 the powers of the municipality to undertake the project, which
20 delegation shall be limited by the terms of the agreement and the
21 provisions of this act.</sup>

22 An urban renewal entity pursuant to an agreement may
23 undertake a project, and when so authorized by the financial
24 agreement, acquire ¹by purchase or lease for not less than the
25 term of the tax exemption¹, plan, develop, construct, alter,
26 maintain or operate housing, senior citizen housing, business,
27 industrial, commercial, administrative, community, health,
28 recreational, educational ¹, cultural¹ or welfare projects, or any
29 combination of two or more of these types of improvement in a
30 single project. The conditions of use, ownership, management
31 and control of the improvements in a project shall be regulated
32 by this act and the terms of the financial agreement.

33 5. Any duly formed corporation, partnership, limited
34 partnership, limited partnership association, or other
35 unincorporated entity may qualify as an urban renewal entity
36 under this act, if its certificate of incorporation, or other similar
37 certificate or statement as may be required by law, shall contain
38 the following provisions:

39 a. The name of the entity shall include the words "Urban
40 Renewal."

41 b. The purpose for which it is formed shall be to operate under
42 this act and to initiate and conduct ²[¹either¹]² projects for the
43 redevelopment of a redevelopment area pursuant to a
44 redevelopment plan ^{2,2} ¹or projects necessary, useful, or
45 convenient for the relocation of residents displaced or to be
46 displaced by the redevelopment of all or part of one or more
47 redevelopment areas^{1,2} or low and moderate income housing
48 projects² and, when authorized by financial agreement with the

1 municipality, to acquire, plan, develop, construct, alter, maintain
2 or operate housing, senior citizen housing, business, industrial,
3 commercial, administrative, community, health, recreational,
4 educational or welfare projects, or any combination of two or
5 more of these types of improvement in a single project, under
6 such conditions as to use, ownership, management and control as
7 regulated pursuant to this act.

8 c. A provision that so long as the entity is obligated under
9 financial agreement with a municipality made pursuant to this
10 act, it shall engage in no business other than the ownership,
11 operation and management of the project.

12 d. A declaration that the entity has been organized to serve a
13 public purpose, that its operations shall be directed toward ¹;
14 (1)²[either¹]² the redevelopment of redevelopment areas ²[or,²
15 the ¹facilitation of the relocation of residents displaced or to be
16 displaced by redevelopment ², or the conduct of low and
17 moderate income housing projects²; (2) the¹ acquisition,
18 management and operation of a project ²[¹or,² redevelopment
19 relocation housing project¹ ², or low and moderate income
20 housing project² under this act ¹[,] ;¹ and ¹(3)¹ that it shall be
21 subject to regulation by the municipality in which its project is
22 situated, and to a limitation or prohibition, as appropriate, on
23 profits or dividends for so long as it remains the owner of a
24 project subject to this act.

25 e. A provision that the entity shall not voluntarily transfer
26 ²more than 10% of the ownership of² the project ¹or any portion
27 thereof¹ undertaken by it under this act, until it has first
28 removed both itself and the project from all restrictions of this
29 act in the manner required by this act ¹and, if the project
30 includes housing units, has obtained the consent of the
31 Commissioner of Community Affairs to such transfer¹; with the
32 exception of transfer to another urban renewal entity, as
33 approved by the municipality in which the project is situated,
34 which other urban renewal entity shall assume all contractual
35 obligations of the transferor entity under the financial agreement
36 with the municipality. ²The entity shall file annually with the
37 municipal governing body a disclosure of the persons having an
38 ownership interest in the project, and of the extent of the
39 ownership interest of each.²

40 f. A provision stating that the entity is subject to the
41 provisions of section 18 of P.L. , c. (C.) (now
42 pending before the Legislature as this bill) respecting the powers
43 of the municipality to alleviate financial difficulties of the urban
44 renewal entity or to perform actions on behalf of the entity upon
45 a determination of financial emergency.

46 ¹g. A provision stating that any housing units constructed or
47 acquired by the entity shall be managed subject to the supervision
48 of, and rules adopted by, the Commissioner of Community

1 Affairs".¹

2 If the entity shall not by reason of any other law be required to
3 file a statement or certificate with the Secretary of State, then
4 the entity shall file a certificate in the office of the clerk of the
5 county in which its principal place of business is located setting
6 forth, in addition to the matters listed above, its full name, the
7 name under which it shall do business, its duration, the location
8 of its principal offices, the name of a person or persons upon
9 whom service may be effected, and the name and address and
10 extent of each person having any ownership or proprietary
11 interest therein.

12 A certificate of incorporation, or similar certificate or
13 statement, shall not be accepted for filing with the Secretary of
14 State or office of the county clerk until the certificate or
15 statement has been reviewed and approved by the Commissioner
16 of the Department of Community Affairs.

17 6. Each urban renewal entity qualifying under this act shall
18 have and may exercise such of the powers conferred by law on
19 the form of entity selected as shall be necessary for the
20 operation of the business of the entity and as shall be consistent
21 with the provisions of this act, and shall have and may exercise
22 the powers set forth in this act, but only so long as its financial
23 agreement is in effect with the municipality pursuant to this act.

24 If an urban renewal entity has, with the consent of the
25 municipality in which its project is located, transferred its
26 project to another urban renewal entity which has assumed the
27 contractual obligations of the transferor entity with the
28 municipality, the transferor entity shall be discharged from any
29 further obligation under the financial agreement, and shall be
30 qualified to undertake another project with the same or a
31 different municipality.

32 7. An urban renewal entity shall have the following powers, in
33 addition to those conferred by the law under which the entity is
34 formed:

35 a. To accept loans or grants from federal, State, county or
36 municipal governments, or from any agency, instrumentality or
37 authority created by one or more of those governments, in aid of
38 the project owned, or to be acquired or undertaken by the entity.

39 b. To borrow money at such rate of interest as may be limited
40 by the terms of the financial agreement, to mortgage or pledge
41 its property, both real and personal, and to secure the payment of
42 its obligations.

43 c. To obtain, or aid in obtaining, from the federal or State
44 government any insurance or guarantee or commitment therefor,
45 as to the payment or repayment of interest or principal, or both,
46 or any part thereof, of any loan or other extension of credit, or
47 any instrument evidencing or securing the same, obtained or to be
48 obtained or entered into by it, and to enter into any agreement,

1 contract or other instrument with respect to insurance or
2 guarantee.

3 8. Every urban renewal entity qualifying under this act, before
4 proceeding with any projects, shall make written application to
5 the municipality for approval thereof. The application shall be in
6 a form, and shall certify to those facts and data, as shall be
7 required by the municipality, and shall include but not be limited
8 to:

9 a. A general statement of the nature of the proposed project,
10 that the undertaking conforms to all applicable municipal
11 ordinances, ¹[that its completion will meet an existing need,]¹
12 and that the project accords with the redevelopment plan and
13 master plan of the municipality ^{2,2} or, in the case of a
14 redevelopment relocation housing project, provides for the
15 relocation of residents displaced or to be displaced from a
16 redevelopment area^{1 2}, or, in the case of a low and moderate
17 income housing project, the housing units are restricted to
18 occupation by low and moderate income households².

