

52:27D-489k1 to 52:27D-489k11 et al.

LEGISLATIVE HISTORY CHECKLIST

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LAWS OF: 2018 **CHAPTER:** 97

NJSA: 52:27D-489k1 to 52:27D-489k11 et al. (Establishes "Economic Redevelopment and Growth Grant Bond Financing Act," authorizing issuance of bonds secured by pledge of Economic Redevelopment and Growth Grant proceeds, municipal liens, and special assessment; expands "Redevelopment Area Bond Financing Law"; extends time to complete certain projects under "Long Term Tax Exemption Law")

BILL NO: A2041 (Substituted for S1840)

SPONSOR(S) Coughlin and others

DATE INTRODUCED: 1/9/2018

COMMITTEE: **ASSEMBLY:** Commerce & Economic Development

SENATE: Economic Growth
Budget & Appropriations

AMENDED DURING PASSAGE: Yes

DATE OF PASSAGE: **ASSEMBLY:** 6/25/2018

SENATE: 6/25/2018

DATE OF APPROVAL: 8/17/2018

FOLLOWING ARE ATTACHED IF AVAILABLE:

FINAL TEXT OF BILL (Second Reprint enacted) Yes

A2041

SPONSOR'S STATEMENT: (Begins on page 29 of introduced bill) Yes

COMMITTEE STATEMENT: **ASSEMBLY:** Yes Commerce & Econ. Devel.
 SENATE: Yes Economic Growth
 Budget & Appropriations

(Audio archived recordings of the committee meetings, corresponding to the date of the committee statement, *may possibly* be found at www.njleg.state.nj.us)

FLOOR AMENDMENT STATEMENT: No

LEGISLATIVE FISCAL ESTIMATE: No

S1840

SPONSOR'S STATEMENT: (Begins on page 30 of introduced bill) Yes

COMMITTEE STATEMENT: **ASSEMBLY:** No
 SENATE: Yes Economic Growth
 Budget & Appropriations

(Audio archived recordings of the committee meetings, corresponding to the date of the committee statement, *may possibly* be found at www.njleg.state.nj.us)

(continued)

FLOOR AMENDMENT STATEMENT: No

LEGISLATIVE FISCAL ESTIMATE: No

VETO MESSAGE: No

GOVERNOR'S PRESS RELEASE ON SIGNING: Yes

FOLLOWING WERE PRINTED:

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P.L. 2018, CHAPTER 97, *approved August 17, 2018*
Assembly, No. 2041 (*Second Reprint*)

1 AN ACT concerning tax exemptions, the issuance of bonds and
2 imposition of certain municipal liens and special assessments,
3 establishing the “Economic Redevelopment and Growth Grant
4 Bond Financing Act,” supplementing Title 52 of the Revised
5 Statutes, amending ¹**[and supplementing]**¹ the “Redevelopment
6 Area Bond Financing Law,” P.L.2001, c.310 (C.40A:12A-64 et
7 seq.), and amending the “Long Term Tax Exemption Law,”
8 P.L.1991, c.431 (C.40A:20-1 et seq.).
9

10 **BE IT ENACTED** by the Senate and General Assembly of the State
11 of New Jersey:

12
13 1. (New section) Sections 1 through 11 of this act shall be
14 known and may be cited as the “Economic Redevelopment and
15 Growth Grant Bond Financing Act.”
16

17 2. (New section) As used in sections 1 through 11 of P.L. ,
18 c. (C.) (pending before the Legislature as this bill):

19 “Authority” means the New Jersey Economic Development
20 Authority established pursuant to P.L.1974, c.80 (C.34:1B-1 et
21 seq.), the New Jersey Redevelopment Authority established
22 pursuant to section 4 of P.L.1996, c.62 (C.55:19-23), a county
23 improvement authority established pursuant to P.L.1960, c.183
24 (C.40:37A-44 et seq.), or other instrumentality created by law of the
25 State with the power to incur debt and issue bonds and other
26 obligations. ²The issuance of debt in accordance herewith is hereby
27 deemed an essential public, governmental, and corporate purpose of
28 all such authorities.²

29 “Board” means the Local Finance Board established in the
30 Division of Local Government Services in the Department of
31 Community Affairs.

32 “Bonds” mean bonds, notes^{2,2} or other obligations issued by an
33 authority ²**[**, including any State entity,²**]**² or a municipality to
34 finance or refinance economic redevelopment and growth grant
35 projects, and in connection therewith, to finance or refinance any
36 other cost or expense of an authority ²**[**, a State entity²**]**² or a
37 municipality pursuant to sections 1 through 11 of P.L. , c. (C.)

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:

¹Assembly ACE committee amendments adopted February 8, 2018.

²Senate SBA committee amendments adopted June 18, 2018.

1 (pending before the Legislature as this bill), the “Local
2 Redevelopment and Housing Law,” P.L.1992, c.79 (C.40A:12A-1
3 et al), or other applicable law.

4 “Developer” means any person who enters or proposes to enter
5 into a redevelopment incentive grant agreement pursuant to the
6 provisions of section 9 of P.L.2009, c.90 (C.52:27D-489i), or its
7 successors or assigns, including but not limited to a lender that
8 completes an economic redevelopment and growth grant project,
9 operates an economic redevelopment and growth grant project, or
10 completes and operates an economic redevelopment and growth
11 grant project. A developer also may be a municipal redeveloper as
12 defined herein.

13 “Economic redevelopment and growth grant project” means a
14 project for which an incentive grant has been approved pursuant to
15 section 4 or section 5 of P.L.2009, c.90 (C.52:27D-489d or
16 C.52:27D-489e).

17 “Incentive grant” means reimbursement of all or a portion of the
18 project financing gap of an economic redevelopment and growth
19 grant project through the State or a local Economic Redevelopment
20 and Growth Grant program pursuant to section 4 or section 5 of
21 P.L.2009, c. 90 (C.52:27D-489d or C.52:27D-489e). ²The amount
22 of reimbursements for a State economic redevelopment and growth
23 grant project is subject to appropriation by the Legislature and to
24 availability of funds.²

25 “Incentive grant pledge” means an agreement ²[between a
26 developer and the issuer of bonds pursuant to which the developer]
27 that² pledges ²[its] a developer's right to collect incremental revenues
28 from an² incentive grant ²[for] as² repayment ²[of the] for² bonds,
29 which pledge may be part of a bond indenture or other agreement
30 related to the issuance of the bonds. ²The pledge of a State
31 incentive grant shall be made only upon notice to and consent of the
32 New Jersey Economic Development Authority and the State
33 Treasurer in accordance with section 9 of P.L.2009, c.90
34 (C.52:27D-489i).²

35 “Municipal redeveloper” means an applicant for a redevelopment
36 incentive grant agreement, which applicant is:

37 a. a municipal government, a municipal parking authority, or a
38 redevelopment agency acting on behalf of a municipal government
39 as defined in section 3 of P.L.1992, c.79 (C.40A:12A-3); or

40 b. a developer of a mixed use parking project, provided that the
41 parking component of the mixed use parking project is operated and
42 maintained by a municipal parking authority for the term of any
43 financial assistance granted pursuant to P.L.2015, c.69.

44 “Municipality” means the municipal governing body or an entity
45 acting on behalf of the municipality if permitted by the federal
46 Internal Revenue Code of 1986, or, if a redevelopment agency or
47 redevelopment entity is established in the municipality pursuant to

1 P.L.1992, c.79 (C.40A:12A-1 et seq.) and the municipality so
2 provides, the redevelopment agency or entity so established.

3 “Redevelopment incentive grant agreement” means an agreement
4 between:

5 a. the State and the New Jersey Economic Development
6 Authority and a developer; or

7 b. a municipality and a developer, or a municipal ordinance
8 authorizing a project to be undertaken by a municipal redeveloper,
9 under which, in exchange for the proceeds of an incentive grant, the
10 developer agrees to perform any work or undertaking necessary for
11 an economic redevelopment and growth grant project, including the
12 clearance, development or redevelopment, construction, or
13 rehabilitation of any structure or improvement of commercial,
14 industrial, residential, or public structures or improvements within a
15 qualifying economic redevelopment and growth grant incentive area
16 or a transit village.

17 “Special assessment” means an assessment upon the lands or
18 improvements on such lands, or both, on the real property
19 benefitted by improvements undertaken pursuant to sections 1
20 through 11 of P.L. , c. (C.) (pending before the Legislature
21 as this bill) and assessed pursuant to chapter 56 of Title 40 of the
22 Revised Statutes, R.S.40:56-1 et seq., except as otherwise provided
23 in subsection b. of section 3 of P.L. , c. (C.) (pending
24 before the Legislature as this bill).

25 “State entity” means ²the New Jersey Sports and Exposition
26 Authority established pursuant to P.L.1971, c.137 (C.5:10-1 et seq.)
27 or² any ²other² entity created by State law ²**[with the power to**
28 **undertake]** which undertakes² an economic redevelopment and
29 growth grant project ²**[directly or through a State entity**
30 **developer]**² and ²**[with]** which has² the power to determine the
31 location, type, and character of ²**[an economic redevelopment and**
32 **growth grant project or part of an economic redevelopment and**
33 **growth grant project]** projects² on land owned or controlled by it.

34 ²**[“State entity developer” means any person, firm, or**
35 **corporation that shall enter into or propose to enter into a State**
36 **entity development agreement with a State entity for an economic**
37 **redemption and growth grant project under the enabling**
38 **legislation governing the actions of the State entity or for any**
39 **construction or other work forming a part of an economic**
40 **redemption and growth grant project.**

41 “State entity development agreement” means an agreement
42 between a State entity and a State entity developer for an economic
43 redevelopment and growth grant project. ²

44
45 3. (New section) a. In connection with any economic
46 redevelopment and growth grant project, the municipality in which
47 the project is located may issue bonds itself in the manner provided

1 for herein or pursuant to the “Local Redevelopment and Housing
 2 Law,” P.L.1992, c.79 (C.40A:12A-1 et al.) or may apply to an
 3 authority to issue bonds, regardless of whether the economic
 4 redevelopment and growth grant project is undertaken ²[under
 5 municipal authority]² pursuant to section 4 ²or section 5² of
 6 P.L.2009, c.90 (C.52:27D-489d ²or C.52:27D-489e²) ²[or by a State
 7 entity developer pursuant to a State entity development
 8 agreement]², which, in any case, may be secured by an incentive
 9 grant pledge, and may be further secured by a municipal lien, by
 10 special assessments, or both a municipal lien and special
 11 assessments, by the adoption of a resolution or ordinance, as
 12 applicable, of the governing body of the municipality ²[.] ²or² the
 13 authority ²[, or the State entity]² to that effect. ²The term of any
 14 bond secured in whole or in part by an incentive grant pledge shall
 15 not exceed the eligibility period of the redevelopment incentive
 16 grant agreement that provides for the incentive grant that is
 17 pledged.

18 Nothing contained in sections 1 through 11 of
 19 P.L. , c. (C.) (pending before the Legislature as this bill)
 20 shall be construed as preventing the pledge, assignment, transfer, or
 21 sale of any or all of a developer’s right, title, and interest in and to a
 22 redevelopment incentive grant agreement and in the incentive grants
 23 payable thereunder, and the right to receive same, along with the
 24 rights and remedies provided to a developer under a redevelopment
 25 incentive grant agreement in accordance with subsection g. of
 26 section 9 of P.L.2009, c.90 (C.52:27D-489i.) or subsection g of
 27 section 11 of P.L.2009, c.90 (C.52:27D-489k.), as applicable, or
 28 shall purport to limit the use of such pledge, assignment, transfer, or
 29 sale with respect to the issuance of bonds hereunder or under other
 30 applicable law. Furthermore, nothing contained in sections 1
 31 through 11 of P.L. , c. (C.) (pending before the Legislature
 32 as this bill) shall prevent a State entity from financing an economic
 33 redevelopment and growth grant project in accordance with the
 34 State entity's enabling legislation and section 9 of P.L.2009, c.90
 35 (C.52:27D-489i), which financing shall not be subject to the
 36 provisions of sections 1 through 11 of P.L. , c. (C.)
 37 (pending before the Legislature as this bill).²

38 b. ²[In addition to, or in lieu of, an incentive grant pledge, a]
 39 A² municipality may provide by ordinance for one or more special
 40 assessments on the economic redevelopment and growth grant
 41 project in accordance with chapter 56 of Title 40 of the Revised
 42 Statutes, R.S.40:56-1 et seq.; provided, however, the local
 43 improvements for which such special assessments may be made
 44 may include any improvement in the economic redevelopment and
 45 growth grant project whether or not listed at R.S.40:56-1 and,
 46 provided further, that the provisions of R.S.40:56-35 shall be
 47 applied so that if any installment of a special assessment shall

1 remain unpaid for 30 days after the time at which it shall become
2 due, the municipality may provide, by ordinance, either that: (1) the
3 whole assessment or balance due thereon shall become and be
4 immediately due; or, (2) any subsequent installments which would
5 not yet have become due except for the default shall be considered
6 as not in default and that the lien for the installments not yet due
7 shall continue; and provided, further, that the ordinance may require
8 that the assessments be payable in quarterly, semi-annual, or yearly
9 installments, with legal interest thereon, over a period of years up to
10 but in no event exceeding the period of years for which the bonds
11 were issued ²【, or for 30 years, whichever shall be less】². In
12 levying a special assessment on the lands or improvements, or both,
13 on which the economic redevelopment and growth grant project is
14 located, the municipality may provide that the amount of the special
15 assessment shall be a specific amount, not to exceed the cost of the
16 improvements, plus any out-of-pocket costs or expenses incurred in
17 connection with such improvements, including, but not limited to,
18 architectural, engineering, financing, legal, and other professional
19 fees, paid with respect to property ²【on which the economic
20 redevelopment and growth grant project is located】 benefitted by the
21 improvements². That specific amount shall, to the extent accepted
22 by the owner of the property benefitted, be deemed the conferred
23 benefit, in lieu of the amount being determined by the procedures
24 otherwise applicable to determining the actual benefit conferred on
25 the property. Special assessments levied pursuant to an ordinance
26 adopted under this subsection shall constitute a municipal lien
27 under R.S.40:56-33.

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

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

3 d. The municipality may include in the terms of a bond or
4 contract, including an incentive grant pledge, a provision that the
5 pledge of an incentive grant or special assessments shall constitute a
6 municipal charge for the purposes of R.S.54:4-66.

7 e. The incentive grant pledge or special assessments, or both,
8 may be assigned directly by the municipality or the authority to the
9 trustee for the bonds as payment or security for the bonds ²,
10 provided that the assignment of the pledge of a State incentive grant
11 shall be made only upon notice to and consent of the New Jersey
12 Economic Development Authority and the State Treasurer².

13 Notwithstanding any law to the contrary, the assignment shall be an
14 absolute assignment of all the municipality's right, title, and interest
15 in the incentive grant pledge or special assessments, or both, or
16 portion thereof, along with the rights and remedies provided to the
17 municipality under the agreement including, but not limited to, the
18 right of collection of payments due. ²**[Pursuant to an absolute**
19 **assignment, the trustee, in lieu of the municipality, shall possess the**
20 **power to conduct a sale of the land or improvements thereon, or**
21 **both, or any leasehold interests in the land or improvements**
22 **thereon, or both, to satisfy delinquencies in incentive grant pledges**
23 **or special assessments, or both. The sale shall be held in**
24 **accordance with the provisions of the "tax sale law," R.S.54:5-1 et**
25 **seq.; provided, however that notwithstanding any provision of that**
26 **law, the trustee shall have the power to issue a tax sale certificate**
27 **making sale of any interest, including any interest less than a fee**
28 **interest, that is subject to a lien established under this section. Prior**
29 **to conducting a sale of the lands or improvements or issuing a tax**
30 **sale certificate pursuant to the power conferred under this section,**
31 **the trustee shall provide the governing body of the municipality**
32 **with written notice of the proposed sale or issuance at least five**
33 **working days prior to the date of the proposed sale or issuance.]**²

34 Any interest that is subject to a lien established under this section
35 shall not be transferred, conveyed, assigned, disposed of, or sold,
36 whether by tax sale or otherwise, free and clear of the
37 redevelopment incentive grant agreement and any incentive grant
38 pledges due thereunder while bonds are secured thereby, regardless
39 of the consent of the parties or order of any court, whether in law or
40 in equity, unless any such transfer or conveyance is provided for
41 under the terms and conditions set forth in the bond resolution or
42 bond ordinance, as applicable. Any purchaser, transferee,
43 successor, grantee, or assignee of such interest, whether at a tax sale
44 or otherwise, shall take title to such interest subject to the
45 obligations imposed by the redevelopment incentive grant
46 agreement. ²Notwithstanding any provision in this section or in any
47 other law to the contrary, no purchaser, transferee, successor,

1 grantee, or assignee shall be assigned a State redevelopment
2 incentive grant agreement or have any of the rights, duties, or
3 obligations of a State redevelopment incentive grant agreement
4 without notice to and consent of the New Jersey Economic
5 Development Authority and the State Treasurer.² Incentive grant
6 pledges and special assessments assigned as provided hereunder
7 shall not be included in the general funds of the municipality, nor
8 shall they be subject to any laws regarding the receipt, deposit,
9 investment, or appropriation of public funds and shall retain such
10 status notwithstanding enforcement of the payment or assessment
11 by the municipality or assignee as provided herein. The
12 municipality shall be a “person” within the meaning of that term as
13 defined in section 3 of P.L.1974, c.80 (C.34:1B-3); and the purpose
14 described in this section shall be a “project” within the meaning of
15 that term as defined in section 3 of P.L.1974, c.80 (C.34:1B-3).