19 b. A description of the proposed project outlining the area
20 included and a description of each unit thereof if the project is to
21 be undertaken in units and setting forth architectural and site
22 plans as required.

23 c. A statement ²prepared by a qualified architect or engineer²
24 of the estimated cost of the proposed project in the detail
25 required, including the estimated cost of each unit to be
26 undertaken.

27 d. The source, method and amount of money to be subscribed
28 through the investment of private capital, setting forth the
29 amount of stock or other securities to be issued therefor or the
30 extent of capital invested and the proprietary or ownership
31 interest obtained in consideration therefor.

32 e. A fiscal plan for the project outlining a schedule of annual
33 gross revenue, the estimated expenditures for operation and
34 maintenance, payments for interest, amortization of debt and
35 reserves, and payments to the municipality to be made pursuant
36 to a financial agreement to be entered into with the municipality.

37 f. A proposed financial agreement conforming to the
38 provisions of section 9 of ¹[P.L. , c. (C.) (now
39 pending before the Legislature as this bill)] this act¹.

40 The application shall be addressed and submitted to the mayor
41 or other chief executive officer of the municipality. ¹[The mayor
42 or other chief executive officer shall, upon receipt, submit the
43 application to the Director of the Division of Local Government
44 Services in the Department of Community Affairs for review and
45 approval, or conditional approval subject to changes required by
46 the director, of the proposed financial agreement.]¹ The mayor
47 or other chief executive officer shall, within ²[30] 60² days of his
48 receipt of the application thereafter, submit the application with

1 his recommendations to the municipal governing body. The
2 governing body shall by resolution approve or disapprove the
3 application, but in the event of disapproval, changes may be
4 suggested to secure approval. An application may be revised and
5 resubmitted. ¹[No financial agreement shall be approved by the
6 municipality which is not approved by the director.]¹

7 9. Every approved project shall be evidenced by a financial
8 agreement between the municipality and the urban renewal
9 entity. The agreement shall be prepared by the entity and
10 submitted as a separate part of its application for project
11 approval. ¹[A financial agreement shall be filed with the
12 Director of the Division of Local Government Services in the
13 department of Community Affairs upon its being entered into,
14 and any] Any¹ amendments or modifications of the agreement
15 made thereafter shall be by mutual consent of the municipality
16 and the urban renewal entity, and shall be subject to approval by
17 resolution of the municipal governing body upon recommendation
18 of the mayor or other chief executive officer of the municipality
19 ¹[, and by the director,]¹ prior to taking effect.

20 The financial agreement shall be in the form of a contract
21 requiring full performance within 30 years from the date of
22 completion of the project. and shall include the following:

23 a. That the profits of or dividends payable by the urban
24 renewal entity shall be limited according to terms appropriate for
25 the type of entity in conformance with the provisions of this act.

26 b. That all improvements in the project to be constructed or
27 acquired by the urban renewal entity shall be exempt from
28 taxation as provided in this act.

29 c. That the urban renewal entity shall make payments for
30 municipal services as provided in this act.

31 d. That the urban renewal entity shall submit annually, within
32 90 days after the close of its fiscal year, its auditor's reports to
33 the mayor and governing body of the municipality and to the
34 Director of Local Government Services in the Department of
35 Community Affairs.

36 e. That the urban renewal entity shall, upon request, permit
37 inspection of property, equipment, buildings and other facilities
38 of the entity, and also permit examination and audit of its books,
39 contracts, records, documents and papers by authorized
40 representatives of the municipality or the State.

41 f. That in the event of any dispute between the parties
42 matters in controversy shall be resolved by arbitration in the
43 manner provided in the financial agreement.

44 g. That operation under the financial agreement shall be
45 terminable by the urban renewal entity in the manner provided by
46 this act.

47 h. That the urban renewal entity shall at all times prior to the
48 expiration or other termination of the financial agreement

1 remain bound by the provisions of this act.

2 The financial agreement shall contain detailed representations
3 and covenants by the ¹[corporation or association] urban renewal
4 entity¹ as to the manner in which it proposes to use, manage or
5 operate the project. The financial agreement shall further set
6 forth the method for computing gross revenue for the urban
7 renewal entity, the method of determining insurance, operating
8 and maintenance expenses paid by a tenant which are ordinarily
9 paid by a landlord, the plans for financing the project, including
10 the estimated total project cost, the amortization rate on the
11 total project cost, the source of funds, the interest rates to be
12 paid on the construction financing, the source and amount of
13 paid-in capital, the terms of mortgage amortization or payment
14 of principal on any mortgage, a good faith projection of initial
15 sales prices of any condominium units and expenses to be incurred
16 in promoting and consummating such sales, and the rental
17 schedules and lease terms to be used in the project.

18 10. The financial agreement may provide:

19 a. That the municipality will consent to a sale of the project
20 by the urban renewal entity to another urban renewal entity
21 organized under this act, their successors, assigns, all owning no
22 other project at the time of the transfer and that, upon
23 assumption by the transferee urban renewal entity of the
24 transferor's obligations under the financial agreement, the tax
25 exemption of the improvement shall continue and inure to the
26 transferee urban renewal entity, its respective successors or
27 assigns.

28 b. That the municipality will consent to a sale of the project
29 to purchasers of units in the condominium if the project or any
30 portion thereof has been devoted to condominium ownership, and
31 to their successors, assigns, all owning ¹(in the case of housing)¹
32 no other condominium unit of a project at the time of the
33 transfer, and that, upon assumption by the condominium unit
34 purchaser of the transferor's obligations under the financial
35 agreement, the tax exemption of the improvement shall continue
36 and inure to the unit purchaser, his respective successors or
37 assigns.

38 11. A financial agreement approved pursuant to this act shall
39 include findings by the municipality, approved by the municipal
40 governing body, setting forth appropriate tax exemption
41 provisions and an appropriate annual service charge schedule
42 which shall be based upon ¹the provisions of Section 12 of this act
43 and¹ the municipality's determinations as to:

44 a. The relative benefits of the project to the redevelopment of
45 the redevelopment area when compared to the costs, if any,
46 associated with the tax exemption;

47 b. An assessment of the importance of the tax exemption to be
48 granted in obtaining the development of the project and in

1 influencing the locational decisions of probable occupants of the
2 project or units of the project.