16 f. Notwithstanding the provisions of subsection g. of section
17 37 of P.L.1992, c.79 (C.40A:12A-37), the bonds issued pursuant to
18 this section ²**[may]** shall² be issued as non-recourse obligations,
19 and ²**[unless otherwise provided for by a separate action of the**
20 **municipality to guarantee such bonds or otherwise provide for a**
21 **pledge of the municipality's full faith and credit]**² shall not ²**[,**
22 **except for such action,]**² be considered to be direct and general
23 obligations of the municipality, and ²**[, absent such action,]**² the
24 municipality shall not be obligated to levy and collect a tax
25 sufficient in an amount to pay the principal and interest on the
26 bonds when the same become due and payable. The provisions of
27 the “Local Government Supervision Act (1947),” P.L.1947, c.151
28 (C.52:27BB-1 et seq.) shall not apply to any bonds issued or
29 authorized pursuant to this section and those bonds shall not be
30 considered gross debt of the municipality on any debt statement
31 filed in accordance with the “Local Bond Law,” N.J.S.40A:2-1 et
32 seq., and the provisions of chapter 27 of Title 52 of the Revised
33 Statutes shall not apply to such bonds.

34 g. The proceeds from the sale of bonds and any funds provided
35 by any department of the State, authority created by the State, or bi-
36 state authority, for the purposes described in sections 1 through 11
37 of P.L. , c. (C.) (pending before the Legislature as this bill),
38 or for the purpose of financing or refinancing an economic
39 redevelopment and growth grant project pursuant to ²**[a State entity**
40 **development agreement]** section 5 of P.L.2009, c.90 (C.52:27D-
41 489e)² , shall not require compliance with public bidding laws,
42 including the “Local Public Contracts Law,” P.L.1971,
43 c.198 (C.40A:11-1 et seq.), or any other statute where the developer
44 ²**[or State entity developer, as the case may be,]**² shall undertake
45 the economic redevelopment and growth grant project. The use of
46 these funds shall be subject to public accountability and oversight

1 by the issuer of those bonds, regardless of whether the municipality,
2 agency, or authority provides the funds.

3 h. ²¶ In order to provide additional security for bonds issued to
4 finance an economic redevelopment and growth grant project, the
5 municipality may utilize powers otherwise provided by law,
6 including the “Local Redevelopment and Housing Law,” P.L.1992,
7 c.79 (C.40A:12A-1 et al), to provide for any extension of the
8 municipality's credit to any developer or State entity developer, as
9 the case may be, or its full faith and credit which may include a full
10 faith and credit lease as security for the bonds or any loan to a
11 developer or State entity developer, as the case may be. To the
12 extent that the municipality provides for a full faith and credit
13 guarantee of any bonds, but determines not to authorize the issuance
14 of bonds or notes to provide for the funding source thereof, or
15 otherwise determines to enter into a full faith and credit lease, it
16 may do so by resolution approved by a majority of the full
17 governing body. To the extent that bonds or notes are authorized as
18 provided above, such bonds or notes shall be authorized pursuant to
19 the provisions of the “Local Bond Law,” N.J.S.40A:2-1 et seq., and
20 shall be deductible from the gross debt of the municipality until
21 such time as such bonds or notes are actually issued, and only up to
22 the amount actually issued, to fund such guarantee.

23 i. ²¶ A bond, whether issued by a municipality or an authority,
24 ²¶ which is secured in whole or in part by the full faith and credit
25 thereof as provided herein, ²¶ shall be subject to the review and
26 approval of the Local Finance Board. That review and approval
27 shall be made prior to approval of ²¶, in the case of a municipal
28 governing body, ²¶ an ²¶ introduced ²¶ ordinance or ²¶, in the case of
29 an authority or redevelopment entity that is not a municipal
30 governing body, ²¶ a resolution ², as may be required by the law
31 pursuant to which the bonds are issued². The board shall be entitled
32 to receive from the applicant an amount sufficient to provide for all
33 reasonable professional and other fees and expenses incurred by it
34 for the review, analysis, and determination with respect thereto. As
35 part of its review, the board shall specifically solicit comments from
36 the New Jersey Economic Development Authority in addition to
37 comments from the public. As part of the board's review and
38 approval, it shall consider comments submitted, and whether the
39 issuance of the bond will adversely impact the financial stability of
40 the municipality or the service area of the authority.

41 ²¶ j. ² i. ² A municipality that has assigned any portion of the
42 incentive grant pledge it receives as payment or security for bonds,
43 may, with the consent of the developer, ² the New Jersey Economic
44 Development Authority, and the State Treasurer,² also pledge a
45 portion of the incentive grant pledge as payment or security for
46 bonds in order to finance or refinance any cost or expense of the
47 municipality ²¶, State entity ²¶ or authority.

1 ²[k.] j.² In the case of a municipality which is otherwise
2 subject to tax or revenue sharing pursuant to law and which assigns
3 a portion of the incentive grant pledge or special assessments to
4 secure bonds issued by the municipality or the authority, the
5 assigned portion of the incentive grant pledge or special
6 assessments shall not be considered part of the tax or revenue
7 sharing formula or calculation of municipal revenues for the
8 purpose of determining whether that municipality is obligated to
9 make payment to, or receive a credit from, any tax sharing or
10 revenue sharing pool.

11 ²[l.] k.² Notwithstanding any law to the contrary, in the event
12 that bonds shall be issued that are secured by incentive grant
13 pledges pursuant to a redevelopment incentive grant agreement, the
14 redevelopment incentive grant agreement shall not be terminated for
15 any reason ²after such bonds are issued and² during the period that
16 the bonds are outstanding ², except solely in the instances where the
17 economic redevelopment and growth grant project has not been
18 completed within the period of time required by the redevelopment
19 incentive grant agreement, or the economic redevelopment and
20 growth grant project has materially changed without prior approval
21 of the New Jersey Economic Development Authority and the State
22 Treasurer, in which cases the New Jersey Economic Development
23 Authority and the State Treasurer may terminate the redevelopment
24 incentive grant agreement in accordance with its terms. Nothing
25 herein shall preclude the New Jersey Economic Development
26 Authority or State Treasurer from exercising its rights under the
27 redevelopment incentive grant agreement to compel specific
28 performance or terminating the redevelopment incentive grant
29 agreement prior to the issuance of bonds for any reason in
30 accordance with its terms².

31
32 4. (New section) a. If authorized by ordinance of a
33 municipality adopted pursuant to subsection a. of section 3 of
34 P.L. , c. (C.) (pending before the Legislature as this bill),
35 payments required to be made in accordance with an incentive grant
36 pledge entered into pursuant to sections 1 through 11 of P.L. , c.
37 (C.) (pending before the Legislature as this bill) shall be a
38 continuous lien on the land or improvements thereon, or both, or a
39 continuous lien on any leasehold interests in the land or
40 improvements thereon, or both, against which the ordinance is
41 recorded on and after the date of recordation of both the ordinance
42 and the agreement, whether simultaneously or not, or the date of
43 confirmation of the special assessments, whichever is earlier. All
44 subsequent payments of the incentive grant pledge thereunder,
45 interest, penalties, and costs of collection which thereafter fall due
46 or accrue shall be added and relate back to and be a part of the
47 initial lien. Upon recordation of the ordinance and agreement, the

1 incentive grant pledge shall constitute an automatic, enforceable,
 2 and perfected statutory municipal lien for all purposes, including
 3 the federal bankruptcy code, regardless of whether ²[or not]² the
 4 amount of the incentive grant pledge has been determined at the
 5 time the lien attaches to any interest in the land, leasehold estate, or
 6 improvements, as applicable. A confirmation hearing process to
 7 determine the amount due shall not affect the commencement or
 8 validity of a lien established pursuant to subsection a. of section 3
 9 of P.L. , c. (C.) (pending before the Legislature as this bill).
 10 Notwithstanding any other applicable law, for the purposes of
 11 subsection a. of section 3 of P.L. , c. (C.) (pending before
 12 the Legislature as this bill), a municipal lien on a leasehold estate
 13 shall constitute a lien against such leasehold estate only, unless the
 14 redevelopment incentive grant agreement specifically provides for a
 15 lien on the underlying fee interest in the land. In any case,
 16 enforcement of a municipal lien on a leasehold estate shall be
 17 limited to an in rem proceeding only. No municipal lien shall
 18 attach to any interest of ²[a] an authority or any entity created by
 19 the² State ²[entity]² unless ²[such State] the authority or² entity
 20 shall have expressly consented to such lien in the redevelopment
 21 incentive grant agreement.

22 b. If bonds are issued, the municipality ²[,] or² the developer
 23 ²[or the State entity developer]² , as the case may be, may record,
 24 either simultaneously or at different times, any ordinance adopted
 25 by the municipality relating to the incentive grant pledge or special
 26 assessments and, either simultaneously with the ordinance or at
 27 different times, a copy of the agreement or agreements. The
 28 ordinance, when recorded, shall contain a legend at the top of the
 29 front page substantially as follows:

30
 31 THIS ORDINANCE SECURES BONDS OR OTHER
 32 OBLIGATIONS ISSUED IN ACCORDANCE WITH THE
 33 PROVISIONS OF THE “ECONOMIC REDEVELOPMENT AND
 34 GROWTH GRANT BOND FINANCING ACT” AND THE LIEN
 35 HEREOF IN FAVOR OF THE OWNERS OF SUCH BONDS OR
 36 OTHER OBLIGATIONS IS A MUNICIPAL LIEN SUPERIOR TO
 37 ALL OTHER NON-MUNICIPAL LIENS HEREAFTER
 38 RECORDED.

39
 40 c. Notwithstanding any law to the contrary, upon recordation
 41 of both the ordinance and any accompanying agreement, the lien
 42 thereof shall be perfected for all purposes in accordance with law
 43 and the lien shall thereafter be superior to (1) all ²[municipal and]²
 44 non-municipal liens thereafter recorded or otherwise arising, and,
 45 (2) each prior lien where the lienholder consents, without any
 46 additional notice, recording, filing, continuation filing, or action,
 47 until the payment in full of the bonds. The lien thereby established

1 shall apply not only to the bonds initially issued, but also to any
2 refinancing or refunding thereof, as well as to any additional bonds
3 thereafter issued on a parity therewith in accordance with the
4 provisions of the original documents securing the initial bonds;
5 provided, however, that in the event any ordinance or agreement is
6 amended or supplemented in a way which increases the amount of
7 an incentive grant pledge or special assessments, the lien as to that
8 increase shall be perfected and apply upon the recordation of the
9 amended or supplemented ordinance and agreement (including the
10 above-recited legend). Except as set forth in this section, no
11 amendment or supplement to the ordinance or agreement thereafter
12 recorded shall affect the perfection or priority of the lien established
13 upon original recordation thereof.

14 d. Upon the final payment in full of any bonds secured as
15 provided in sections 1 through 11 of P.L. , c. (C.) (pending
16 before the Legislature as this bill), the lien established hereby shall
17 terminate, and the ²[municipality] trustee² shall record a notice to
18 that effect.

19

20 5. (New section) a. In lieu of, or in addition to, the provisions
21 of section 4 of P.L. , c. (C.) (pending before the Legislature
22 as this bill), the municipality may provide in the agreement that the
23 incentive grant pledge, if any, is to be secured by a mortgage. In
24 that event the mortgage may also be assigned and pledged to the
25 repayment of the bonds authorized herein.

26 b. The assignment of any mortgage that secures an incentive
27 grant pledge, if any, may also be an absolute assignment of all or
28 part of the municipality's right, title, and interest in the mortgage
29 and, to the extent assigned, any moneys realized from the
30 foreclosure of the mortgaged property shall not be included in the
31 general funds of the municipality.

32 c. After the bonds are paid and no longer deemed to be
33 outstanding, the assignment of the mortgage shall terminate.

34

35 6. (New section) All bonds issued pursuant to sections 1
36 through 11 of P.L. , c. (C.) (pending before the Legislature
37 as this bill), are hereby declared to be issued by a political
38 subdivision of this State and for an essential public and
39 governmental purpose and the bonds, and the interest thereon and
40 the income therefrom, and all facility charges, funds, revenues, and
41 other moneys pledged or available to pay or secure the payment of
42 the bonds, or interest thereon, shall at all times be exempt from
43 taxation except for transfer inheritance and estate taxes.

44

45 7. (New section) The State of New Jersey does hereby pledge
46 to and covenant and agree with the holders of any bonds issued
47 pursuant to sections 1 through 11 of P.L. , c. (C.) (pending
48 before the Legislature as this bill) that the State will not limit or

1 alter the terms of any agreement, ordinance, or resolution made in
2 connection with the security for and the issuance and sale of any
3 bonds, so as to in any way impair the rights or remedies of such
4 holders, and will not modify in any way the exemption from
5 taxation provided for in sections 1 through 11 of P.L. , c. (C.)
6 (pending before the Legislature as this bill) until the bonds, together
7 with interest thereon, with interest on any unpaid installments of
8 interest, and all costs and expenses in connection with any action or
9 proceeding by or on behalf of such holders, are fully met and
10 discharged or provided for.

11

12 8. (New section) If any section, subsection, clause or provision
13 of the “Economic Redevelopment and Growth Grant Bond
14 Financing Act,” sections 1 through 11 of P.L. , c. (C.)
15 (pending before the Legislature as this bill), shall be adjudged to be
16 unconstitutional or ineffective in whole or in part, to the extent that
17 it is not adjudged unconstitutional or is not ineffective, it shall be
18 valid and effective and no other section, subsection, clause or
19 provision of the “Economic Redevelopment and Growth Grant
20 Bond Financing Act,” sections 1 through 11 of P.L. , c. (C.)
21 (pending before the Legislature as this bill), shall on account
22 thereof be deemed invalid or ineffective, and the inapplicability or
23 invalidity of any section, subsection, clause or provision of the
24 “Economic Redevelopment and Growth Grant Bond Financing
25 Act,” sections 1 through 11 of P.L. , c. (C.) (pending before
26 the Legislature as this bill), in any one or more instances or under
27 any one or more circumstances shall not be taken to affect or
28 prejudice in any way its applicability or validity in any other
29 instance or under any other circumstance.

30

31 9. (New section) An authority or municipality, as applicable,
32 shall cause a copy of any bond resolution or bond ordinance, as
33 applicable, adopted by it to be filed for public inspection in the
34 office of the municipal clerk of the municipality wherein the project
35 financed by the bonds is located. In the case of an authority, the
36 resolution also shall be filed for public inspection in its office. The
37 authority or municipality may cause to be published, at least once in
38 a newspaper published or circulating in the municipality, if there be
39 one, and if not, in a newspaper published and circulating in the
40 county, a notice stating the fact and date of the adoption and the
41 places where the bond resolution or bond ordinance, as applicable,
42 has been so filed for public inspection along with the date of the
43 first publication of the notice and also stating that any action or
44 proceeding of any kind or nature in any court questioning the
45 validity or proper authorization of bonds provided for by the bond
46 resolution or bond ordinance, as applicable, or the validity of any
47 covenants, agreements or contracts provided for by the bond
48 resolution or bond ordinance, as applicable, shall be commenced

1 within 20 days after the first publication of that notice. If any such
2 notice shall at any time be published and if no action or proceeding
3 questioning the validity or proper authorization of bonds provided
4 for by the bond resolution or bond ordinance, as applicable, referred
5 to in said notice, or the validity of any covenants, agreements, or
6 contracts provided for by said bond resolution or bond ordinance, as
7 applicable, shall be commenced or instituted within 20 days after
8 the first publication of the notice, then all persons shall be forever
9 barred and foreclosed from instituting or commencing any action or
10 proceeding in any court, or from pleading any defense to any action
11 or proceeding, questioning the validity or proper authorization of
12 such bonds, or the validity of such covenants, agreements, or
13 contracts, and said bonds, covenants, agreements, and contracts
14 shall be conclusively deemed to be valid and binding obligations in
15 accordance with their terms and tenor.

16

17 10. (New section) Any municipality may undertake, as a local
18 improvement; the investigation, analysis, planning, monitoring,
19 acquisition, removal, containment, remediation, construction, or
20 improvement of any real property or facility necessary or desirable
21 for the cleanup of actual, potential, or perceived environmental
22 contamination or pollution, including without limitation, water
23 pollution, air pollution, pollution caused by solid waste disposal,
24 thermal pollution, radiation contamination, or other general
25 environmental contamination or pollution which is or may become
26 injurious to the environment or to the public health, safety, or
27 welfare.