3 12. The rehabilitation or improvements made in the
4 development or redevelopment of a redevelopment area or area
5 ¹[adjacent] appurtenant¹ thereto ¹or for a redevelopment
6 relocation housing project¹, pursuant to this act, shall be exempt
7 from taxation for a limited period as hereinafter provided. The
8 exemption shall be claimed and allowed in the same or a similar
9 manner as in the case of other real property exemptions, and no
10 such claim shall be allowed unless the municipality wherein the
11 property is situated shall certify that a financial agreement with
12 an urban renewal entity for the development or the
13 redevelopment of the property ^{2,2} ¹or the provision of a
14 redevelopment relocation housing project^{1 2}, or the provision of a
15 low and moderate income housing project² has been entered into
16 and is in effect as required by this act. Whenever an exemption
17 status changes during a tax year, the procedure for the
18 apportionment of the taxes for the year shall be the same as in
19 the case of other changes in tax exemption status during the tax
20 year.

21 a. The duration of the exemption for urban renewal entities
22 shall be as follows: for all projects, a term of not more than 30
23 years from the completion of the entire project, or unit of the
24 project if the project is undertaken in units, or not more than 35
25 years from the execution of the financial agreement between the
26 municipality and the urban renewal entity.

27 b. During the term of any exemption, in lieu of any taxes to be
28 paid on the improvements of the project, the urban renewal
29 entity shall make payment to the municipality of an annual
30 service charge. The annual service charge ¹for municipal
31 services supplied to the project¹ to be paid by the urban renewal
32 entity for any period of exemption, shall be determined as follows:

33 ¹[(1) For the first 10 years of the exemption period, the urban
34 renewal entity shall pay to the municipality an annual service
35 charge for municipal services supplied to the project, in an annual
36 amount equal to not less than 15% of the annual gross revenue
37 from each unit of the project, if the project is undertaken in
38 units, or from the total project, if the project is not undertaken
39 in units, for each of the years of operation commencing with the
40 date of the completion of the unit or of the project, as the case
41 may be.

42 (2) For the remainder of the period of the exemption, if any,
43 the annual service charge shall be determined as follows:

44 (a) For the eleventh year and for each succeeding year
45 thereafter through the fifteenth year, an amount equal to not less
46 than either 15% of the annual gross revenue, or 20% of the
47 amount of taxes otherwise due on the value of the land and
48 improvements, whichever shall be greater;

1 (b) For the sixteenth year and for each succeeding year
2 thereafter through the twentieth year, an amount equal to not
3 less than either 15% of the annual gross revenue, or 40% of the
4 amount of taxes otherwise due on the value of the land and
5 improvements, whichever shall be greater;

6 (c) For the twenty-first year and for each succeeding year
7 thereafter through the twenty-fifth year, an amount equal to not
8 less than either 15% of the annual gross revenue, or 60% of the
9 amount of taxes otherwise due on the value of the land and
10 improvements, whichever shall be greater; and

11 (d) For the twenty-sixth year and for each succeeding year of
12 the exemption period thereafter, an amount equal to not less than
13 either 15% of the annual gross revenue, or 80% of the amount of
14 taxes otherwise due on the value of the land and improvements,
15 whichever shall be greater.]

16 (1) An annual amount equal to a percentage determined
17 pursuant to this subsection and section 11 of this act, of the
18 annual gross revenue from each unit of the project, if the project
19 is undertaken in units, or from the total project, if the project is
20 not undertaken in units. The percentage of the annual gross
21 revenue shall not be more than 15% in the case of a ²low and
22 moderate income² housing project ²[in which occupancy is
23 restricted to households whose incomes at the time of admission
24 do not exceed maximums established pursuant to a government
25 program]², nor less than 10% in the case of offices, nor less than
26 15% in the case of all other projects.

27 At the option of the municipality, or where because of the
28 nature of the development, ownership, use or occupancy of the
29 project or any unit thereof, if the project is to be undertaken in
30 units, the total annual gross rental or gross shelter rent or annual
31 gross revenue cannot be reasonably ascertained, the governing
32 body shall provide in the financial agreement that the annual
33 service charge shall be a sum equal to a percentage determined
34 pursuant to this subsection and section 11 of this act, of the total
35 project cost or total project unit cost determined pursuant to this
36 act calculated from the first day of the month following the
37 substantial completion of the project or any unit thereof, if the
38 project is undertaken in units. The percentage of the total
39 project cost or total project unit cost shall not be more than 2%
40 in the case of a ²low and moderate income² housing project ²[in
41 which occupancy is restricted to households whose incomes at the
42 time of admission do not exceed maximums established pursuant
43 to a government program]², ³[nor less than] and shall be³ 2% in
44 the case of all other projects.

45 ²(2) In either case, the financial agreement shall establish a
46 schedule of annual service charges to be paid over the term of
47 the exemption period, which shall be in stages as follow:

48 (a)² For the first ²[10 years] stage² of the exemption period,

1 ²[commencing] which shall commence² with the date of
2 completion of the unit or of the project, as the case may be, ²and
3 continue for a time of not less than six years nor more than ³[14]
4 ¹⁵³ years, as specified in the financial agreement,² the urban
5 renewal entity shall pay the municipality an annual service
6 charge for municipal services supplied to the project in an annual
7 amount equal to the amount determined pursuant to paragraph (1)
8 of this subsection and section 11 of this act. For the remainder
9 of the period of the exemption, if any, the annual service charge
10 shall be determined as follows:

11 ²[(a)] (b)² For the ²[eleventh year and for each succeeding
12 year thereafter through the fifteenth year] second stage of the
13 exemption period, which shall not be less than ³[four years] one
14 year³ nor more than six years, as specified in the financial
15 agreement², an amount equal to either the amount determined
16 pursuant to paragraph (1) of this subsection and section 11 of this
17 act, or 20% of the amount of taxes otherwise due on the value of
18 the land and improvements, whichever shall be greater;

19 ²[(b)] (c)² For the ²[sixteenth year and for each succeeding
20 year thereafter through the twentieth year] third stage of the
21 exemption period, which shall not be less than ³[four years] one
22 year³ nor more than six years, as specified in the financial
23 agreement², an amount equal to either the amount determined
24 pursuant to paragraph (1) of this subsection and section 11 of this
25 act, or 40% of the amount of taxes otherwise due on the value of
26 the land and improvements, whichever shall be greater;

27 ²[(c)] (d)² For the ²[twenty-first year and for each succeeding
28 year thereafter through the twenty-fifth year] fourth stage of
29 the exemption period, which shall not be less than ³[four years]
30 one year³ nor more than six years, as specified in the financial
31 agreement², an amount equal to either the amount determined
32 pursuant to paragraph (1) of this subsection and section 11 of this
33 act, or 60% of the amount of taxes otherwise due on the value of
34 the land and improvements, whichever shall be greater; and,

35 ²[(d)] (e)² For the ²[twenty-sixth year and for each succeeding
36 year of the exemption period thereafter] final stage of the
37 exemption period, the duration of which shall not be less than
38 ³[four years] one year³ and shall be specified in the financial
39 agreement², an amount equal to either the amount determined
40 pursuant to paragraph (1) of this subsection and section 11 of this
41 act, or 80% of the amount of taxes otherwise due on the value of
42 the land and improvements, whichever shall be greater.¹

43 If the financial agreement provides for an exemption period of
44 less than 30 years from the completion of the entire project, or
45 less than 35 years from the execution of the financial agreement,
46 the financial agreement shall set forth a schedule of annual
47 service charges for the exemption period which shall be based
48 upon the minimum service charges and ²[phased] staged²

1 adjustments set forth in this section.