28 The governing body of a municipality undertaking a local
29 improvement under this section may make, amend, repeal, and
30 enforce ordinances for carrying into effect the powers granted in
31 this section. Whenever convenient, one or more of the works
32 provided for in R.S.40:56-1 may be undertaken together with the
33 local improvement authorized under this section as one
34 improvement.

35

36 11. (New section) Whenever a municipality issues bonds in
37 accordance with sections 1 through 11 of P.L. , c. (C.)
38 (pending before the Legislature as this bill), or a municipality
39 applies to an authority to issue bonds pursuant to sections 1 through
40 11 of P.L. , c. (C.) (pending before the Legislature as this
41 bill), the municipality by ordinance may cause local improvements
42 to be undertaken, or otherwise agree to acknowledge the
43 undertaking of local improvements, by or on behalf of a
44 redeveloper, for the powers granted under R.S.40:56-1 et seq.,
45 including section 10 of P.L. , c. (C.) (pending before the
46 Legislature as this bill).

1 12. Section 2 of P.L.2001, c.310 (C.40A:12A-65) is amended to
2 read as follows:

3 2. As used in sections 1 through 10 of P.L.2001, c.310
4 (C.40A:12A-64 et seq.):

5 "Authority" means the New Jersey Economic Development
6 Authority established pursuant to P.L.1974, c.80 (C.34:1B-1 et
7 seq.), the New Jersey Redevelopment Authority established
8 pursuant to section 4 of P.L.1996, c.62 (C.55:19-23), a county
9 improvement authority established pursuant to P.L.1960, c.183
10 (C.40:37A-44 et seq.), or other instrumentality created by law **[by]**
11 of the State with the power to incur debt and issue bonds and other
12 obligations. ²The issuance of debt in accordance herewith is hereby
13 deemed an essential public, governmental, and corporate purpose of
14 all such authorities.²

15 "Board" means the Local Finance Board established in the
16 Division of Local Government Services in the Department of
17 Community Affairs.

18 "Bonds" mean bonds, notes^{2,2} or other obligations issued by the
19 authority, including any State entity, or a municipality to finance or
20 refinance redevelopment projects, and in connection therewith, to
21 finance or refinance any other cost or expense of an authority, a
22 State entity or a municipality pursuant to the "Redevelopment Area
23 Bond Financing Law," sections 1 through 10 of P.L.2001, c.310
24 (C.40A:12A-64 et seq.), the "Local Redevelopment and Housing
25 Law", P.L.1992, c.79 (C.40A:12A-1 et seq.), or other applicable
26 law.

27 "Environmental remediation" means the investigation, analysis,
28 planning, monitoring, acquisition, removal, containment,
29 remediation, construction, or improvement of any real property or
30 facility necessary or desirable for the cleanup of actual, potential, or
31 perceived environmental contamination or pollution, including
32 without limitation, water pollution, air pollution, pollution caused
33 by solid waste disposal, thermal pollution, radiation contamination,
34 or other general environmental contamination or pollution which is
35 or may become injurious to the environment or to the public health,
36 safety, or welfare.

37 "Financial agreement" means an agreement that meets the
38 requirements of a financial agreement under P.L.1991, c.431
39 (C.40A:20-1 et seq.) or, in the event that real property within a
40 redevelopment area is exempt from taxation or has been or will be
41 abated pursuant to applicable law, an agreement among , as
42 applicable, a State entity [.] or a municipality or both, and a State
43 entity redeveloper providing for payment of payments in lieu of
44 taxes or special assessments by the State entity redeveloper with
45 respect to a redevelopment project, or part thereof, to be carried out
46 pursuant to a State entity redevelopment agreement.

1 "Municipality" means the municipal governing body or an entity
2 acting on behalf of the municipality if permitted by the federal
3 Internal Revenue Code of 1986, or, if a redevelopment agency or
4 redevelopment entity is established in the municipality pursuant to
5 P.L.1992, c.79 (C.40A:12A-1 et seq.) and the municipality so
6 provides, the redevelopment agency or entity so established.

7 "Redeveloper" means any person, firm, corporation^{2,2} or public
8 body, including the New Jersey Economic Development Authority
9 or the New Jersey Redevelopment Authority to the extent permitted
10 by law, that shall enter into or propose to enter into a contract with
11 a municipality or other redevelopment entity for the redevelopment
12 or rehabilitation of an area in need of redevelopment, or an area in
13 need of rehabilitation, or any part thereof, under the provisions of
14 the "Redevelopment Area Bond Financing Law," sections 1 through
15 10 of P.L.2001, c.310 (C.40A:12A-64 et seq.), or for any
16 construction or other work forming part of a redevelopment or
17 rehabilitation project.

18 "Redevelopment" means clearance, replanning, development^{2,2}
19 and redevelopment; the conservation and rehabilitation of any
20 structure or improvement, the construction and provision for
21 construction of residential, commercial, industrial, public^{2,2} or
22 other structures **[and]**, the grant or dedication of spaces as may be
23 appropriate or necessary in the interest of the general welfare for
24 streets, parks, playgrounds, or other public purposes, including
25 recreational and other facilities incidental or appurtenant thereto,
26 environmental remediation, the construction, enhancement^{2,2} or
27 mitigation of wetlands impacted by a redevelopment project, and
28 any other related costs and expenses including preliminary planning
29 and development costs and any financing costs and expenses in
30 accordance with a redevelopment plan.

31 "Redevelopment bond financing agreement" means a contract
32 between a municipality and a redeveloper for any work or
33 undertaking for the redevelopment of a redevelopment area, or part
34 thereof, under the provisions of the "Redevelopment Area Bond
35 Financing Law," sections 1 through 10 of P.L.2001, c.310
36 (C.40A:12A-64 et seq.) or the "Local Redevelopment and Housing
37 Law," P.L.1992, c.79 (C.40A:12A-1 et seq.), as the case may be.

38 "Redevelopment area" means an area which has been delineated
39 a "redevelopment area" or "area in need of redevelopment" pursuant
40 to the "Local Redevelopment and Housing Law," P.L.1992, c.79
41 (C.40A:12A-1 et seq.) or with respect to a State entity, an area in
42 need of, or suitable for, redevelopment delineated by a resolution of
43 a State entity or a State entity redevelopment agreement, in either
44 case, in accordance with the provisions of the enabling statute
45 governing that State entity.

46 "Redevelopment plan" means a plan for the redevelopment or
47 rehabilitation of all or any part of a redevelopment area as described

1 in the redevelopment plan adopted pursuant to section 7 of
2 P.L.1992, c.79 (C.40A:12A-7) or as described in the resolution
3 adopted by a State entity determining the location, type^{2,2} and
4 character of a redevelopment project.

5 "Redevelopment project" means any work or undertaking
6 pursuant to a redevelopment plan; such undertaking may include
7 any buildings, land, including demolition, clearance^{2,2} or removal
8 of buildings from land, equipment, facilities, or other real or
9 personal properties which are necessary, convenient, or desirable
10 appurtenances, such as but not limited to streets, sewers, utilities,
11 parks, site preparation, landscaping, and administrative, community,
12 health, recreational, educational, and welfare facilities and any
13 other related costs and expenses including preliminary planning and
14 development costs and any financing costs and expenses.

15 "Special assessment" means an assessment upon the lands or
16 improvements on such lands, or both, in the redevelopment area
17 benefitted by improvements undertaken pursuant to the
18 "Redevelopment Area Bond Financing Law," sections 1 through 10
19 of P.L.2001, c.310 (C.40A:12A-64 et seq.), or the "Local
20 Redevelopment and Housing Law," P.L.1992, c.79 (C.40A:12A-1 et
21 seq.), and assessed pursuant to chapter 56 of Title 40 of the Revised
22 Statutes, R.S. 40:56-1 et seq., except as otherwise provided in
23 subsection c. of section 3 of P.L.2001, c.310 (C.40A:12A-66).

24 "State entity" means **【the New Jersey Meadowlands Commission**
25 **established pursuant to P.L.1968, c.404 (C.13:17-1 et seq.) or】** ²the
26 New Jersey Sports and Exposition Authority established pursuant to
27 P.L.1971, c.137 (C.5:10-1 et seq.) or² any **【other】** ²other² entity
28 created by State law ²**【with the power to undertake】** which
29 undertakes² a redevelopment project directly or through a State
30 entity redeveloper and ²**【with】** which has² the power to determine
31 the location, type^{2,2} and character of ²**【a redevelopment project or**
32 **part of a redevelopment project】** projects² on land owned or
33 controlled by it.

34 "State entity redeveloper" means any person, firm^{2,2} or
35 corporation that shall enter into or propose to enter into a State
36 entity redevelopment agreement with a State entity for the
37 redevelopment or rehabilitation of a redevelopment area under the
38 enabling legislation governing the actions of the State entity or for
39 any construction or other work forming a part of a redevelopment
40 project.

41 "State entity redevelopment agreement" means an agreement
42 between a State entity and a State entity redeveloper for any work
43 or undertaking in a redevelopment area.

44 (cf: P.L.2004, c.112, s.1)

45

46 13. Section 3 of P.L.2001, c.310 (C.40A:12A-66) is amended
47 to read as follows:

1 3. a. A municipality that has designated a redevelopment area
2 or a municipality in which a redevelopment project is undertaken by
3 a State entity redeveloper pursuant to a State entity redevelopment
4 agreement may provide for tax abatement within that
5 redevelopment area and for payments in lieu of taxes in accordance
6 with the provisions of P.L.1991, c.431 (C.40A:20-1 et seq.) and
7 P.L.1991, c.441 (C.40A:21-1 et seq.); provided, however, that the
8 provisions of section 12 of P.L.1991, c.431 (C.40A:20-12)
9 establishing a minimum or maximum annual service charge and
10 requiring staged increases in annual service charges over the term
11 of the exemption period, and of section 13 of P.L.1991, c.431
12 (C.40A:20-13) permitting the relinquishment of status under that
13 act, shall not apply to redevelopment projects financed with bonds.

14 b. A municipality in which a redevelopment project is
15 undertaken by a State entity redeveloper pursuant to a State entity
16 redevelopment agreement regarding real property that is **【or may be**
17 **abated by applicable law】** not otherwise subject to real property tax
18 may provide for **【a tax abatement within the redevelopment area**
19 **and for】** payments in lieu of taxes pursuant to a financial agreement
20 **【between】** among, as applicable, the State entity or the municipality
21 or both, and the State entity redeveloper receiving the benefits of
22 **【P.L.2004, c.112】** sections 1 through 10 of P.L.2001, c.310
23 (C.40A:12A-64 et seq.) without regard to the **【limitations and**
24 **other】** provisions of P.L.1991, c.431 (C.40A:20-1 et seq.).

25 c. In addition to, or in lieu of, the **【tax abatement】** payments in
26 lieu of taxes provided for in subsection a. or b. of this section, the
27 municipality may provide by ordinance for one or more special
28 assessments within the redevelopment area in accordance with
29 chapter 56 of Title 40 of the Revised Statutes, R.S.40:56-1 et seq.,
30 provided, however, the local improvements for which special
31 assessments may be made may include any improvement in the
32 redevelopment area whether or not listed at R.S.40:56-1 and
33 environmental remediation and, provided further, that the
34 provisions of R.S.40:56-35 shall be applied so that if any
35 installment of a special assessment shall remain unpaid for 30 days
36 after the time at which it shall become due, the municipality may
37 provide, by ordinance, either that: (1) the whole assessment or
38 balance due thereon shall become and be immediately due; or, (2)
39 any subsequent installments which would not yet have become due
40 except for the default shall be considered as not in default and that
41 the lien for the installments not yet due shall continue; and
42 provided, further, that the ordinance may require that the
43 assessments be payable in quarterly, semi-annual^{2, 2} or yearly
44 installments, with legal interest thereon, over a period of years up to
45 but in no event exceeding the period of years for which the bonds
46 were issued ²**【, or for 30 years, whichever shall be less】**². In
47 levying a special assessment on the lands or improvements, or both,

1 located in the redevelopment area, the municipality may provide
2 that the amount of the special assessment shall be a specific
3 amount, not to exceed the cost of the improvements, plus any out-
4 of-pocket costs or expenses incurred in connection with such
5 improvements, including, but not limited to, architectural,
6 engineering, financing, legal, and other professional fees, paid with
7 respect to property located in the redevelopment area. That specific
8 amount shall, to the extent accepted by the owner of the property
9 benefitted, be deemed the conferred benefit, in lieu of the amount
10 being determined by the procedures otherwise applicable to
11 determining the actual benefit conferred on the property. Special
12 assessments levied pursuant to an ordinance adopted under this
13 subsection shall constitute a municipal lien under R.S.40:56-33.

14 d. Upon adoption, a copy of the ordinance shall be filed for
15 public inspection in the office of the municipal clerk, and there
16 shall be published in a newspaper, published or circulating in the
17 municipality, a notice stating the fact and the date of adoption and
18 the place where the ordinance is filed and a summary of the
19 contents of the ordinance. The notice shall state that any action or
20 proceeding of any kind or nature in any court questioning the
21 validity or proper authorization of the ordinance or the actions
22 authorized to be taken as set forth in the ordinance shall be
23 commenced within 20 days after the publication of the notice. If no
24 action or proceeding questioning the validity of the ordinance
25 providing for tax abatement, special assessments, payments in lieu
26 of taxes^{2, 2}, or other actions authorized by the ordinance shall be
27 commenced or instituted within 20 days after the publication of the
28 notice, the county and the school district and all other
29 municipalities within the county and all residents and taxpayers and
30 owners of property therein shall be forever barred and foreclosed
31 from instituting or commencing any action or proceeding in any
32 court questioning the validity or enforceability of the ordinance or
33 the validity or enforceability of acts authorized under the ordinance,
34 and the ordinance and acts authorized by the ordinance shall be
35 conclusively deemed to be valid and enforceable in accordance with
36 their terms and tenor.

37 e. Notwithstanding any provision of the "Redevelopment Area
38 Bond Financing Law," sections 1 through 10 of P.L.2001, c.310
39 (C.40A:12A-64 et seq.), or the "Long Term Tax Exemption Law,"
40 P.L.1991, c.431 (C.40A:20-1 et seq.), to the contrary, whenever
41 proceeds of a bond are used to conduct environmental remediation,
42 the term of any agreement securing that bond, whether a financial
43 agreement providing a payment in lieu of taxes or a special
44 assessment agreement providing for the payment of a special
45 assessment, or both, may, subject to the board's review and
46 approval pursuant to subsection g. of section 4 of P.L.2001, c.310
47 (C.40A:12A-67), be 35 years plus the anticipated duration of
48 conducting environmental remediation; provided, however, that the

1 term of any such agreement securing the bonds shall not exceed 30
2 years from substantial completion of the redevelopment project
3 associated with the environmental remediation.

4 (cf: P.L.2004, c.112. s.2)

5
6 14. Section 4 of P.L.2001, c.310 (C.40A:12A-67) is amended
7 to read as follows:

8 4. a. The municipality may issue bonds itself in the manner
9 provided for herein or pursuant to the "Local Redevelopment and
10 Housing Law," P.L.1992, c.79 (C.40A:12A-1 et seq.) or may apply
11 to **【the】** an authority to issue bonds, regardless of whether the
12 redevelopment project is undertaken under municipal authority
13 pursuant to P.L.1991, c.431 (C.40A:20-1 et seq.) or by a State
14 entity redeveloper pursuant to a State entity redevelopment
15 agreement, which in any case may be secured by payments in lieu
16 of taxes or special assessments or both or a portion thereof, by the
17 adoption of a resolution or ordinance, as applicable, of the
18 governing body of the municipality, authority, or State entity to that
19 effect.

20 b. A municipality that has designated a redevelopment area or
21 in which a redevelopment project is undertaken by a State entity
22 redeveloper pursuant to a State entity redevelopment agreement
23 may, by resolution of its governing body, if it determines to issue
24 bonds through **【the】** an authority, enter into contracts with the
25 authority relating to that redevelopment project, or to act as a
26 redeveloper or to finance or refinance a redevelopment project
27 undertaken by a State entity redeveloper pursuant to a State entity
28 redevelopment agreement within a redevelopment area. A
29 resolution so adopted shall contain findings and determinations of
30 the governing body: (1) that all or a portion of the redevelopment
31 project undertaken within the municipality will result in the
32 redevelopment of the municipality; and, (2) that the contract with
33 the authority or, to the extent applicable, the financial agreement
34 with the State entity redeveloper, is a necessary or important
35 inducement to the undertaking of the project or the redevelopment
36 project undertaken by the State entity redeveloper in that it makes
37 the financing thereof feasible. The contract or contracts, or the
38 terms of any bonds issued directly by a municipality may provide
39 for the assignment, for the benefit of bondholders, of all or any
40 portion of payments in lieu of taxes, or special assessments, or
41 both **【. A contract】** , and may further provide that the State entity
42 redeveloper may use, access, or draw upon bond proceeds to pay
43 costs of the redevelopment project. These contracts may be made
44 and entered into for a term beginning currently or at some future or
45 contingent date, and with or without consideration, and for a
46 specified or unlimited time, and on any terms and conditions which
47 may be requested by the municipality and, to the extent applicable,
48 the State entity redeveloper, and, if applicable, as may be agreed to

1 by the authority and, to the extent applicable, the State entity
2 redeveloper, in conformity with its contracts with the holders of
3 bonds, and shall be valid and binding on the municipality. The
4 municipality is hereby authorized and directed to do and perform
5 any contract so entered into by it and to provide for the discharge of
6 any obligation thereunder in the same manner as other obligations
7 of the municipality.

8 Any contract, and any instrument making or evidencing the
9 same, may be pledged or assigned by the authority, with the consent
10 of the municipality executing the contract, and, to the extent
11 applicable, the consent of the State entity redeveloper, to secure its
12 bonds and thereafter may not be modified except as provided by the
13 terms of the instrument or by the terms of the pledge or assignment.

14 The municipality may include in the terms of a bond or contract,
15 including a financial agreement, a provision that the payments in
16 lieu of taxes or special assessments shall constitute a municipal
17 charge for the purposes of R.S.54:4-66.

18 c. The payments in lieu of taxes or special assessments, or
19 both, may be assigned directly by the municipality or the authority
20 **[or]** to the trustee for the bonds as payment or security for the
21 bonds. Notwithstanding any law to the contrary, the assignment
22 shall be an absolute assignment of all the municipality's right, title,
23 and interest in the payment in lieu of taxes or special assessments,
24 or both, or portion thereof, along with the rights and remedies
25 provided to the municipality under the agreement including, but not
26 limited to, the right of collection of payments due. ²**[Pursuant to an**
27 absolute assignment, the trustee, in lieu of the municipality, shall
28 possess the power to conduct a sale of the land or improvements
29 thereon, or both, or any leasehold interests in the land or
30 improvements thereon, or both, to satisfy delinquencies in payments
31 in lieu of taxes or special assessments, or both. The sale shall be
32 held in accordance with the provisions of the "tax sale law,"
33 R.S.54:5-1 et seq.; provided, however that notwithstanding any
34 provision of that law, the trustee shall have the power to issue a tax
35 sale certificate making sale of any interest, including any interest
36 less than a fee interest, that is subject to the lien established under
37 the "Redevelopment Area Bond Financing Law," sections 1 through
38 10 of P.L.2001, c.310 (C.40A:12A-64 et seq.). Prior to conducting
39 a sale of the lands or improvements or issuing a tax sale certificate
40 pursuant to the power conferred under this section, the trustee shall
41 provide the governing body of the municipality with written notice
42 of the proposed sale or issuance at least five working days prior to
43 the date of the proposed sale or issuance.]² Any interest that is
44 subject to the lien established under the "Redevelopment Area Bond
45 Financing Law" shall not be transferred, conveyed, assigned,
46 disposed of, or sold, whether by tax sale or otherwise, free and clear
47 of the financial agreement and any payments in lieu of taxes due
48 thereunder while bonds are secured thereby, regardless of the

1 consent of the parties or order of any court, whether in law or in
2 equity, unless any such transfer or conveyance is provided for under
3 the terms and conditions set forth in the bond resolution or bond
4 ordinance, as applicable. Any purchaser, transferee, successor,
5 grantee, or assignee of such interest, whether at tax sale or
6 otherwise, shall take title to such interest subject to the obligations
7 imposed by the financial agreement. Payments in lieu of taxes and
8 special assessments assigned as provided hereunder shall not be
9 included in the general funds of the municipality, nor shall they be
10 subject to any laws regarding the receipt, deposit, investment^{2,2} or
11 appropriation of public funds and shall retain such status
12 notwithstanding enforcement of the payment or assessment by the
13 municipality or assignee as provided herein. The municipality shall
14 be a "person" within the meaning of that term as defined in section
15 3 of P.L.1974, c.80 (C.34:1B-3); and the purpose described in this
16 section shall be a "project" within the meaning of that term as
17 defined in section 3 of P.L.1974, c.80 (C.34:1B-3).

18 d. Notwithstanding the provisions of subsection g. of section
19 37 of P.L.1992, c.79 (C.40A:12A-37), the bonds issued pursuant to
20 this section may be issued as non-recourse obligations, and unless
21 otherwise provided for by a separate action of the municipality to
22 guarantee such bonds or otherwise provide for a pledge of the
23 municipality's full faith and credit shall not, except for such action,
24 be considered to be direct and general obligations of the
25 municipality, and, absent such action, the municipality shall not be
26 obligated to levy and collect a tax sufficient in an amount to pay the
27 principal and interest on the bonds when the same become due and
28 payable. The provisions of the "Local Government Supervision Act
29 (1947)," P.L.1947, c.151 (C.52:27BB-1 et seq.) shall not apply to
30 any bonds issued or authorized pursuant to this section and those
31 bonds shall not be considered gross debt of the municipality on any
32 debt statement filed in accordance with the "Local Bond Law,"
33 N.J.S.40A:2-1 et seq., ²unless those bonds were guaranteed by the
34 municipality,² and the provisions of chapter 27 of Title 52 of the
35 Revised Statutes shall not apply to such bonds.

36 e. The proceeds from the sale of bonds and any funds provided
37 by any department of the State, authority created by the State, or bi-
38 state authority, for the purposes described in the "Redevelopment
39 Area Bond Financing Law," sections 1 through 10 of P.L.2001,
40 c.310 (C.40A:12A-64 et seq.) or for the purpose of financing or
41 refinancing a redevelopment project pursuant to a State entity
42 redevelopment agreement, shall not require compliance with public
43 bidding laws, including the "Local Public Contracts Law,"
44 P.L.1971, c.198 (C.40A:11-1 et seq.), or any other statute where the
45 redeveloper or State entity redeveloper, as the case may be, shall
46 undertake the redevelopment project. The use of these funds shall
47 be subject to public accountability and oversight by the issuer of

1 those bonds, regardless of whether the municipality, agency^{2,2} or
2 authority provides the funds.

3 f. In order to provide additional security for any loan to a
4 redeveloper or a State entity redeveloper, as the case may be, or to
5 bonds issued to finance a redevelopment project, regardless of
6 whether that redevelopment project is undertaken under municipal
7 authority pursuant to P.L.1991, c.431 (C.40A:20-1 et seq.) or by a
8 State entity redeveloper pursuant to a State entity redevelopment
9 agreement, the municipality may utilize powers otherwise provided
10 by law, including the "Local Redevelopment and Housing Law,"
11 P.L.1992, c.79 (C.40A:12A-1 et seq.), to provide for any extension
12 of the municipality's credit to any redeveloper or State entity
13 redeveloper, as the case may be, or its full faith and credit which
14 may include a full faith and credit lease as security for the bonds or
15 any loan to a redeveloper or State entity redeveloper, as the case
16 may be. To the extent that the municipality provides for a full faith
17 and credit guarantee of any loan to a redeveloper or State entity
18 redeveloper, as the case may be, or any bonds, but determines not to
19 authorize the issuance of bonds or notes to provide for the funding
20 source thereof, or otherwise determines to enter into a full faith and
21 credit lease, it may do so by an ordinance introduced, adopted, and
22 published in accordance with the provisions of N.J.S.40A:2-17 and
23 N.J.S.40A:2-19. Such ordinance shall take effect 20 days after the
24 first publication of the ordinance or of a summary thereof after final
25 adoption. To the extent that bonds or notes are authorized as
26 provided above, such bonds or notes shall be authorized pursuant to
27 the provisions of the "Local Bond Law," N.J.S.40A:2-1 et seq., and
28 shall be deductible from the gross debt of the municipality until
29 such time as such bonds or notes are actually issued, and only up to
30 the amount actually issued, to fund such guarantee.

31 g. **[A financial instrument]** A bond, issued in accordance with
32 the "Redevelopment Area Bond Financing Law," sections 1 through
33 10 of P.L.2001, c.310 (C.40A:12A-64 et seq.), whether issued by a
34 municipality or an authority, that is secured in whole or in part by
35 payments in lieu of taxes or by special assessments, or both, as
36 provided herein shall be subject to the review and approval of the
37 board. That review and approval shall be made prior to approval of
38 ²**[, in the case of a]** ²**[municipality]** ²**[municipal governing body,**
39 an introduced ordinance or, in the case of an authority or
40 redevelopment entity that is not a municipal governing body,
41 **] an ordinance or a resolution, as may be required by the**
42 law pursuant to which the bonds are issued². The board shall be
43 entitled to receive from the applicant an amount sufficient to
44 provide for all reasonable professional and other fees and expenses
45 incurred by it for the review, analysis^{2,2} and determination with
46 respect thereto. As part of its review, the board shall specifically
47 solicit comments from the Office of State Planning and the New

1 Jersey Economic Development Authority in addition to comments
2 from the public. The ²**[Office of State Planning]** Department of
3 Community Affairs, Office of Local Planning Services,² shall provide
4 comments on whether the redevelopment project or plan promotes
5 congestion reduction, enhanced mobility, further redevelopment,
6 and otherwise improves the quality of life of residents. As part of
7 the board's review and approval, it shall consider the comments
8 submitted and whether the issuance of the redevelopment area bond
9 will adversely impact the financial stability of the municipality or
10 service area of the authority.

11 h. A municipality that has assigned any portion of the
12 payments in lieu of taxes it receives pursuant to a financial
13 agreement, as payment or security for bonds, may also pledge a
14 portion of those payments in lieu of taxes as payment or security for
15 bonds in order to finance or refinance any cost or expense of the
16 municipality, State entity or authority.

17 i. In the case of a municipality which is otherwise subject to
18 tax or revenue sharing pursuant to law and which assigns a portion
19 of the payments in lieu of taxes or special assessments pursuant to a
20 financial agreement to secure bonds issued by the municipality or
21 the authority, the assigned portion of those payments in lieu of taxes
22 or special assessments shall not be considered part of the tax or
23 revenue sharing formula or calculation of municipal revenues for
24 the purpose of determining whether that municipality is obligated to
25 make payment to, or receive a credit from, any tax sharing or
26 revenue sharing pool.

27 j. Notwithstanding any law to the contrary, including
28 subsection a. of section 3 of P.L.2001, c.310 (C.40A:12A-66),
29 payments in lieu of taxes pursuant to a financial agreement to
30 secure bonds may be established in such amounts as shall be
31 sufficient to pay the principal of, redemption premium, if any, and
32 interest on the bonds.

33 k. Notwithstanding any law to the contrary, in the event that
34 bonds shall be issued that are secured by payments in lieu of taxes
35 pursuant to a financial agreement, the financial agreement shall not
36 be terminated for any reason during the period that the bonds are
37 outstanding ², except that this provision shall not be construed to
38 prejudice the rights and remedies afforded a municipality or
39 authority under the terms of the financial agreement where other
40 parties are in violation of the terms of the agreement².

41 (cf: P.L.2015, c.95, s.26)

42
43 15. Section 5 of P.L.2001, c.310 (C.40A:12A-68) is amended to
44 read as follows:

45 5. a. Payments required to be made in accordance with an
46 agreement for payments in lieu of taxes entered into under section 3
47 of P.L.2001, c.310 (C.40A:12A-66) shall be a continuous lien on
48 the land or improvements thereon, or both, or a continuous lien on

1 any leasehold interests in the land or improvements thereon, or
2 both, against which the ordinance is recorded on and after the date
3 of recordation of both the ordinance and the agreement, whether
4 simultaneously or not, or the date of confirmation of the special
5 assessments, whichever is earlier. All subsequent payments in lieu
6 of taxes thereunder, interest, penalties^{2,2} and costs of collection
7 which thereafter fall due or accrue shall be added and relate back to
8 and be a part of the initial lien. Upon recordation of the ordinance
9 and agreement, payments in lieu of taxes shall constitute [a] an
10 automatic, enforceable, and perfected statutory municipal lien
11 [within the meaning, and] for all purposes, [of law] including the
12 federal bankruptcy code, regardless of whether ²[or not]² the
13 amount of the payments to be made in lieu of taxes has been
14 determined at the time the lien attaches to any interest in the land,
15 leasehold estate, or improvements, as applicable. A confirmation
16 hearing process to determine the amount due shall not affect the
17 commencement or validity of the lien. Notwithstanding any other
18 applicable law, for the purposes of the "Redevelopment Area Bond
19 Financing Law," sections 1 through 10 of P.L.2001, c.310
20 (C.40A:12A-64 et seq.), a municipal lien on a leasehold estate shall
21 constitute a lien against such leasehold estate only, unless the
22 financial agreement specifically provides for a lien on the
23 underlying fee interest in the land. In any case, enforcement of a
24 municipal lien on a leasehold estate shall be limited to an in rem
25 proceeding only. No municipal lien shall attach to any interest of a
26 State entity unless such State entity shall have expressly consented
27 to such lien in the financial agreement.

28 b. If bonds are issued, the municipality, the redeveloper or the
29 State entity redeveloper, as the case may be, may record, either
30 simultaneously or at different times, any ordinance enacted by the
31 municipality relating to the payment in lieu of taxes agreement or
32 special assessments and, either simultaneously with the ordinance
33 or at different times, a copy of the agreement or agreements. The
34 ordinance, when recorded, shall contain a legend at the top of the
35 front page substantially as follows:

36
37 "THIS ORDINANCE SECURES BONDS OR OTHER
38 OBLIGATIONS ISSUED IN ACCORDANCE WITH THE
39 PROVISIONS OF THE 'REDEVELOPMENT AREA BOND
40 FINANCING LAW' AND THE LIEN HEREOF IN FAVOR OF
41 THE OWNERS OF SUCH BONDS OR OTHER OBLIGATIONS
42 IS A MUNICIPAL LIEN SUPERIOR TO ALL OTHER NON-
43 MUNICIPAL LIENS HEREAFTER RECORDED."
44

45 c. Notwithstanding any law to the contrary, upon recordation
46 of both the ordinance and any accompanying agreement, the lien
47 thereof shall be perfected for all purposes in accordance with law

1 and the lien shall thereafter be superior to (1) all ²[municipal and]²
2 non-municipal liens thereafter recorded or otherwise arising, and
3 (2) all prior liens where lienholder consents, without any additional
4 notice, recording, filing, continuation filing^{2,2} or action, until the
5 payment in full of the bonds. The lien thereby established shall
6 apply not only to the bonds initially issued, but also to any
7 refinancing or refunding thereof, as well as to any additional bonds
8 thereafter issued on a parity therewith in accordance with the
9 provisions of the original documents securing the initial bonds;
10 provided, however, that in the event any ordinance or agreement is
11 amended or supplemented in a way which increases the amount of
12 payment in lieu of taxes or special assessments, the lien as to that
13 increase shall be perfected and apply upon the recordation of the
14 amended or supplemented ordinance and agreement (including the
15 above-recited legend). Except as set forth in this section, no
16 amendment or supplement to the ordinance or agreement thereafter
17 recorded shall affect the perfection or priority of the lien established
18 upon original recordation thereof.

19 d. Upon the final payment in full of any bonds secured as
20 provided in this section and section 4 of P.L.2001, c.310
21 (C.40A:12A-67), the lien established hereby shall terminate, and the
22 ²[municipality] trustee² shall record a notice to that effect.
23 (cf: P.L.2004, c.112, s.4)
24

25 16. Section 10 of P.L.2001, c.310 (C.40A:12A-73) is amended
26 to read as follows:

27 10. **【After issuance, pursuant to the "Redevelopment Area Bond**
28 **Financing Law," P.L.2001, c.310 (C.40A:12A-64 et seq.) all bonds**
29 **shall be conclusively presumed to be fully authorized and issued by**
30 **all courts and officers of this State, and any person shall be**
31 **estopped from questioning their sale, execution or delivery.】 An**
32 **authority or municipality, as applicable, shall cause a copy of any**
33 **bond resolution or bond ordinance, as applicable, adopted by it to**
34 **be filed for public inspection in the office of the municipal clerk of**
35 **the municipality wherein the project financed by the bonds is**
36 **located. In the case of an authority, the resolution also shall be**
37 **filed for public inspection in its office. The authority or**
38 **municipality may cause to be published, at least once in a**
39 **newspaper published or circulating in the municipality, if there be**
40 **one, and if not, in a newspaper published and circulating in the**
41 **county, a notice stating the fact and date of the adoption and the**
42 **places where the bond resolution or bond ordinance, as applicable,**
43 **has been so filed for public inspection along with the date of the**
44 **first publication of the notice and also stating that any action or**
45 **proceeding of any kind or nature in any court questioning the**
46 **validity or proper authorization of bonds provided for by the bond**
47 **resolution or bond ordinance, as applicable, or the validity of any**

1 covenants, agreements or contracts provided for by the bond
2 resolution or bond ordinance, as applicable, shall be commenced
3 within 20 days after the first publication of that notice. If any such
4 notice shall at any time be published and if no action or proceeding
5 questioning the validity or proper authorization of bonds provided
6 for by the bond resolution or bond ordinance, as applicable, referred
7 to in said notice, or the validity of any covenants, agreements, or
8 contracts provided for by said bond resolution or bond ordinance, as
9 applicable, shall be commenced or instituted within 20 days after
10 the first publication of the notice, then all persons shall be forever
11 barred and foreclosed from instituting or commencing any action or
12 proceeding in any court, or from pleading any defense to any action
13 or proceeding, questioning the validity or proper authorization of
14 such bonds, or the validity of such covenants, agreements, or
15 contracts, and said bonds, covenants, agreements, and contracts
16 shall be conclusively deemed to be valid and binding obligations in
17 accordance with their terms and tenor.