2 ¹[At the option of the municipality, or where because of the
3 nature of the development, ownership, use or occupancy of the
4 project or any unit thereof, if the project is to be undertaken in
5 units, the total annual gross rental or gross shelter rent or annual
6 gross revenue cannot be reasonably ascertained, the governing
7 body shall provide in the financial agreement that the annual
8 service charge shall be a sum equal to not less than 2% of the
9 total project cost or total project unit cost determined pursuant
10 to this act calculated from the first day of the month following
11 the substantial completion of the project or any unit thereof, if
12 the project is undertaken in units.]¹

13 The annual service charge shall be paid to the municipality
14 ²[within 30 days after the close of each calendar year] on a
15 quarterly basis in a manner consistent with the municipality's tax
16 collection schedule².

17 Against the annual service charge the urban renewal entity,
18 shall be entitled to credit for the amount, without interest, of the
19 real estate taxes on land paid by it in the last four preceding
20 quarterly installments.

21 ²Notwithstanding the provisions of this section or of the
22 financial agreement, the minimum annual service charge shall be
23 the amount of the total taxes levied against all real property in
24 the area covered by the project in the last full tax year in which
25 the area was subject to taxation, and the minimum annual service
26 charge shall be paid in each year in which the annual service
27 charge calculated pursuant to this section or the financial
28 agreement would be less than the minimum annual service
29 charge.²

30 c. All exemptions granted pursuant to the provisions of this
31 act shall terminate at the time prescribed in the financial
32 agreement.

33 Upon the termination of the exemption granted pursuant to the
34 provisions of this act, the project, all affected parcels, and all
35 improvements made thereto shall be assessed and subject to
36 taxation as are other taxable properties in the municipality.
37 After the date of termination, all restrictions and limitations
38 upon the urban renewal entity shall terminate and be at an end
39 upon the entity's rendering its final accounting to and with the
40 municipality.

41 13. The tax exemption provided in this act shall apply only so
42 long as the urban renewal entity and its project remain subject to
43 the provisions of this act, but in no event more than 35 years
44 from the date of the execution of the financial agreement. An
45 urban renewal entity may at any time after the expiration of one
46 year from the completion date of the project, notify the
47 governing body of the municipality that, as of a certain date
48 designated in the notice, it relinquishes its status under this act

1 1, and if the project includes housing units, that the urban
2 renewal entity has obtained the consent of the Commissioner of
3 Community Affairs to such a relinquishment¹. As of that date.
4 the tax exemption, the service charges, and the profit and
5 dividend restrictions shall terminate. The date of termination of
6 tax exemption, whether by relinquishment by the entity or by
7 terms of the financial agreement, shall be deemed the close of
8 the fiscal year of the entity. Within 90 days of that date, the
9 urban renewal entity shall pay to the municipality the amount of
10 reserve, if any maintained pursuant to section 15 or 16 of
11 ¹[P.L. , c. (C.) (now pending before the Legislature
12 as this bill)] this act¹, as well as the excess net profits, if any,
13 payable as of that date.

14 14. If the financial agreement permits the conveyance of
15 condominium units pursuant to subsection b. of section ²[11] 10²
16 of ¹[P.L. , c. (C.) (now pending before the
17 Legislature as this bill)] this act¹, the provisions of this section
18 shall apply.

19 When the urban renewal entity files a master deed pursuant to
20 P.L.1969, c.257 (C.46:8B-1 et seq.) creating a condominium,
21 whether residential ¹[or],¹ commercial¹, or industrial¹, as to all
22 or a portion of a project which has been approved for tax
23 exemption under the financial agreement, each unit of the
24 condominium, whether owned by the urban renewal entity or a
25 successor unit purchaser, shall continue to be subject to the
26 provisions of the financial agreement, and the tax exemption
27 previously approved under the financial agreement with respect
28 to property converted to condominium ownership shall be
29 unaffected by the recording of the master deed or any subsequent
30 deed conveying the condominium unit and its appurtenant interest
31 in common elements. ¹[If the condominium unit is residential, a
32 tax exemption granted pursuant to the financial agreement to any
33 single condominium unit shall continue in effect only during that
34 time that an owner of the unit, not including the urban renewal
35 entity, personally resides therein.] In the case of residential
36 condominium units, the municipal governing body may, by
37 resolution, require either the lapse of the tax exemption for any
38 period during which the owner of a unit does not personally reside
39 therein and the unit is occupied by somebody else or an increase
40 in the annual service charge paid in lieu of taxes by a
41 condominium unit owner who does not reside within the unit by a
42 specified percentage over that otherwise applicable.¹ A tax
43 exemption shall continue as to the condominium unit and its
44 appurtenant undivided interest in the common elements subject
45 to all of the following:

46 a. For the purpose of determining the annual service charge
47 pursuant to section 12 of P.L. , c. (C.) (now
48 pending before the Legislature as this bill), when used with

1 respect to a condominium project, "annual gross revenue" means
2 the amount equal to the annual aggregate constant payments to
3 principal and interest, assuming a purchase money mortgage
4 encumbering the condominium unit to have been in an original
5 amount equal to the initial value of the unit with its appurtenant
6 interest in the common elements as stated in the master deed, if
7 unsold by the urban renewal entity, or, if the unit is held by a unit
8 purchaser, from time to time, the most recent true consideration
9 paid for a deed to the condominium unit in a bona fide arm's
10 length sale transaction, but not less than the initial assessed
11 valuation of the condominium unit assessed at 100 % of true
12 value, plus the total amount of common expenses charged to the
13 unit pursuant to the bylaws of the condominium association. The
14 constant payments to principal and interest shall be calculated by
15 assuming a loan amount as stated above at the ¹[maximum]
16 prevailing¹ lawful interest rate ¹[under R.S.31:1-1] for mortgage
17 financing or comparable properties within the municipality¹ as of
18 the date of the recording of the unit deed, for a term equal to the
19 full term of the exemption from taxation stipulated in the
20 financial agreement.