18 (cf: P.L.2001, c.310, s.10)

19

20 17. Section 12 of P.L.1991, c.431 (C.40A:20-12) is amended to
21 read as follows:

22 12. The rehabilitation or improvements made in the development
23 or redevelopment of a redevelopment area or area appurtenant
24 thereto or for a redevelopment relocation housing project, pursuant
25 to P.L.1991, c.431 (C.40A:20-1 et seq.), shall be exempt from
26 taxation for a limited period as hereinafter provided. When housing
27 is to be constructed, acquired or rehabilitated by an urban renewal
28 entity, the land upon which that housing is situated shall be exempt
29 from taxation for a limited period as hereinafter provided. The
30 exemption shall be allowed when the clerk of the municipality
31 wherein the property is situated shall certify to the municipal tax
32 assessor that a financial agreement with an urban renewal entity for
33 the development or the redevelopment of the property, or the
34 provision of a redevelopment relocation housing project, or the
35 provision of a low and moderate income housing project has been
36 entered into and is in effect as required by P.L.1991, c.431
37 (C.40A:20-1 et seq.).

38 Delivery by the municipal clerk to the municipal tax assessor of
39 a certified copy of the ordinance of the governing body approving
40 the tax exemption and financial agreement with the urban renewal
41 entity shall constitute the required certification. For each
42 exemption granted pursuant to P.L.2003, c.125 (C.40A:12A-4.1 et
43 al.), upon certification as required hereunder, the tax assessor shall
44 implement the exemption and continue to enforce that exemption
45 without further certification by the clerk until the expiration of the
46 entitlement to exemption by the terms of the financial agreement or
47 until the tax assessor has been duly notified by the clerk that the
48 exemption has been terminated.

1 Within 10 calendar days following the later of the effective date
2 of an ordinance following its final adoption by the governing body
3 approving the tax exemption or the execution of the financial
4 agreement by the urban renewal entity, the municipal clerk shall
5 transmit a certified copy of the ordinance and financial agreement
6 to the chief financial officer of the county and to the county counsel
7 for informational purposes.

8 Whenever an exemption status changes during a tax year, the
9 procedure for the apportionment of the taxes for the year shall be
10 the same as in the case of other changes in tax exemption status
11 during the tax year. Tax exemptions granted pursuant to P.L.2003,
12 c.125 (C.40A:12A-4.1 et al.) represent long term financial
13 agreements between the municipality and the urban renewal entity
14 and as such constitute a single continuing exemption from local
15 property taxation for the duration of the financial agreement. The
16 validity of a financial agreement or any exemption granted pursuant
17 thereto may be challenged only by filing an action in lieu of
18 prerogative writ within 20 days from the publication of a notice of
19 the adoption of an ordinance by the governing body granting the
20 exemption and approving the financial agreement. Such notice
21 shall be published in a newspaper of general circulation in the
22 municipality and in a newspaper of general circulation in the county
23 if different from the municipal newspaper.

24 a. The ¹financial agreement shall specify the¹ duration of the
25 exemption for urban renewal entities ¹【shall be as follows】 in
26 accordance with the parameters of either paragraph (1) or paragraph
27 (2) of this subsection¹:

28 (1) ¹【for】¹ 【all projects, a term of】 ¹【a project other than a
29 project that qualifies under paragraph (2) of this subsection,】 the
30 financial agreement may specify a duration of¹ not more than 30
31 years from the completion of the entire project, or unit of the
32 project if the project is undertaken in units, or not more than 35
33 years from the execution of the financial agreement between the
34 municipality and the urban renewal entity; ¹or¹

35 (2) for each project undertaken pursuant to a redevelopment
36 agreement which allows the redeveloper to undertake two or more
37 projects sequentially, the financial agreement may specify a
38 duration of¹ not more than 30 years from the completion of a
39 project, or unit of the project if the project is undertaken in units, or
40 not more than 50 years from the execution of the first financial
41 agreement implementing a project under the redevelopment
42 agreement. As used in this subsection, “redevelopment agreement”
43 means an agreement entered into pursuant to subsection f. of section
44 8 of P.L.1992, c.79 (C.40A:12A-8) between a municipality or
45 redevelopment entity and a redeveloper .

46 ¹A financial agreement may provide for an exemption period of
47 less than 30 years from the completion of the entire project, less

1 than 35 years from the execution of the financial agreement, or less
2 than 50 years from the execution of the first financial agreement
3 implementing a project under the redevelopment agreement.
4 Nothing in this subsection shall be construed as requiring a
5 financial agreement for a project undertaken pursuant to a
6 redevelopment agreement which allows the redeveloper to
7 undertake two or more projects sequentially to specify a duration
8 within the parameters of paragraph (2) of this subsection.¹

9 b. During the term of any exemption, in lieu of any taxes to be
10 paid on the buildings and improvements of the project and, to the
11 extent authorized pursuant to this section, on the land, the urban
12 renewal entity shall make payment to the municipality of an annual
13 service charge, which shall remit a portion of that revenue to the
14 county as provided hereinafter. In addition, the municipality may
15 assess an administrative fee, not to exceed two percent of the annual
16 service charge, for the processing of the application. The annual
17 service charge for municipal services supplied to the project to be
18 paid by the urban renewal entity for any period of exemption, shall
19 be determined as follows:

20 (1) An annual amount equal to a percentage determined
21 pursuant to this subsection and section 11 of P.L.1991, c.431
22 (C.40A:20-11), of the annual gross revenue from each unit of the
23 project, if the project is undertaken in units, or from the total
24 project, if the project is not undertaken in units. The percentage of
25 the annual gross revenue shall not be more than 15% in the case of
26 a low and moderate income housing project, nor less than 10% in
27 the case of all other projects.

28 At the option of the municipality, or where because of the nature
29 of the development, ownership, use or occupancy of the project or
30 any unit thereof, if the project is to be undertaken in units, the total
31 annual gross rental or gross shelter rent or annual gross revenue
32 cannot be reasonably ascertained, the governing body shall provide
33 in the financial agreement that the annual service charge shall be a
34 sum equal to a percentage determined pursuant to this subsection
35 and section 11 of P.L.1991, c.431 (C.40A:20-11), of the total
36 project cost or total project unit cost determined pursuant to
37 P.L.1991, c.431 (C.40A:20-1 et seq.) calculated from the first day
38 of the month following the substantial completion of the project or
39 any unit thereof, if the project is undertaken in units. The
40 percentage of the total project cost or total project unit cost shall not
41 be more than 2% in the case of a low and moderate income housing
42 project, and shall not be less than 2% in the case of all other
43 projects.

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

47 (a) For the first stage of the exemption period, which shall
48 commence with the date of completion of the unit or of the project,

1 as the case may be, and continue for a time of not less than six years
2 nor more than 15 years, as specified in the financial agreement, the
3 urban renewal entity shall pay the municipality an annual service
4 charge for municipal services supplied to the project in an annual
5 amount equal to the amount determined pursuant to paragraph (1) of
6 this subsection and section 11 of P.L.1991, c.431 (C.40A:20-11).
7 For the remainder of the period of the exemption, if any, the annual
8 service charge shall be determined as follows:

9 (b) For the second stage of the exemption period, which shall
10 not be less than one year nor more than six years, as specified in the
11 financial agreement, an amount equal to either the amount
12 determined pursuant to paragraph (1) of this subsection and section
13 11 of P.L.1991, c.431 (C.40A:20-11), or 20% of the amount of
14 taxes otherwise due on the value of the land and improvements,
15 whichever shall be greater;

16 (c) For the third stage of the exemption period, which shall not
17 be less than one year nor more than six years, as specified in the
18 financial agreement, an amount equal to either the amount
19 determined pursuant to paragraph (1) of this subsection and section
20 11 of P.L.1991, c.431 (C.40A:20-11), or 40% of the amount of
21 taxes otherwise due on the value of the land and improvements,
22 whichever shall be greater;

23 (d) For the fourth stage of the exemption period, which shall not
24 be less than one year nor more than six years, as specified in the
25 financial agreement, an amount equal to either the amount
26 determined pursuant to paragraph (1) of this subsection and section
27 11 of P.L.1991, c.431 (C.40A:20-11), or 60% of the amount of
28 taxes otherwise due on the value of the land and improvements,
29 whichever shall be greater; and

30 (e) For the final stage of the exemption period, the duration of
31 which shall not be less than one year and shall be specified in the
32 financial agreement, an amount equal to either the amount
33 determined pursuant to paragraph (1) of this subsection and section
34 11 of P.L.1991, c.431 (C.40A:20-11), or 80% of the amount of
35 taxes otherwise due on the value of the land and improvements,
36 whichever shall be greater.

37 If the financial agreement provides for an exemption period of
38 less than 30 years from the completion of the entire project, ¹~~or~~¹
39 less than 35 years from the execution of the financial agreement, ¹~~or~~
40 less than 50 years from the execution of the first financial
41 agreement implementing a project under the redevelopment
42 agreement.¹ the financial agreement shall set forth a schedule of
43 annual service charges for the exemption period which shall be
44 based upon the minimum service charges and staged adjustments set
45 forth in this section.

46 The annual service charge shall be paid to the municipality on a
47 quarterly basis in a manner consistent with the municipality's tax
48 collection schedule.

1 Each municipality which enters into a financial agreement on or
2 after the effective date of P.L.2003, c.125 (C.40A:12A-4.1 et al.)
3 shall remit 5 percent of the annual service charge collected by the
4 municipality to the county in accordance with the provisions of
5 R.S.54:4-74.

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

10 Notwithstanding the provisions of this section or of the financial
11 agreement, the minimum annual service charge shall be the amount
12 of the total taxes levied against all real property in the area covered
13 by the project in the last full tax year in which the area was subject
14 to taxation, and the minimum annual service charge shall be paid in
15 each year in which the annual service charge calculated pursuant to
16 this section or the financial agreement would be less than the
17 minimum annual service charge.

18 c. All exemptions granted pursuant to the provisions of
19 P.L.1991, c.431 (C.40A:20-1 et seq.) shall terminate at the time
20 prescribed in the financial agreement.

21 Upon the termination of the exemption granted pursuant to the
22 provisions of P.L.1991, c.431 (C.40A:20-1 et seq.), the project, all
23 affected parcels, land and all improvements made thereto shall be
24 assessed and subject to taxation as are other taxable properties in
25 the municipality. After the date of termination, all restrictions and
26 limitations upon the urban renewal entity shall terminate and be at
27 an end upon the entity's rendering its final accounting to and with
28 the municipality.

29 (cf: P.L.2015, c.247, s.1)

30

31 18. Section 13 of P.L.1991, c.431 (C.40A:20-13) is amended
32 to read as follows:

33 13. The tax exemption provided in **[this act]** P.L.1991, c.431
34 (C.40A:20-1 et seq.) shall apply only so long as the urban renewal
35 entity and its project remain subject to the provisions of **[this act]**
36 P.L.1991, c.431 (C.40A:20-1 et seq.), but in no event more than: 35
37 years from the date of the execution of the financial agreement; or,
38 if authorized pursuant to paragraph (2) of subsection a. of section
39 12 of P.L.1991, c.431 (C.40A:20-12), 50 years from the date of the
40 execution of the ²financial agreement, in the case of a phased
41 project, or from the² first financial agreement implementing a
42 project under the redevelopment agreement ², in the case of two or
43 more projects². A tax exemption authorized in connection with a
44 nonprofit limited dividend cooperative housing project under a
45 financial agreement entered into pursuant to the "Limited-Dividend
46 Nonprofit Housing Corporations or Associations Law," P.L.1949,
47 c.184 (C.55:16-1 et seq.) may be extended to coincide with existing

1 first mortgage financing. The terms of any such extension shall be
2 set forth in an amended financial agreement between the urban
3 renewal entity and the municipality. An urban renewal entity may
4 at any time after the expiration of one year from the completion
5 date of the project, notify the governing body of the municipality
6 that, as of a certain date designated in the notice, it relinquishes its
7 status under ²【this act】 P.L.1991, c.431 (C.40A:20-1 et seq.)², and if
8 the project includes housing units, that the urban renewal entity has
9 obtained the consent of the Commissioner of Community Affairs to
10 such a relinquishment. As of that date, the tax exemption, the
11 service charges, and the profit and dividend restrictions shall
12 terminate. The date of termination of tax exemption, whether by
13 relinquishment by the entity or by terms of the financial agreement,
14 shall be deemed the close of the fiscal year of the entity. Within 90
15 days of that date, the urban renewal entity shall pay to the
16 municipality the amount of reserve, if any maintained pursuant to
17 section 15 or 16 of 【this act】 P.L.1991, c.431 (C.40A:20-15 or
18 40A:20-16), as well as the excess net profits, if any, payable as of
19 that date.

20 (cf: P.L.1999, c.220, s.1)

21

22 19. This act shall take effect immediately.

23

24

25

26

27 _____
28 Establishes “Economic Redevelopment and Growth Grant Bond
29 Financing Act,” authorizing issuance of bonds secured by pledge of
30 Economic Redevelopment and Growth Grant proceeds, municipal
31 liens, and special assessment; expands “Redevelopment Area Bond
32 Financing Law;” extends time to complete certain projects under
“Long Term Tax Exemption Law.”

ASSEMBLY, No. 2041

STATE OF NEW JERSEY 218th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2018 SESSION

Sponsored by:

Assemblyman CRAIG J. COUGHLIN

District 19 (Middlesex)

Assemblyman JAMEL C. HOLLEY

District 20 (Union)

Assemblywoman ELIANA PINTOR MARIN

District 29 (Essex)

Co-Sponsored by:

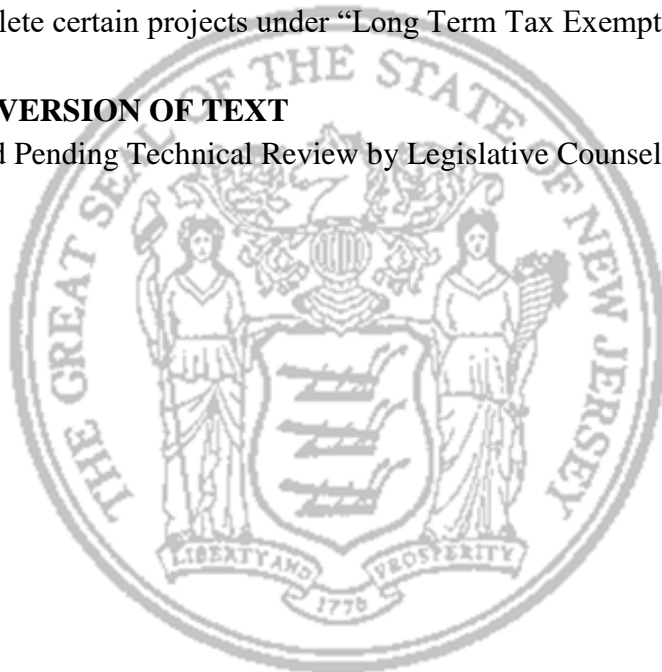
Assemblywoman Mosquera

SYNOPSIS

Establishes “Economic Redevelopment and Growth Grant Bond Financing Act,” authorizing issuance of bonds secured by pledge of Economic Redevelopment and Growth Grant proceeds, municipal liens, and special assessment; expands “Redevelopment Area Bond Financing Law;” extends time to complete certain projects under “Long Term Tax Exemption Law.”

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



1 AN ACT concerning tax exemptions, the issuance of bonds and
2 imposition of certain municipal liens and special assessments,
3 establishing the “Economic Redevelopment and Growth Grant
4 Bond Financing Act,” supplementing Title 52 of the Revised
5 Statutes , amending and supplementing the "Redevelopment Area
6 Bond Financing Law," P.L.2001, c.310 (C.40A:12A-64 et seq.),
7 and amending the "Long Term Tax Exemption Law," P.L.1991,
8 c.431 (C.40A:20-1 et seq.).
9

10 **BE IT ENACTED** by the Senate and General Assembly of the State
11 of New Jersey:

12
13 1. (New section) Sections 1 through 11 of this act shall be
14 known and may be cited as the “Economic Redevelopment and
15 Growth Grant Bond Financing Act.”
16

17 2. (New section) As used in sections 1 through 11 of P.L. ,
18 c. (C.) (pending before the Legislature as this bill):

19 “Authority” means the New Jersey Economic Development
20 Authority established pursuant to P.L.1974, c.80 (C.34:1B-1 et
21 seq.), the New Jersey Redevelopment Authority established
22 pursuant to section 4 of P.L.1996, c.62 (C.55:19-23), a county
23 improvement authority established pursuant to P.L.1960, c.183
24 (C.40:37A-44 et seq.), or other instrumentality created by law of the
25 State with the power to incur debt and issue bonds and other
26 obligations.

27 “Board” means the Local Finance Board established in the
28 Division of Local Government Services in the Department of
29 Community Affairs.

30 “Bonds” mean bonds, notes or other obligations issued by an
31 authority, including any State entity, or a municipality to finance or
32 refinance economic redevelopment and growth grant projects, and
33 in connection therewith, to finance or refinance any other cost or
34 expense of an authority, a State entity or a municipality pursuant to
35 sections 1 through 11 of P.L. , c. (C.) (pending before the
36 Legislature as this bill), the “Local Redevelopment and Housing
37 Law,” P.L.1992, c.79 (C.40A:12A-1 et al.), or other applicable law.

38 “Developer” means any person who enters or proposes to enter
39 into a redevelopment incentive grant agreement pursuant to the
40 provisions of section 9 of P.L.2009, c.90 (C.52:27D-489i), or its
41 successors or assigns, including but not limited to a lender that
42 completes an economic redevelopment and growth grant project,
43 operates an economic redevelopment and growth grant project, or
44 completes and operates an economic redevelopment and growth

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.

1 grant project. A developer also may be a municipal redeveloper as
2 defined herein.

3 “Economic redevelopment and growth grant project” means a
4 project for which an incentive grant has been approved pursuant to
5 section 4 or section 5 of P.L.2009, c.90 (C.52:27D-489d or
6 C.52:27D-489e).

7 “Incentive grant” means reimbursement of all or a portion of the
8 project financing gap of an economic redevelopment and growth
9 grant project through the State or a local Economic Redevelopment
10 and Growth Grant program pursuant to section 4 or section 5 of
11 P.L.2009, c. 90 (C.52:27D-489d or C.52:27D-489e).

12 “Incentive grant pledge” means an agreement between a
13 developer and the issuer of bonds pursuant to which the developer
14 pledges its incentive grant for repayment of the bonds, which
15 pledge may be part of a bond indenture or other agreement related
16 to the issuance of the bonds.

17 “Municipal redeveloper” means an applicant for a redevelopment
18 incentive grant agreement, which applicant is:

19 a. a municipal government, a municipal parking authority, or a
20 redevelopment agency acting on behalf of a municipal government
21 as defined in section 3 of P.L.1992, c.79 (C.40A:12A-3); or

22 b. a developer of a mixed use parking project, provided that the
23 parking component of the mixed use parking project is operated and
24 maintained by a municipal parking authority for the term of any
25 financial assistance granted pursuant to P.L.2015, c. 69.

26 “Municipality” means the municipal governing body or an entity
27 acting on behalf of the municipality if permitted by the federal
28 Internal Revenue Code of 1986, or, if a redevelopment agency or
29 redevelopment entity is established in the municipality pursuant to
30 P.L.1992, c.79 (C.40A:12A-1 et seq.) and the municipality so
31 provides, the redevelopment agency or entity so established.

32 “Redevelopment incentive grant agreement” means an agreement
33 between:

34 a. the State and the New Jersey Economic Development
35 Authority and a developer; or

36 b. a municipality and a developer, or a municipal ordinance
37 authorizing a project to be undertaken by a municipal redeveloper,
38 under which, in exchange for the proceeds of an incentive grant, the
39 developer agrees to perform any work or undertaking necessary for
40 an economic redevelopment and growth grant project, including the
41 clearance, development or redevelopment, construction, or
42 rehabilitation of any structure or improvement of commercial,
43 industrial, residential, or public structures or improvements within a
44 qualifying economic redevelopment and growth grant incentive area
45 or a transit village.

46 “Special assessment” means an assessment upon the lands or
47 improvements on such lands, or both, on the real property
48 benefitted by improvements undertaken pursuant to sections 1

1 through 11 of P.L. , c. (C.) (pending before the Legislature
2 as this bill) and assessed pursuant to chapter 56 of Title 40 of the
3 Revised Statutes, R.S.40:56-1 et seq., except as otherwise provided
4 in subsection b. of section 3 of P.L. , c. (C.) (pending
5 before the Legislature as this bill).

6 “State entity” means entity created by State law with the power
7 to undertake an economic redevelopment and growth grant project
8 directly or through a State entity developer and with the power to
9 determine the location, type, and character of an economic
10 redevelopment and growth grant project or part of an economic
11 redevelopment and growth grant project on land owned or
12 controlled by it.

13 “State entity developer” means any person, firm, or corporation
14 that shall enter into or propose to enter into a State entity
15 development agreement with a State entity for an economic
16 redevelopment and growth grant project under the enabling
17 legislation governing the actions of the State entity or for any
18 construction or other work forming a part of an economic
19 redevelopment and growth grant project.

20 “State entity development agreement” means an agreement
21 between a State entity and a State entity developer for an economic
22 redevelopment and growth grant project.

23

24 3. (New section) a. In connection with any economic
25 redevelopment and growth grant project, the municipality in which
26 the project is located may issue bonds itself in the manner provided
27 for herein or pursuant to the “Local Redevelopment and Housing
28 Law,” P.L.1992, c.79 (C.40A:12A-1 et al.) or may apply to an
29 authority to issue bonds, regardless of whether the economic
30 redevelopment and growth grant project is undertaken under
31 municipal authority pursuant to section 4 of P.L.2009,
32 c.90 (C.52:27D-489d) or by a State entity developer pursuant to a
33 State entity development agreement, which, in any case, may be
34 secured by an incentive grant pledge, and may be further secured by
35 a municipal lien, by special assessments, or both a municipal lien
36 and special assessments, by the adoption of a resolution or
37 ordinance, as applicable, of the governing body of the municipality,
38 the authority, or the State entity to that effect.

39 b. In addition to, or in lieu of, an incentive grant pledge, a
40 municipality may provide by ordinance for one or more special
41 assessments on the economic redevelopment and growth grant
42 project in accordance with chapter 56 of Title 40 of the Revised
43 Statutes, R.S.40:56-1 et seq.; provided, however, the local
44 improvements for which such special assessments may be made
45 may include any improvement in the economic redevelopment and
46 growth grant project whether or not listed at R.S.40:56-1 and,
47 provided further, that the provisions of R.S.40:56-35 shall be
48 applied so that if any installment of a special assessment shall

1 remain unpaid for 30 days after the time at which it shall become
2 due, the municipality may provide, by ordinance, either that: (1) the
3 whole assessment or balance due thereon shall become and be
4 immediately due; or, (2) any subsequent installments which would
5 not yet have become due except for the default shall be considered
6 as not in default and that the lien for the installments not yet due
7 shall continue; and provided, further, that the ordinance may require
8 that the assessments be payable in quarterly, semi-annual, or yearly
9 installments, with legal interest thereon, over a period of years up to
10 but in no event exceeding the period of years for which the bonds
11 were issued, or for 30 years, whichever shall be less. In levying a
12 special assessment on the lands or improvements, or both, on which
13 the economic redevelopment and growth grant project is located,
14 the municipality may provide that the amount of the special
15 assessment shall be a specific amount, not to exceed the cost of the
16 improvements, plus any out-of-pocket costs or expenses incurred in
17 connection with such improvements, including, but not limited to,
18 architectural, engineering, financing, legal, and other professional
19 fees, paid with respect to property on which the economic
20 redevelopment and growth grant project is located. That specific
21 amount shall, to the extent accepted by the owner of the property
22 benefitted, be deemed the conferred benefit, in lieu of the amount
23 being determined by the procedures otherwise applicable to
24 determining the actual benefit conferred on the property. Special
25 assessments levied pursuant to an ordinance adopted under this
26 subsection shall constitute a municipal lien under R.S.40:56-33.

27 c. Upon adoption, a copy of the ordinance shall be filed for
28 public inspection in the office of the municipal clerk, and there
29 shall be published in a newspaper, published or circulating in the
30 municipality, a notice stating the fact and the date of adoption and
31 the place where the ordinance is filed and a summary of the
32 contents of the ordinance. The notice shall state that any action or
33 proceeding of any kind or nature in any court questioning the
34 validity or proper authorization of the ordinance or the actions
35 authorized to be taken as set forth in the ordinance shall be
36 commenced within 20 days after the publication of the notice. If no
37 action or proceeding questioning the validity of the ordinance
38 providing for special assessments or other actions authorized by the
39 ordinance shall be commenced or instituted within 20 days after the
40 publication of the notice, the county and the school district and all
41 other municipalities within the county and all residents and
42 taxpayers and owners of property therein shall be forever barred
43 and foreclosed from instituting or commencing any action or
44 proceeding in any court questioning the validity or enforceability of
45 the ordinance or the validity or enforceability of acts authorized
46 under the ordinance, and the ordinance and acts authorized by the
47 ordinance shall be conclusively deemed to be valid and enforceable
48 in accordance with their terms and tenor.

1 d. The municipality may include in the terms of a bond or
2 contract, including an incentive grant pledge, a provision that the
3 pledge of an incentive grant or special assessments shall constitute a
4 municipal charge for the purposes of R.S.54:4-66.

5 e. The incentive grant pledge or special assessments, or both,
6 may be assigned directly by the municipality or the authority to the
7 trustee for the bonds as payment or security for the bonds.
8 Notwithstanding any law to the contrary, the assignment shall be an
9 absolute assignment of all the municipality's right, title, and interest
10 in the incentive grant pledge or special assessments, or both, or
11 portion thereof, along with the rights and remedies provided to the
12 municipality under the agreement including, but not limited to, the
13 right of collection of payments due. Pursuant to an absolute
14 assignment, the trustee, in lieu of the municipality, shall possess the
15 power to conduct a sale of the land or improvements thereon, or
16 both, or any leasehold interests in the land or improvements
17 thereon, or both, to satisfy delinquencies in incentive grant pledges
18 or special assessments, or both. The sale shall be held in
19 accordance with the provisions of the "tax sale law," R.S.54:5-1 et
20 seq.; provided, however that notwithstanding any provision of that
21 law, the trustee shall have the power to issue a tax sale certificate
22 making sale of any interest, including any interest less than a fee
23 interest, that is subject to a lien established under this section. Prior
24 to conducting a sale of the lands or improvements or issuing a tax
25 sale certificate pursuant to the power conferred under this section,
26 the trustee shall provide the governing body of the municipality
27 with written notice of the proposed sale or issuance at least five
28 working days prior to the date of the proposed sale or issuance.
29 Any interest that is subject to a lien established under this section
30 shall not be transferred, conveyed, assigned, disposed of, or sold,
31 whether by tax sale or otherwise, free and clear of the
32 redevelopment incentive grant agreement and any incentive grant
33 pledges due thereunder while bonds are secured thereby, regardless
34 of the consent of the parties or order of any court, whether in law or
35 in equity, unless any such transfer or conveyance is provided for
36 under the terms and conditions set forth in the bond resolution or
37 bond ordinance, as applicable. Any purchaser, transferee,
38 successor, grantee, or assignee of such interest, whether at a tax sale
39 or otherwise, shall take title to such interest subject to the
40 obligations imposed by the redevelopment incentive grant
41 agreement. Incentive grant pledges and special assessments
42 assigned as provided hereunder shall not be included in the general
43 funds of the municipality, nor shall they be subject to any laws
44 regarding the receipt, deposit, investment, or appropriation of
45 public funds and shall retain such status notwithstanding
46 enforcement of the payment or assessment by the municipality or
47 assignee as provided herein. The municipality shall be a "person"
48 within the meaning of that term as defined in section 3 of P.L.1974,

1 c.80 (C.34:1B-3); and the purpose described in this section shall be
2 a “project” within the meaning of that term as defined in section 3
3 of P.L.1974, c.80 (C.34:1B-3).

4 f. Notwithstanding the provisions of subsection g. of section
5 37 of P.L.1992, c.79 (C.40A:12A-37), the bonds issued pursuant to
6 this section may be issued as non-recourse obligations, and unless
7 otherwise provided for by a separate action of the municipality to
8 guarantee such bonds or otherwise provide for a pledge of the
9 municipality's full faith and credit shall not, except for such action,
10 be considered to be direct and general obligations of the
11 municipality, and, absent such action, the municipality shall not be
12 obligated to levy and collect a tax sufficient in an amount to pay the
13 principal and interest on the bonds when the same become due and
14 payable. The provisions of the “Local Government Supervision Act
15 (1947),” P.L.1947, c.151 (C.52:27BB-1 et seq.) shall not apply to
16 any bonds issued or authorized pursuant to this section and those
17 bonds shall not be considered gross debt of the municipality on any
18 debt statement filed in accordance with the “Local Bond Law,”
19 N.J.S.40A:2-1 et seq., and the provisions of chapter 27 of Title 52
20 of the Revised Statutes shall not apply to such bonds.

21 g. The proceeds from the sale of bonds and any funds provided
22 by any department of the State, authority created by the State , or
23 bi-state authority, for the purposes described in sections 1 through
24 11 of P.L. , c. (C.) (pending before the Legislature as this
25 bill), or for the purpose of financing or refinancing an economic
26 redevelopment and growth grant project pursuant to a State entity
27 development agreement, shall not require compliance with public
28 bidding laws, including the “Local Public Contracts Law,”
29 P.L.1971, c.198 (C.40A:11-1 et seq.), or any other statute where the
30 developer or State entity developer, as the case may be, shall
31 undertake the economic redevelopment and growth grant project.
32 The use of these funds shall be subject to public accountability and
33 oversight by the issuer of those bonds, regardless of whether the
34 municipality, agency, or authority provides the funds.

35 h. In order to provide additional security for bonds issued to
36 finance an economic redevelopment and growth grant project, the
37 municipality may utilize powers otherwise provided by law,
38 including the “Local Redevelopment and Housing Law,” P.L.1992,
39 c.79 (C.40A:12A-1 et al), to provide for any extension of the
40 municipality's credit to any developer or State entity developer, as
41 the case may be, or its full faith and credit which may include a full
42 faith and credit lease as security for the bonds or any loan to a
43 developer or State entity developer, as the case may be. To the
44 extent that the municipality provides for a full faith and credit
45 guarantee of any bonds, but determines not to authorize the issuance
46 of bonds or notes to provide for the funding source thereof, or
47 otherwise determines to enter into a full faith and credit lease, it
48 may do so by resolution approved by a majority of the full

1 governing body. To the extent that bonds or notes are authorized as
2 provided above, such bonds or notes shall be authorized pursuant to
3 the provisions of the “Local Bond Law,” N.J.S.40A:2-1 et seq., and
4 shall be deductible from the gross debt of the municipality until
5 such time as such bonds or notes are actually issued, and only up to
6 the amount actually issued, to fund such guarantee.

7 i. A bond, whether issued by a municipality or an authority,
8 which is secured in whole or in part by the full faith and credit
9 thereof as provided herein, shall be subject to the review and
10 approval of the Local Finance Board. That review and approval
11 shall be made prior to approval of, in the case of a municipal
12 governing body, an introduced ordinance or, in the case of an
13 authority or redevelopment entity that is not a municipal governing
14 body, a resolution. The board shall be entitled to receive from the
15 applicant an amount sufficient to provide for all reasonable
16 professional and other fees and expenses incurred by it for the
17 review, analysis, and determination with respect thereto. As part of
18 its review, the board shall specifically solicit comments from the
19 New Jersey Economic Development Authority in addition to
20 comments from the public. As part of the board's review and
21 approval, it shall consider comments submitted, and whether the
22 issuance of the bond will adversely impact the financial stability of
23 the municipality or the service area of the authority.

24 j. A municipality that has assigned any portion of the incentive
25 grant pledge it receives as payment or security for bonds, may, with
26 the consent of the developer, also pledge a portion of the incentive
27 grant pledge as payment or security for bonds in order to finance or
28 refinance any cost or expense of the municipality, State entity or
29 authority.

30 k. In the case of a municipality which is otherwise subject to
31 tax or revenue sharing pursuant to law and which assigns a portion
32 of the incentive grant pledge or special assessments to secure bonds
33 issued by the municipality or the authority, the assigned portion of
34 the incentive grant pledge or special assessments shall not be
35 considered part of the tax or revenue sharing formula or calculation
36 of municipal revenues for the purpose of determining whether that
37 municipality is obligated to make payment to, or receive a credit
38 from, any tax sharing or revenue sharing pool.