21 b. There is expressly excluded from calculation of gross
22 revenue and from net profit as set forth in subsections a. and c.
23 of section 3 of P.L. , c. (C.) (now pending before
24 the Legislature as this bill) for the purpose of determining
25 compliance with sections 15 or 16 of P.L. , c. (C.)
26 (now pending before the Legislature as this bill), any gain realized
27 by the urban renewal entity on the sale of any condominium unit,
28 whether or not taxable under federal or State law.

29 c. The conveyance of a condominium unit which is authorized
30 under the financial agreement to a bona fide unit purchaser
31 grantee shall not require consent or approval of the municipality,
32 and the grantee shall acquire title to the unit subject to the
33 requirement for payment of the annual service charge and other
34 provisions of the financial agreement expressly applicable to
35 condominium unit purchasers, and the exemption from taxation as
36 to the condominium unit shall continue unaffected by the
37 transfer, ²[but] subject², in an instance of housing, ²[only during
38 such time as a unit owner personally resides therein] to the
39 provisions of any municipal resolution adopted pursuant to this
40 section².

41 d. For a multi-occupant commercial or industrial building
42 operated as a condominium or sold by three dimensional
43 conveyances, but developed, sold, managed or operated by an
44 urban renewal entity, the building and its occupants' space shall
45 qualify as tax exempt under this section if the financial
46 agreement which authorizes conveyances of units, assigns
47 proportionate interests in the tax exempt property. The
48 condominium or three dimensional purchasers of units shall not be

1 required to be urban renewal entities.

2 15. An urban renewal entity which is a limited dividend entity
3 under this act shall be subject, during the period of the financial
4 agreement and tax exemption under this act, to a limitation of its
5 profits and in addition, in the case of a corporation, of the
6 dividends payable by it. Whenever the net profits of the entity
7 for the period, taken as one accounting period, commencing on
8 the date on which the construction of the first unit of the project
9 is completed, or on which the project is completed if the project
10 is not undertaken in units, and terminating at the end of the last
11 full fiscal year, shall exceed the allowable net profits for the
12 period, the entity shall, within 90 days of the close of that fiscal
13 year, pay the excess net profits to the municipality as an
14 additional service charge.

15 The entity may maintain during the term of the financial
16 agreement a reserve against vacancies, unpaid rentals and
17 contingencies in an amount established in the financial agreement
18 not to exceed 10% of the gross revenues of the entity for the last
19 full fiscal year, and may retain such part of those excess net
20 profits as is necessary to eliminate a deficiency in that reserve.
21 Upon the termination of the financial agreement, the amount of
22 reserve, if any, shall be paid to the municipality.

23 No entity shall make any distribution of profits, or pay or
24 declare any dividend or other distribution on any shares of any
25 class of its stock, unless, after giving effect thereto, the
26 allowable net profit for the period as determined above and
27 preceding the date of the proposed dividend or distribution would
28 equal or exceed the aggregate amount of all dividends and other
29 distributions paid or declared on any shares of its stock since its
30 incorporation or establishment.

31 If an entity purchases an existing project from another urban
32 renewal entity, the purchasing entity shall compute its allowable
33 net profits, and, for the purpose of dividend payments, shall
34 commence with the date of acquisition of the project. The date
35 of transfer of title of the project to the purchasing entity shall be
36 considered to be the close of the fiscal year of the selling entity.
37 Within 90 days after that date of the transfer of title, the selling
38 entity shall pay to the municipality the amount of reserve, if any,
39 maintained by it pursuant to this section, as well as the excess
40 net profit, if any, payable pursuant to this section.

41 16. An urban renewal entity which is a non-profit entity under
42 this act shall be subject, during the period of the financial
43 agreement and tax exemption under this act, to a requirement
44 that it shall pay over its net profits, if any, to the municipality
45 within 90 days after the close of its fiscal year.

46 The entity may maintain during the term of the financial
47 agreement a reserve against vacancies, unpaid rentals and
48 contingencies in an amount established in the financial agreement

1 not to exceed 10% of the gross revenues of the entity for the last
2 full fiscal year, and may retain such part of those net profits as is
3 necessary to eliminate a deficiency in that reserve. Upon the
4 termination of the financial agreement, the amount of reserve, if
5 any, shall be paid to the municipality.

6 If an entity purchases an existing project from another urban
7 renewal entity, the purchasing entity shall compute its net
8 profits, if any, commencing with the date of acquisition of the
9 project. The date of transfer of title of the project to the
10 purchasing entity shall be considered to be the close of the fiscal
11 year of the selling entity. Within 90 days after the date of the
12 transfer of title, the selling entity shall pay to the municipality
13 the amount of reserve, if any, maintained by it pursuant to this
14 section, as well as the excess net profit, if any, payable pursuant
15 to this section.

16 17. The municipality or any redevelopment ¹[agency] entity¹,
17 authority or other instrumentality thereof, is authorized, by
18 resolution, to make any land owned by it available for use for a
19 project by an urban renewal entity, by private sale, ¹at such
20 prices and¹ upon such terms and conditions as shall be agreed
21 upon by the municipal governing body, ¹[agency] redevelopment
22 entity¹, authority or instrumentality and the ¹urban renewal¹
23 entity. ¹[The resolution shall include a determination of the use
24 value of the land, and the price to be paid therefor by the urban
25 renewal entity shall not be less than the amount so determined.]¹

26 18. a. If the ¹[municipality] Local Finance Board¹ has reason
27 to believe that an urban renewal entity ¹which owns a housing
28 project¹ is faced with financial difficulty, the ¹[mayor or other
29 chief executive officer of the municipality] chairman of the
30 Local Finance Board¹ shall summon an appropriate official of the
31 entity to a hearing before the ¹[municipal governing body]
32 board¹. The ¹[governing body] board¹ may require the production
33 of papers, documents, witnesses or information, and may make or
34 cause to be made an audit or investigation of the circumstances
35 with respect to which the hearing was called.

36 b. If the ¹[municipal governing body] chairman of the Local
37 Finance Board¹ shall determine that, as a result of
38 mismanagement, mortgage foreclosure, or other fiscal, legal or
39 managerial conduct, a financial emergency exists which requires
40 the municipality to protect the health, safety or welfare of the
41 residents ¹[or users]¹ of the ¹housing¹ project, ¹[it] the Local
42 Finance Board¹ shall ¹[recommend] order¹ the implementation of
43 a financial plan which will ensure the protection of the residents
44 ¹[or users]¹ of the ¹housing¹ project. ¹[The mayor or other chief
45 executive officer shall submit the plan to the Director of the
46 Division of Local Government Services in the Department of
47 Community affairs, who may approve, disapprove, or
48 conditionally approve the plan. Upon approval by the director,

1 the mayor shall order the implementation of the financial plan.]¹
 2 The order shall be deemed conclusive and final, and upon receipt
 3 of the order all persons shall be estopped from contesting the
 4 order or the provisions thereof, and the urban renewal entity
 5 affected thereby shall take action to comply with the order.

6 c. A financial plan ordered pursuant to this section may
 7 stipulate the legal, fiscal, operational or managerial actions to be
 8 taken by the entity to correct the circumstances, and may
 9 require that the appropriate officer or agency of the
 10 ¹[municipality] Department of Community Affairs¹ shall perform
 11 those actions on behalf of the entity ¹or otherwise arrange for
 12 performance of those actions¹. The financial plan may require
 13 within the limitations imposed by this act, modifications of the
 14 financial agreement entered into with the ¹urban renewal¹ entity
 15 by the municipality, notwithstanding the lack of consent by the
 16 ¹urban renewal¹ entity to those modifications, if the
 17 modifications are approved ¹[by the director and]¹ by the
 18 municipal governing body.

19 19. Whenever in any law, the term "urban renewal
 20 corporation," "urban renewal association," "nonprofit urban
 21 renewal corporation," "limited dividend housing corporation,"
 22 ¹"limited dividend housing association,"¹ "nonprofit housing
 23 corporation," "senior citizen nonprofit housing corporation," or
 24 similar entity for which the authorizing statute is repealed by
 25 this act, appears, that term shall be deemed to refer to an "urban
 26 renewal entity" established under this act, and the law in which
 27 the term occurs shall be construed with respect to, and in a
 28 manner consistent with, this act.

29 20. a. The following are repealed:
 30 P.L.1961, c.40 (C.40:55C-40 et al.)
 31 P.L.1983, c.139 (C.40:55C-41.1)
 32 P.L.1986, c.86 (C.40:55C-41.2 et al.)
 33 P.L.1967, c.114 (C.40:55C-44.1 et al.)
 34 P.L.1978, c.93 (C.40:55C-46.1 et al.)
 35 P.L.1981, c.506 (C.40:55C-52.1)
 36 P.L.1985, c.138 (C.40:55C-58.2)
 37 P.L.1965, c.95 (C.40:55C-77 et al.)
 38 P.L.1944, c.169 (C.55:14D-1 et al.)
 39 P.L.1950, c.107 (C.55:14D-6.1)
 40 P.L.1946, c.52 (C.55:14E-1 et al.)
 41 P.L.1950, c.111 (C.55:14E-7.1)
 42 P.L.1949, c.185 (C.55:14E-20 et al.)
 43 P.L.1965, c.92 (C.55:14I-1 et al.)
 44 P.L.1949, c.184 (C.55:16-1 et al.)
 45 P.L.1950, c.21 (C.55:16-5.1)
 46 P.L.1950, c.112 (C.55:16-8.1)
 47 P.L.1967, c.112 (C.55:16-9.1 et al.)
 48 P.L.1962, c.249 (C.55:16-18.1)

1 P.L.1950, c.69 (C.55:16-22).

2 b. An 1urban renewal¹ entity organized and operating under a
3 law repealed by this act shall not be ¹[effected] affected¹ by that
4 repeal ¹[during the term of any financial agreement or tax
5 exemption entered into with a municipality pursuant to the law so
6 repealed, or extended pursuant to a law so repealed, prior to the
7 effective date of this act. The financial agreement so entered
8 into, and the tax exemption so]. Any financial agreement entered
9 into and any tax exemption¹ granted or extended, shall remain
10 binding upon the 1urban renewal¹ entity and the municipality,
11 subject to modification by mutual written consent, as if the law
12 under which it was entered into, or granted or extended, had not
13 been repealed by this act. The provisions of section 17 of
14 ¹[P.L. , c. (C.) (now pending before the
15 Legislature as this bill)] this act¹ shall apply, however, to the
16 1urban renewal¹ entity during the period of the financial
17 agreement, or tax exemption, remaining on and after the
18 effective date of this act. Any redevelopment project
19 undertaken by an 1urban renewal¹ entity, or financial agreement
20 or tax exemption entered into by an 1urban renewal¹ entity with
21 a municipality, on or after the effective date of this act shall be
22 pursuant to this act.

23 21. (New Section) The Commissioner of Community Affairs
24 and the Local Finance Board shall have the authority to adopt
25 such administrative rules as may be necessary to implement this
26 act.¹

27 ¹[21.] 22.¹ This act shall take effect 90 days following
28 enactment, but any regulations which are necessary to effectuate
29 its provisions may be adopted and issued, and any other
30 administrative preparations necessary or expedient to its timely
31 implementation may be undertaken, immediately.

32

33

34

LOCAL TAXATION

35

36 "Long Term Tax Exemption Law;" consolidates various urban
37 renewal and housing tax exemption statutes.

SENATE COUNTY AND MUNICIPAL
GOVERNMENT COMMITTEE

STATEMENT TO

SENATE, No. 291

with committee amendments

STATE OF NEW JERSEY

DATED: SEPTEMBER 24, 1990

The Senate County and Municipal Government Committee favorably reports Senate Bill No. 291 with Senate committee amendments.

As amended by the committee, Senate Bill No. 291, the "Long Term Tax Exemption Law," consolidates the various statutes under which municipalities may agree with private entities for the private entities to undertake redevelopment projects in return for tax exemptions. These laws, variously known as the Urban Renewal Corporation and Association Law, the Urban Renewal Nonprofit Corporation Law, the Limited-Dividend Nonprofit Housing Corporation or Association Law, and the Senior Citizen Nonprofit Rental Housing Tax Law, contain many overlapping, duplicative, obsolete or confusing provisions. This comprehensive act revises them into one law, based upon the recommendations of the County and Municipal Government Study Commission in its report, Local Redevelopment in New Jersey (1987).

This bill is part of a package of bills that provides a new partnership between the public and private sectors to redevelop and rehabilitate New Jersey's urban centers, older suburbs, and other communities that are in need of redevelopment. The bills encourage the maximum participation of the private sector in the redevelopment of the State's distressed communities.

In addition to revising and consolidating the law, the bill strengthens the ability of the municipality to use the law to effectuate its redevelopment plans and purposes by:

1. Requiring that the project of an urban renewal entity be undertaken pursuant to the municipal redevelopment plan and under the direction of the municipality;
2. Requiring review and approval of financial agreements on projects by the Director of Local Government Services in the Department of Community Affairs, as well as the municipal governing body, and strengthening the ability of the municipality to negotiate the financial agreement on terms most favorable to the municipality;
3. Providing a "fail-safe" mechanism to permit the municipality, with the director's approval, to effectuate a financial plan to correct problems of mismanagement, mortgage foreclosure or other problems as necessary to protect the health, safety and

welfare of residents or users of the project;

4. Provide for municipal flexibility in negotiating tax exemptions, based upon municipal findings regarding the costs and benefits of the project, the importance of the project to its redevelopment purposes, and the importance of tax exemptions to probable users of the project. The bill establishes a flexible in-lieu of tax formula, which requires a phase-in to full taxation over the period of tax exemption, which may be negotiated between the municipality and the urban renewal entity.