39 l. Notwithstanding any law to the contrary, in the event that
40 bonds shall be issued that are secured by incentive grant pledges
41 pursuant to a redevelopment incentive grant agreement, the
42 redevelopment incentive grant agreement shall not be terminated for
43 any reason during the period that the bonds are outstanding.

44
45 4. (New section) a. If authorized by ordinance of a
46 municipality adopted pursuant to subsection a. of section 3 of
47 P.L. , c. (C.) (pending before the Legislature as this bill),
48 payments required to be made in accordance with an incentive grant

1 pledge entered into pursuant to sections 1 through 11 of P.L. ,
2 c. (C.) (pending before the Legislature as this bill) shall be a
3 continuous lien on the land or improvements thereon, or both, or a
4 continuous lien on any leasehold interests in the land or
5 improvements thereon, or both, against which the ordinance is
6 recorded on and after the date of recordation of both the ordinance
7 and the agreement, whether simultaneously or not, or the date of
8 confirmation of the special assessments, whichever is earlier. All
9 subsequent payments of the incentive grant pledge thereunder,
10 interest, penalties, and costs of collection which thereafter fall due
11 or accrue shall be added and relate back to and be a part of the
12 initial lien. Upon recordation of the ordinance and agreement, the
13 incentive grant pledge shall constitute an automatic, enforceable,
14 and perfected statutory municipal lien for all purposes, including
15 the federal bankruptcy code, regardless of whether or not the
16 amount of the incentive grant pledge has been determined at the
17 time the lien attaches to any interest in the land, leasehold estate, or
18 improvements, as applicable. A confirmation hearing process to
19 determine the amount due shall not affect the commencement or
20 validity of a lien established pursuant to subsection a. of section 3
21 of P.L. , c. (C.) (pending before the Legislature as this bill).
22 Notwithstanding any other applicable law, for the purposes of
23 subsection a. of section 3 of P.L. , c. (C.) (pending before
24 the Legislature as this bill), a municipal lien on a leasehold estate
25 shall constitute a lien against such leasehold estate only, unless the
26 redevelopment incentive grant agreement specifically provides for a
27 lien on the underlying fee interest in the land. In any case,
28 enforcement of a municipal lien on a leasehold estate shall be
29 limited to an in rem proceeding only. No municipal lien shall
30 attach to any interest of a State entity unless such State entity shall
31 have expressly consented to such lien in the redevelopment
32 incentive grant agreement.

33 b. If bonds are issued, the municipality, the developer or the
34 State entity developer, as the case may be, may record, either
35 simultaneously or at different times, any ordinance adopted by the
36 municipality relating to the incentive grant pledge or special
37 assessments and, either simultaneously with the ordinance or at
38 different times, a copy of the agreement or agreements. The
39 ordinance, when recorded, shall contain a legend at the top of the
40 front page substantially as follows:

41
42 THIS ORDINANCE SECURES BONDS OR OTHER
43 OBLIGATIONS ISSUED IN ACCORDANCE WITH THE
44 PROVISIONS OF THE "ECONOMIC REDEVELOPMENT AND
45 GROWTH GRANT BOND FINANCING ACT" AND THE LIEN
46 HEREOF IN FAVOR OF THE OWNERS OF SUCH BONDS OR
47 OTHER OBLIGATIONS IS A MUNICIPAL LIEN SUPERIOR TO

1 ALL OTHER NON-MUNICIPAL LIENS HEREAFTER
2 RECORDED.

3 c. Notwithstanding any law to the contrary, upon recordation
4 of both the ordinance and any accompanying agreement, the lien
5 thereof shall be perfected for all purposes in accordance with law
6 and the lien shall thereafter be superior to (1) all municipal and
7 non-municipal liens thereafter recorded or otherwise arising, and,
8 (2) each prior lien where the lienholder consents, without any
9 additional notice, recording, filing, continuation filing, or action,
10 until the payment in full of the bonds. The lien thereby established
11 shall apply not only to the bonds initially issued, but also to any
12 refinancing or refunding thereof, as well as to any additional bonds
13 thereafter issued on a parity therewith in accordance with the
14 provisions of the original documents securing the initial bonds;
15 provided, however, that in the event any ordinance or agreement is
16 amended or supplemented in a way which increases the amount of
17 an incentive grant pledge or special assessments, the lien as to that
18 increase shall be perfected and apply upon the recordation of the
19 amended or supplemented ordinance and agreement (including the
20 above-recited legend). Except as set forth in this section, no
21 amendment or supplement to the ordinance or agreement thereafter
22 recorded shall affect the perfection or priority of the lien established
23 upon original recordation thereof.

24 d. Upon the final payment in full of any bonds secured as
25 provided in sections 1 through 11 of P.L. , c. (C.) (pending
26 before the Legislature as this bill), the lien established hereby shall
27 terminate, and the municipality shall record a notice to that effect.
28

29 5. (New section) a. In lieu of, or in addition to, the provisions
30 of section 4 of P.L. , c. (C.) (pending before the Legislature
31 as this bill), the municipality may provide in the agreement that the
32 incentive grant pledge, if any, is to be secured by a mortgage. In
33 that event the mortgage may also be assigned and pledged to the
34 repayment of the bonds authorized herein.

35 b. The assignment of any mortgage that secures an incentive
36 grant pledge, if any, may also be an absolute assignment of all or
37 part of the municipality's right, title, and interest in the mortgage
38 and, to the extent assigned, any moneys realized from the
39 foreclosure of the mortgaged property shall not be included in the
40 general funds of the municipality.

41 c. After the bonds are paid and no longer deemed to be
42 outstanding, the assignment of the mortgage shall terminate.
43

44 6. (New section) All bonds issued pursuant to sections 1
45 through 11 of P.L. , c. (C.) (pending before the Legislature
46 as this bill), are hereby declared to be issued by a political
47 subdivision of this State and for an essential public and
48 governmental purpose and the bonds, and the interest thereon and

1 the income therefrom, and all facility charges, funds, revenues, and
2 other moneys pledged or available to pay or secure the payment of
3 the bonds, or interest thereon, shall at all times be exempt from
4 taxation except for transfer inheritance and estate taxes.

5
6 7. (New section) The State of New Jersey does hereby pledge to
7 and covenant and agree with the holders of any bonds issued
8 pursuant to sections 1 through 11 of P.L. , c. (C.) (pending
9 before the Legislature as this bill) that the State will not limit or
10 alter the terms of any agreement, ordinance, or resolution made in
11 connection with the security for and the issuance and sale of any
12 bonds, so as to in any way impair the rights or remedies of such
13 holders, and will not modify in any way the exemption from
14 taxation provided for in sections 1 through 11 of P.L. , c. (C.)
15 (pending before the Legislature as this bill) until the bonds, together
16 with interest thereon, with interest on any unpaid installments of
17 interest, and all costs and expenses in connection with any action or
18 proceeding by or on behalf of such holders, are fully met and
19 discharged or provided for.

20
21 8. (New section) If any section, subsection, clause or provision
22 of the “Economic Redevelopment and Growth Grant Bond
23 Financing Act,” sections 1 through 11 of P.L. , c. (C.)
24 (pending before the Legislature as this bill), shall be adjudged to be
25 unconstitutional or ineffective in whole or in part, to the extent that
26 it is not adjudged unconstitutional or is not ineffective, it shall be
27 valid and effective and no other section, subsection, clause or
28 provision of the “Economic Redevelopment and Growth Grant
29 Bond Financing Act,” sections 1 through 11 of P.L. , c. (C.)
30 (pending before the Legislature as this bill), shall on account
31 thereof be deemed invalid or ineffective, and the inapplicability or
32 invalidity of any section, subsection, clause or provision of the
33 “Economic Redevelopment and Growth Grant Bond Financing
34 Act,” sections 1 through 11 of P.L. , c. (C.) (pending before
35 the Legislature as this bill), in any one or more instances or under
36 any one or more circumstances shall not be taken to affect or
37 prejudice in any way its applicability or validity in any other
38 instance or under any other circumstance.

39
40 9. (New section) An authority or municipality, as applicable,
41 shall cause a copy of any bond resolution or bond ordinance, as
42 applicable, adopted by it to be filed for public inspection in the
43 office of the municipal clerk of the municipality wherein the project
44 financed by the bonds is located. In the case of an authority, the
45 resolution also shall be filed for public inspection in its office. The
46 authority or municipality may cause to be published, at least once in
47 a newspaper published or circulating in the municipality, if there be
48 one, and if not, in a newspaper published and circulating in the

1 county, a notice stating the fact and date of the adoption and the
2 places where the bond resolution or bond ordinance, as applicable,
3 has been so filed for public inspection along with the date of the
4 first publication of the notice and also stating that any action or
5 proceeding of any kind or nature in any court questioning the
6 validity or proper authorization of bonds provided for by the bond
7 resolution or bond ordinance, as applicable, or the validity of any
8 covenants, agreements or contracts provided for by the bond
9 resolution or bond ordinance, as applicable, shall be commenced
10 within 20 days after the first publication of that notice. If any such
11 notice shall at any time be published and if no action or proceeding
12 questioning the validity or proper authorization of bonds provided
13 for by the bond resolution or bond ordinance, as applicable, referred
14 to in said notice, or the validity of any covenants, agreements, or
15 contracts provided for by said bond resolution or bond ordinance, as
16 applicable, shall be commenced or instituted within 20 days after
17 the first publication of the notice, then all persons shall be forever
18 barred and foreclosed from instituting or commencing any action or
19 proceeding in any court, or from pleading any defense to any action
20 or proceeding, questioning the validity or proper authorization of
21 such bonds, or the validity of such covenants, agreements, or
22 contracts, and said bonds, covenants, agreements, and contracts
23 shall be conclusively deemed to be valid and binding obligations in
24 accordance with their terms and tenor.

25
26 10. (New section) Any municipality may undertake, as a local
27 improvement; the investigation, analysis, planning, monitoring,
28 acquisition, removal, containment, remediation, construction, or
29 improvement of any real property or facility necessary or desirable
30 for the cleanup of actual, potential, or perceived environmental
31 contamination or pollution, including without limitation, water
32 pollution, air pollution, pollution caused by solid waste disposal,
33 thermal pollution, radiation contamination, or other general
34 environmental contamination or pollution which is or may become
35 injurious to the environment or to the public health, safety, or
36 welfare.

37 The governing body of a municipality undertaking a local
38 improvement under this section may make, amend, repeal, and
39 enforce ordinances for carrying into effect the powers granted in
40 this section. Whenever convenient, one or more of the works
41 provided for in R.S.40:56-1 may be undertaken together with the
42 local improvement authorized under this section as one
43 improvement.

44
45 11. (New section) Whenever a municipality issues bonds in
46 accordance with sections 1 through 11 of P.L. , c. (C.)
47 (pending before the Legislature as this bill), or a municipality
48 applies to an authority to issue bonds pursuant to sections 1 through

1 11 of P.L. , c. (C.) (pending before the Legislature as this
2 bill), the municipality by ordinance may cause local improvements
3 to be undertaken, or otherwise agree to acknowledge the
4 undertaking of local improvements, by or on behalf of a
5 redeveloper, for the powers granted under R.S.40:56-1 et seq.,
6 including section 10 of P.L. , c. (C.) (pending before the
7 Legislature as this bill).

8
9 12. Section 2 of P.L.2001, c.310 (C.40A:12A-65) is amended to
10 read as follows:

11 2. As used in sections 1 through 10 of P.L.2001, c.310
12 (C.40A:12A-64 et seq.):

13 "Authority" means the New Jersey Economic Development
14 Authority established pursuant to P.L.1974, c.80 (C.34:1B-1 et
15 seq.), the New Jersey Redevelopment Authority established
16 pursuant to section 4 of P.L.1996, c.62 (C.55:19-23), a county
17 improvement authority established pursuant to P.L.1960, c.183
18 (C.40:37A-44 et seq.), or other instrumentality created by law **[by]**
19 of the State with the power to incur debt and issue bonds and other
20 obligations.

21 "Board" means the Local Finance Board established in the
22 Division of Local Government Services in the Department of
23 Community Affairs.

24 "Bonds" mean bonds, notes or other obligations issued by the
25 authority, including any State entity, or a municipality to finance or
26 refinance redevelopment projects, and in connection therewith, to
27 finance or refinance any other cost or expense of an authority, a
28 State entity or a municipality pursuant to the "Redevelopment Area
29 Bond Financing Law," sections 1 through 10 of P.L.2001, c.310
30 (C.40A:12A-64 et seq.), the "Local Redevelopment and Housing
31 Law", P.L.1992, c.79 (C.40A:12A-1 et seq.), or other applicable
32 law.

33 "Environmental remediation" means the investigation, analysis,
34 planning, monitoring, acquisition, removal, containment,
35 remediation, construction, or improvement of any real property or
36 facility necessary or desirable for the cleanup of actual, potential, or
37 perceived environmental contamination or pollution, including
38 without limitation, water pollution, air pollution, pollution caused
39 by solid waste disposal, thermal pollution, radiation contamination,
40 or other general environmental contamination or pollution which is
41 or may become injurious to the environment or to the public health,
42 safety, or welfare.

43 "Financial agreement" means an agreement that meets the
44 requirements of a financial agreement under P.L.1991, c.431
45 (C.40A:20-1 et seq.) or, in the event that real property within a
46 redevelopment area is exempt from taxation or has been or will be
47 abated pursuant to applicable law, an agreement among , as
48 applicable, a State entity [.] or a municipality or both, and a State

1 entity redeveloper providing for payment of payments in lieu of
2 taxes or special assessments by the State entity redeveloper with
3 respect to a redevelopment project, or part thereof, to be carried out
4 pursuant to a State entity redevelopment agreement.

5 "Municipality" means the municipal governing body or an entity
6 acting on behalf of the municipality if permitted by the federal
7 Internal Revenue Code of 1986, or, if a redevelopment agency or
8 redevelopment entity is established in the municipality pursuant to
9 P.L.1992, c.79 (C.40A:12A-1 et seq.) and the municipality so
10 provides, the redevelopment agency or entity so established.

11 "Redeveloper" means any person, firm, corporation or public
12 body, including the New Jersey Economic Development Authority
13 or the New Jersey Redevelopment Authority to the extent permitted
14 by law, that shall enter into or propose to enter into a contract with
15 a municipality or other redevelopment entity for the redevelopment
16 or rehabilitation of an area in need of redevelopment, or an area in
17 need of rehabilitation, or any part thereof, under the provisions of
18 the "Redevelopment Area Bond Financing Law," sections 1 through
19 10 of P.L.2001, c.310 (C.40A:12A-64 et seq.), or for any
20 construction or other work forming part of a redevelopment or
21 rehabilitation project.

22 "Redevelopment" means clearance, replanning, development and
23 redevelopment; the conservation and rehabilitation of any structure
24 or improvement, the construction and provision for construction of
25 residential, commercial, industrial, public or other structures [and]
26 ² the grant or dedication of spaces as may be appropriate or
27 necessary in the interest of the general welfare for streets, parks,
28 playgrounds, or other public purposes, including recreational and
29 other facilities incidental or appurtenant thereto, environmental
30 remediation, the construction, enhancement or mitigation of
31 wetlands impacted by a redevelopment project, and any other
32 related costs and expenses including preliminary planning and
33 development costs and any financing costs and expenses in
34 accordance with a redevelopment plan.

35 "Redevelopment bond financing agreement" means a contract
36 between a municipality and a redeveloper for any work or
37 undertaking for the redevelopment of a redevelopment area, or part
38 thereof, under the provisions of the "Redevelopment Area Bond
39 Financing Law," sections 1 through 10 of P.L.2001, c.310
40 (C.40A:12A-64 et seq.) or the "Local Redevelopment and Housing
41 Law," P.L.1992, c.79 (C.40A:12A-1 et seq.), as the case may be.

42 "Redevelopment area" means an area which has been delineated
43 a "redevelopment area" or "area in need of redevelopment" pursuant
44 to the "Local Redevelopment and Housing Law," P.L.1992, c.79
45 (C.40A:12A-1 et seq.) or with respect to a State entity, an area in
46 need of, or suitable for, redevelopment delineated by a resolution of
47 a State entity or a State entity redevelopment agreement, in either

1 case, in accordance with the provisions of the enabling statute
2 governing that State entity.

3 "Redevelopment plan" means a plan for the redevelopment or
4 rehabilitation of all or any part of a redevelopment area as described
5 in the redevelopment plan adopted pursuant to section 7 of
6 P.L.1992, c.79 (C.40A:12A-7) or as described in the resolution
7 adopted by a State entity determining the location, type and
8 character of a redevelopment project.

9 "Redevelopment project" means any work or undertaking
10 pursuant to a redevelopment plan; such undertaking may include
11 any buildings, land, including demolition, clearance or removal of
12 buildings from land, equipment, facilities, or other real or personal
13 properties which are necessary, convenient, or desirable
14 appurtenances, such as but not limited to streets, sewers, utilities,
15 parks, site preparation, landscaping, and administrative, community,
16 health, recreational, educational, and welfare facilities and any
17 other related costs and expenses including preliminary planning and
18 development costs and any financing costs and expenses.