COMMITTEE AMENDMENTS

The committee made technical and clarifying language changes to the bill, including amending the name of the act to be the "Long Term Tax Exemption Law".

The committee also redefined the definition of "Net Profit" to include items generally recognized as proper deductions against gross revenues, including debt service, thereby not excessively limiting allowable profits of housing and redevelopment projects that could thwart their production.

Also, the committee added to the definition section of the bill new definitions for "Housing Project" and "Redevelopment Relocation Housing Project" which terms are now used in the bill. The relocation designation allows the granting of tax exemptions to projects which provide housing to residents displaced by any redevelopment project. "Cultural" projects are added, by the committee, to the list of eligible projects which can be undertaken by an urban renewal entity as specified in section 4 of the bill.

In addition, the committee amended the bill to provide for oversight by the Department of Community Affairs of those projects which contain housing units. Amended also are sections 8 and 9 of the bill, to eliminate the requirement that both the application for tax exemption and the financial agreement between the urban renewal entity and the municipality be approved by the Division of Local Government Services of the Department of Community Affairs so as to eliminate delays in the implementation of local tax exemption programs.

Additionally, the committee amended section 18 of the bill to provide the Local Finance Board with fiscal oversight powers over those urban renewal entities which own and operate housing projects. This amendment clarifies that such an oversight role should be the responsibility of the Local Finance Board and not the municipality.

Further, the committee added a new section 21 to the bill, providing the Department of Community Affairs and the Local Finance Board with the authority to adopt any administrative rules and regulations necessary to implement this act.

The committee, in addition, amended the bill by restructuring section 12 of the bill to clarify that phasing of payments in-lieu of taxes would occur under both the percent of gross rental formula and the percent of total project cost formula. The committee also

restructured the current formulas for computing payment in-lieu of taxes for both office projects and housing projects. In order to provide local officials who review and approve tax exemptions for these projects with the flexibility required to attract such projects the formula for computing payment in-lieu of taxes is amended by the committee as follows:

(1) The minimum annual service charge for office buildings is reduced from 15 to 10 percent of the annual gross revenues of the project or units of the project. Under this office project amendment, the municipality would still retain the option of computing the payment in-lieu of taxes at no less than 2 percent of the total project cost or total project unit cost;

(2) In the case of housing projects where occupancy of the units is restricted to households whose incomes at the time of admission are not to exceed maximums established pursuant to a government program, the annual service charge is changed from a minimum of 15 percent to a maximum of 15 percent of annual gross revenue of the project or from a minimum 2 percent to a maximum 2 percent of the total project cost or total project unit cost.

(3) The payment in-lieu of tax formula for all other projects remains unamended by the committee.

Finally, the committee amended section 14 of the bill to incorporate recent amendments to the Fox-Lance Act dealing with the granting of tax exemptions to condominium projects. The first of these amendments grants the municipality the option of authorizing a lapse of the tax exemption or an increase in the annual service charge for a residential condominium unit during any period in which the owner does not reside in that unit. The second amendment allows the use of the "prevailing lawful interest rate for mortgage financing of comparable properties within the municipality" in calculating the annual gross revenue of units in a condominium project.

This bill was pre-filed for introduction in the 1990 session pending technical review. As reported, the bill includes the changes required by technical review which has been performed.

SENATE REVENUE, FINANCE AND
APPROPRIATIONS COMMITTEE

STATEMENT TO

[FIRST REPRINT]

SENATE, No. 291

with committee amendments

STATE OF NEW JERSEY

DATED: JUNE 10, 1991

The Senate Revenue, Finance and Appropriations Committee reports favorably Senate Bill No. 291 (1R), with committee amendments.

As amended by the committee, Senate Bill No. 291 (1R), the "Long Term Tax Exemption Law," consolidates the various statutes under which municipalities may agree with private entities for the private entities to undertake redevelopment projects in return for tax exemptions. These laws, variously known as the Urban Renewal Corporation and Association Law, the Urban Renewal Nonprofit Corporation Law, the Limited-Dividend Nonprofit Housing Corporation or Association Law, and the Senior Citizen Nonprofit Rental Housing Tax Law, contain many overlapping, duplicative, obsolete or confusing provisions. This comprehensive act revises them into one law, based upon the recommendations of the County and Municipal Government Study Commission in its report, Local Redevelopment in New Jersey (1987).

In addition to revising and consolidating the law, the bill strengthens the ability of the municipality to use the law to effectuate its redevelopment plans and purposes by:

1. Requiring that the project of an urban renewal entity be undertaken pursuant to the municipal redevelopment plan and under the direction of the municipality;

2. Requiring review and approval of financial agreements on projects by the Director of Local Government Services in the Department of Community Affairs, as well as the municipal governing body, and strengthening the ability of the municipality to negotiate the financial agreement on terms most favorable to the municipality;

3. Providing a "fail-safe" mechanism to permit the municipality, with the director's approval, to effectuate a financial plan to correct problems of mismanagement, mortgage foreclosure or other problems as necessary to protect the health, safety and welfare of residents or users of the project;

4. Provide for municipal flexibility in negotiating tax exemptions, based upon municipal findings regarding the costs and benefits of the project, the importance of the project to its redevelopment purposes, and the importance of tax exemptions to probable users of the project. The bill establishes a flexible in-lieu of tax formula, which requires a phase-in to full taxation over the period of tax exemption, which may be negotiated between the municipality and the urban renewal entity.

In addition, the bill allows the granting of tax exemptions to projects which provide housing to residents displaced by any redevelopment project and adds cultural projects to the list of eligible projects which can be undertaken by an urban renewal entity as specified in section 4 of the bill.

COMMITTEE AMENDMENTS

The committee amendments restore most of the original bill's definition of net profit, but includes an exemption for all reasonable annual operating expenses. The amendments also exclude from the definition of total project cost, the cost of environmental remediation and other extraordinary site improvement costs. In addition, the amendments establish a minimum annual service charge equal to the amount of the total taxes levied against all real property in the area covered by the project in the last full tax year in which the area was subject to taxation.

FISCAL IMPACT

As this bill consolidates the various laws under which municipalities may agree with private entities for the private entities to undertake redevelopment projects in return for tax exemptions, it has no direct impact on State revenues.

ASSEMBLY HOUSING COMMITTEE

STATEMENT TO

[SECOND REPRINT]

SENATE, No. 291

with Assembly Committee Amendments

STATE OF NEW JERSEY

DATED: DECEMBER 9, 1991

The Assembly Housing Committee reports Senate Bill No. 291 (2R) favorably, with amendments.

Short-titled the "Long Term Tax Exemption Law," this bill consolidates the various statutes under which municipalities may agree with private entities for the private entities to undertake redevelopment projects in return for tax exemptions. These laws, variously known as the Urban Renewal Corporation and Association Law, the Urban Renewal Nonprofit Corporation Law, the Limited-Dividend Nonprofit Housing Corporation or Association Law, and the Senior Citizen Nonprofit Rental Housing Tax Law, contain many overlapping, duplicative, obsolete or confusing provisions. This comprehensive act revises them into one law, based upon the recommendations of the County and Municipal Government Study Commission in its 1987 report, *Local Redevelopment in New Jersey*.

In addition to revising and consolidating the law, the bill strengthens the ability of the municipality to use the law to effectuate its redevelopment plans and purposes by:

1. Requiring that the project of an urban renewal entity be undertaken pursuant to the municipal redevelopment plan and under the direction of the municipality;

2. Requiring review and approval of financial agreements on projects by the Director of Local Government Services in the Department of Community Affairs, as well as the municipal governing body, and strengthening the ability of the municipality to negotiate the financial agreement on terms most favorable to the municipality;

3. Providing a "fail-safe" mechanism to permit the municipality, with the director's approval, to effectuate a financial plan to correct problems of mismanagement, mortgage foreclosure or other problems as necessary to protect the health, safety and welfare of residents or users of the project;

4. Providing for municipal flexibility in negotiating tax exemptions, based upon municipal findings regarding the costs and benefits of the project, the importance of the project to its redevelopment purposes, and the importance of tax exemptions to probable users of the project. The bill establishes a flexible in-lieu of tax formula, which requires a phase-in to full taxation over the period of tax exemption, which may be negotiated between the municipality and the urban renewal entity.

In addition, the bill allows the granting of tax exemptions to projects which provide housing to residents displaced by any redevelopment project and adds cultural projects to the list of eligible projects which can be undertaken by an urban renewal entity as specified in section 4 of the bill.

The committee adopted amendments to adjust the schedule of annual service charges made in lieu of taxes, so that (1) when the charge is to be based upon project cost, rather than anticipated revenues, it shall be 2 percent of the cost; (2) the first stage of the process by which taxation is phased in over the duration of the exemption is put at 15, rather than 14, years; and (3) the minimum length of the second through fifth phases is set at one year, rather than four years.

The committee also adopted a technical amendment correcting an erroneous internal cross reference in section 3 of the bill.

This bill is identical to Assembly Bill No.4684, also reported favorably by this committee today with amendments that incorporate changes made in the Senate bill during its passage through that House.

P.L. 1967, c. 114 (C.40:55C-44.1 et al.)
P.L. 1978, c. 93 (C.40:55C-46.1 et al.)
P.L. 1981, c. 506 (C.40:55C-52.1)
P.L. 1985, c. 138 (C.40:55C-58.2)
P.L. 1965, c. 95 (C.40:55C-77 et al.)
P.L. 1944, c. 169 (C.55:14D-1 et al.)
P.L. 1950, c. 107 (C.55:14D-6.1)
P.L. 1946, c. 52 (C.55:14E-1 et al.)
P.L. 1950, c. 111 (C.55:14E-7.1)
P.L. 1949, c. 185 (C.55:14E-20 et al.)
P.L. 1965, c. 92 (C.55:14I-1 et al.)
P.L. 1949, c. 184 (C.55:16-1 et al.)
P.L. 1950, c. 21 (C.55:16-5.1)
P.L. 1950, c. 112 (C.55:16-8.1)
P.L. 1967, c. 112 (C.55:16-9.1 et al.)
P.L. 1962, c. 249 (C.55:16-18.1)
P.L. 1950, c. 69 (C.55:16-22).

b. An entity organized and operating under a law repealed by this act shall not be effected by that repeal during the term of any financial agreement or tax exemption entered into with a municipality pursuant to the law so repealed, or extended pursuant to a law so repealed, prior to the effective date of this act. The financial agreement so entered into, and the tax exemption so granted or extended, shall remain binding upon the entity and the municipality, subject to modification by mutual written consent, as if the law under which it was entered into, or granted or extended, had not been repealed by this act. The provisions of section 17 of P.L. _____, c. _____ (C. _____) (now pending before the Legislature as this bill) shall apply, however, to the entity during the period of the financial agreement, or tax exemption, remaining on and after the effective date of this act. Any redevelopment project undertaken by an entity, or financial agreement or tax exemption entered into by an entity with a municipality, on or after the effective date of this act shall be pursuant to this act.

21. This act shall take effect 90 days following enactment, but any regulations which are necessary to effectuate its provisions may be adopted and issued, and any other administrative preparations necessary or expedient to its timely implementation may be undertaken, immediately.

SPONSOR'S STATEMENT

This bill, the "Comprehensive Housing and Redevelopment Tax Exemption Law" consolidates the various statutes under which municipalities may agree with private entities for them to undertake redevelopment projects in return for tax exemptions.

These laws, variously known as the Urban Renewal Corporation and Association Law, the Urban Renewal Nonprofit Corporation Law, the Limited-Dividend Nonprofit Housing Corporation or Association Law, and the Senior Citizen Nonprofit Rental Housing Tax Law, contain many overlapping, duplicative, obsolete or confusing provisions. This comprehensive act revises them into one law, based upon the recommendations of the County and Municipal Government Study Commission in its report, Local Redevelopment in New Jersey (1987).

This is part of a package of bills which provide a new partnership between the public and private sectors to redevelop and rehabilitate New Jersey's urban centers, older suburbs, and other communities that are in need of redevelopment. The bills encourage the maximum participation of the private sector in the redevelopment of the State's distressed communities.

In addition to revising and consolidating the law, the bill strengthens the ability of the municipality to use the law to effectuate its redevelopment plans and purposes by:

1. Requiring that the project of an urban renewal entity be undertaken pursuant to the municipal redevelopment plan and under the direction of the municipality;
2. Requiring review and approval of financial agreements on projects by the Director of Local Government Services in the Department of Community Affairs, as well as the municipal governing body, and strengthening the ability of the municipality to negotiate the financial agreement on terms most favorable to the municipality;
3. Providing a "fail-safe" mechanism to permit the municipality, with the director's approval, to effectuate a financial plan to correct problems of mismanagement, mortgage foreclosure or other problems as necessary to protect the health, safety and welfare of residents or users of the project;
4. Provide for municipal flexibility in negotiating tax exemptions, based upon municipal findings regarding the costs and benefits of the project, the importance of the project to its redevelopment purposes, and the importance of tax exemptions to probable users of the project. The bill establishes a flexible in-lieu of tax formula, which requires a phase-in to full taxation over the period of tax exemption, which may be negotiated between the municipality and urban renewal entity.

LOCAL TAXATION

"Comprehensive Housing and Redevelopment Tax Exemption Law;" consolidates various urban renewal and housing tax exemption statutes.