19 "Special assessment" means an assessment upon the lands or
20 improvements on such lands, or both, in the redevelopment area
21 benefitted by improvements undertaken pursuant to the
22 "Redevelopment Area Bond Financing Law," sections 1 through 10
23 of P.L.2001, c.310 (C.40A:12A-64 et seq.), or the "Local
24 Redevelopment and Housing Law," P.L.1992, c.79 (C.40A:12A-1 et
25 seq.), and assessed pursuant to chapter 56 of Title 40 of the Revised
26 Statutes, R.S. 40:56-1 et seq., except as otherwise provided in
27 subsection c. of section 3 of P.L.2001, c.310 (C.40A:12A-66).

28 "State entity" means [the New Jersey Meadowlands Commission
29 established pursuant to P.L.1968, c.404 (C.13:17-1 et seq.) or] any
30 [other] entity created by State law with the power to undertake a
31 redevelopment project directly or through a State entity redeveloper
32 and with the power to determine the location, type and character of
33 a redevelopment project or part of a redevelopment project on land
34 owned or controlled by it.

35 "State entity redeveloper" means any person, firm or corporation
36 that shall enter into or propose to enter into a State entity
37 redevelopment agreement with a State entity for the redevelopment
38 or rehabilitation of a redevelopment area under the enabling
39 legislation governing the actions of the State entity or for any
40 construction or other work forming a part of a redevelopment
41 project.

42 "State entity redevelopment agreement" means an agreement
43 between a State entity and a State entity redeveloper for any work
44 or undertaking in a redevelopment area.

45 (cf: P.L.2004, c.112, s.1)

46

47 13. Section 3 of P.L.2001, c.310 (C.40A:12A-66) is amended to
48 read as follows:

1 3. a. A municipality that has designated a redevelopment area
2 or a municipality in which a redevelopment project is undertaken by
3 a State entity redeveloper pursuant to a State entity redevelopment
4 agreement may provide for tax abatement within that
5 redevelopment area and for payments in lieu of taxes in accordance
6 with the provisions of P.L.1991, c.431 (C.40A:20-1 et seq.) and
7 P.L.1991, c.441 (C.40A:21-1 et seq.) ; provided, however, that the
8 provisions of section 12 of P.L.1991, c.431 (C.40A:20-12)
9 establishing a minimum or maximum annual service charge and
10 requiring staged increases in annual service charges over the term
11 of the exemption period, and of section 13 of P.L.1991, c.431
12 (C.40A:20-13) permitting the relinquishment of status under that
13 act, shall not apply to redevelopment projects financed with bonds.

14 b. A municipality in which a redevelopment project is
15 undertaken by a State entity redeveloper pursuant to a State entity
16 redevelopment agreement regarding real property that is **【or may be**
17 **abated by applicable law】** not otherwise subject to real property tax
18 may provide for **【a tax abatement within the redevelopment area**
19 **and for】** payments in lieu of taxes pursuant to a financial agreement
20 **【between】** among, as applicable, the State entity or the municipality
21 or both, and the State entity redeveloper receiving the benefits of
22 **【P.L.2004, c.112】** sections 1 through 10 of P.L.2001, c.310
23 (C.40A:12A-64 et seq.) without regard to the **【limitations and**
24 **other】** provisions of P.L.1991, c.431 (C.40A:20-1 et seq.).

25 c. In addition to, or in lieu of, the **【tax abatement】** payments in
26 lieu of taxes provided for in subsection a. or b. of this section, the
27 municipality may provide by ordinance for one or more special
28 assessments within the redevelopment area in accordance with
29 chapter 56 of Title 40 of the Revised Statutes, R.S.40:56-1 et seq.,
30 provided, however, the local improvements for which special
31 assessments may be made may include any improvement in the
32 redevelopment area whether or not listed at R.S.40:56-1 and
33 environmental remediation and, provided further, that the
34 provisions of R.S.40:56-35 shall be applied so that if any
35 installment of a special assessment shall remain unpaid for 30 days
36 after the time at which it shall become due, the municipality may
37 provide, by ordinance, either that: (1) the whole assessment or
38 balance due thereon shall become and be immediately due; or, (2)
39 any subsequent installments which would not yet have become due
40 except for the default shall be considered as not in default and that
41 the lien for the installments not yet due shall continue; and
42 provided, further, that the ordinance may require that the
43 assessments be payable in quarterly, semi-annual or yearly
44 installments, with legal interest thereon, over a period of years up to
45 but in no event exceeding the period of years for which the bonds
46 were issued, or for 30 years, whichever shall be less. In levying a
47 special assessment on the lands or improvements, or both, located

1 in the redevelopment area, the municipality may provide that the
2 amount of the special assessment shall be a specific amount, not to
3 exceed the cost of the improvements, plus any out-of-pocket costs
4 or expenses incurred in connection with such improvements,
5 including, but not limited to, architectural, engineering, financing,
6 legal, and other professional fees, paid with respect to property
7 located in the redevelopment area. That specific amount shall, to
8 the extent accepted by the owner of the property benefitted, be
9 deemed the conferred benefit, in lieu of the amount being
10 determined by the procedures otherwise applicable to determining
11 the actual benefit conferred on the property. Special assessments
12 levied pursuant to an ordinance adopted under this subsection shall
13 constitute a municipal lien under R.S.40:56-33.

14 d. Upon adoption, a copy of the ordinance shall be filed for
15 public inspection in the office of the municipal clerk, and there
16 shall be published in a newspaper, published or circulating in the
17 municipality, a notice stating the fact and the date of adoption and
18 the place where the ordinance is filed and a summary of the
19 contents of the ordinance. The notice shall state that any action or
20 proceeding of any kind or nature in any court questioning the
21 validity or proper authorization of the ordinance or the actions
22 authorized to be taken as set forth in the ordinance shall be
23 commenced within 20 days after the publication of the notice. If no
24 action or proceeding questioning the validity of the ordinance
25 providing for tax abatement, special assessments, payments in lieu
26 of taxes or other actions authorized by the ordinance shall be
27 commenced or instituted within 20 days after the publication of the
28 notice, the county and the school district and all other
29 municipalities within the county and all residents and taxpayers and
30 owners of property therein shall be forever barred and foreclosed
31 from instituting or commencing any action or proceeding in any
32 court questioning the validity or enforceability of the ordinance or
33 the validity or enforceability of acts authorized under the ordinance,
34 and the ordinance and acts authorized by the ordinance shall be
35 conclusively deemed to be valid and enforceable in accordance with
36 their terms and tenor.

37 e. Notwithstanding any provision of the "Redevelopment Area
38 Bond Financing Law," sections 1 through 10 of P.L.2001, c.310
39 (C.40A:12A-64 et seq.), or the "Long Term Tax Exemption Law,"
40 P.L.1991, c.431 (C.40A:20-1 et seq.), to the contrary, whenever
41 proceeds of a bond are used to conduct environmental remediation,
42 the term of any agreement securing that bond, whether a financial
43 agreement providing a payment in lieu of taxes or a special
44 assessment agreement providing for the payment of a special
45 assessment, or both, may, subject to the board's review and
46 approval pursuant to subsection g. of section 4 of P.L.2001, c.310
47 (C.40A:12A-67), be 35 years plus the anticipated duration of
48 conducting environmental remediation; provided, however, that the

1 term of any such agreement securing the bonds shall not exceed 30
2 years from substantial completion of the redevelopment project
3 associated with the environmental remediation.

4 (cf: P.L.2004, c.112. s.2)

5
6 14. Section 4 of P.L.2001, c.310 (C.40A:12A-67) is amended to
7 read as follows:

8 4. a. The municipality may issue bonds itself in the manner
9 provided for herein or pursuant to the "Local Redevelopment and
10 Housing Law," P.L.1992, c.79 (C.40A:12A-1 et seq.) or may apply
11 to **【the】** an authority to issue bonds, regardless of whether the
12 redevelopment project is undertaken under municipal authority
13 pursuant to P.L.1991, c.431 (C.40A:20-1 et seq.) or by a State
14 entity redeveloper pursuant to a State entity redevelopment
15 agreement, which in any case may be secured by payments in lieu
16 of taxes or special assessments or both or a portion thereof, by the
17 adoption of a resolution or ordinance, as applicable, of the
18 governing body of the municipality, authority, or State entity to that
19 effect.

20 b. A municipality that has designated a redevelopment area or
21 in which a redevelopment project is undertaken by a State entity
22 redeveloper pursuant to a State entity redevelopment agreement
23 may, by resolution of its governing body, if it determines to issue
24 bonds through **【the】** an authority, enter into contracts with the
25 authority relating to that redevelopment project, or to act as a
26 redeveloper or to finance or refinance a redevelopment project
27 undertaken by a State entity redeveloper pursuant to a State entity
28 redevelopment agreement within a redevelopment area. A
29 resolution so adopted shall contain findings and determinations of
30 the governing body: (1) that all or a portion of the redevelopment
31 project undertaken within the municipality will result in the
32 redevelopment of the municipality; and, (2) that the contract with
33 the authority or, to the extent applicable, the financial agreement
34 with the State entity redeveloper, is a necessary or important
35 inducement to the undertaking of the project or the redevelopment
36 project undertaken by the State entity redeveloper in that it makes
37 the financing thereof feasible. The contract or contracts, or the
38 terms of any bonds issued directly by a municipality may provide
39 for the assignment, for the benefit of bondholders, of all or any
40 portion of payments in lieu of taxes, or special assessments, or
41 both **【. A contract】** , and may further provide that the State entity
42 redeveloper may use, access, or draw upon bond proceeds to pay
43 costs of the redevelopment project. These contracts may be made
44 and entered into for a term beginning currently or at some future or
45 contingent date, and with or without consideration, and for a
46 specified or unlimited time, and on any terms and conditions which
47 may be requested by the municipality and, to the extent applicable,
48 the State entity redeveloper, and, if applicable, as may be agreed to

1 by the authority and, to the extent applicable, the State entity
2 redeveloper, in conformity with its contracts with the holders of
3 bonds, and shall be valid and binding on the municipality. The
4 municipality is hereby authorized and directed to do and perform
5 any contract so entered into by it and to provide for the discharge of
6 any obligation thereunder in the same manner as other obligations
7 of the municipality.

8 Any contract, and any instrument making or evidencing the
9 same, may be pledged or assigned by the authority, with the consent
10 of the municipality executing the contract, and, to the extent
11 applicable, the consent of the State entity redeveloper, to secure its
12 bonds and thereafter may not be modified except as provided by the
13 terms of the instrument or by the terms of the pledge or assignment.

14 The municipality may include in the terms of a bond or contract,
15 including a financial agreement, a provision that the payments in
16 lieu of taxes or special assessments shall constitute a municipal
17 charge for the purposes of R.S.54:4-66.

18 c. The payments in lieu of taxes or special assessments, or
19 both, may be assigned directly by the municipality or the authority
20 **[or]** to the trustee for the bonds as payment or security for the
21 bonds. Notwithstanding any law to the contrary, the assignment
22 shall be an absolute assignment of all the municipality's right, title,
23 and interest in the payment in lieu of taxes or special assessments,
24 or both, or portion thereof, along with the rights and remedies
25 provided to the municipality under the agreement including, but not
26 limited to, the right of collection of payments due. Pursuant to an
27 absolute assignment, the trustee, in lieu of the municipality, shall
28 possess the power to conduct a sale of the land or improvements
29 thereon, or both, or any leasehold interests in the land or
30 improvements thereon, or both, to satisfy delinquencies in payments
31 in lieu of taxes or special assessments, or both. The sale shall be
32 held in accordance with the provisions of the "tax sale law,"
33 R.S.54:5-1 et seq.; provided, however that notwithstanding any
34 provision of that law, the trustee shall have the power to issue a tax
35 sale certificate making sale of any interest, including any interest
36 less than a fee interest, that is subject to the lien established under
37 the "Redevelopment Area Bond Financing Law," sections 1 through
38 10 of P.L.2001, c.310 (C.40A:12A-64 et seq.). Prior to conducting
39 a sale of the lands or improvements or issuing a tax sale certificate
40 pursuant to the power conferred under this section, the trustee shall
41 provide the governing body of the municipality with written notice
42 of the proposed sale or issuance at least five working days prior to
43 the date of the proposed sale or issuance. Any interest that is
44 subject to the lien established under the "Redevelopment Area Bond
45 Financing Law" shall not be transferred, conveyed, assigned,
46 disposed of, or sold, whether by tax sale or otherwise, free and clear
47 of the financial agreement and any payments in lieu of taxes due
48 thereunder while bonds are secured thereby, regardless of the

1 consent of the parties or order of any court, whether in law or in
2 equity, unless any such transfer or conveyance is provided for under
3 the terms and conditions set forth in the bond resolution or bond
4 ordinance, as applicable. Any purchaser, transferee, successor,
5 grantee, or assignee of such interest, whether at tax sale or
6 otherwise, shall take title to such interest subject to the obligations
7 imposed by the financial agreement. Payments in lieu of taxes and
8 special assessments assigned as provided hereunder shall not be
9 included in the general funds of the municipality, nor shall they be
10 subject to any laws regarding the receipt, deposit, investment or
11 appropriation of public funds and shall retain such status
12 notwithstanding enforcement of the payment or assessment by the
13 municipality or assignee as provided herein. The municipality shall
14 be a "person" within the meaning of that term as defined in section
15 3 of P.L.1974, c.80 (C.34:1B-3); and the purpose described in this
16 section shall be a "project" within the meaning of that term as
17 defined in section 3 of P.L.1974, c.80 (C.34:1B-3).

18 d. Notwithstanding the provisions of subsection g. of section
19 37 of P.L.1992, c.79 (C.40A:12A-37), the bonds issued pursuant to
20 this section may be issued as non-recourse obligations, and unless
21 otherwise provided for by a separate action of the municipality to
22 guarantee such bonds or otherwise provide for a pledge of the
23 municipality's full faith and credit shall not, except for such action,
24 be considered to be direct and general obligations of the
25 municipality, and, absent such action, the municipality shall not be
26 obligated to levy and collect a tax sufficient in an amount to pay the
27 principal and interest on the bonds when the same become due and
28 payable. The provisions of the "Local Government Supervision Act
29 (1947)," P.L.1947, c.151 (C.52:27BB-1 et seq.) shall not apply to
30 any bonds issued or authorized pursuant to this section and those
31 bonds shall not be considered gross debt of the municipality on any
32 debt statement filed in accordance with the "Local Bond Law,"
33 N.J.S.40A:2-1 et seq., and the provisions of chapter 27 of Title 52
34 of the Revised Statutes shall not apply to such bonds.

35 e. The proceeds from the sale of bonds and any funds provided
36 by any department of the State, authority created by the State, or bi-
37 state authority, for the purposes described in the "Redevelopment
38 Area Bond Financing Law," sections 1 through 10 of P.L.2001,
39 c.310 (C.40A:12A-64 et seq.) or for the purpose of financing or
40 refinancing a redevelopment project pursuant to a State entity
41 redevelopment agreement, shall not require compliance with public
42 bidding laws, including the "Local Public Contracts Law,"
43 P.L.1971, c.198 (C.40A:11-1 et seq.), or any other statute where the
44 redeveloper or State entity redeveloper, as the case may be, shall
45 undertake the redevelopment project. The use of these funds shall
46 be subject to public accountability and oversight by the issuer of
47 those bonds, regardless of whether the municipality, agency or
48 authority provides the funds.

1 f. In order to provide additional security for any loan to a
2 redeveloper or a State entity redeveloper, as the case may be, or to
3 bonds issued to finance a redevelopment project, regardless of
4 whether that redevelopment project is undertaken under municipal
5 authority pursuant to P.L.1991, c.431 (C.40A:20-1 et seq.) or by a
6 State entity redeveloper pursuant to a State entity redevelopment
7 agreement, the municipality may utilize powers otherwise provided
8 by law, including the "Local Redevelopment and Housing Law,"
9 P.L.1992, c.79 (C.40A:12A-1 et seq.), to provide for any extension
10 of the municipality's credit to any redeveloper or State entity
11 redeveloper, as the case may be, or its full faith and credit which
12 may include a full faith and credit lease as security for the bonds or
13 any loan to a redeveloper or State entity redeveloper, as the case
14 may be. To the extent that the municipality provides for a full faith
15 and credit guarantee of any loan to a redeveloper or State entity
16 redeveloper, as the case may be, or any bonds, but determines not to
17 authorize the issuance of bonds or notes to provide for the funding
18 source thereof, or otherwise determines to enter into a full faith and
19 credit lease, it may do so by an ordinance introduced, adopted, and
20 published in accordance with the provisions of N.J.S.40A:2-17 and
21 N.J.S.40A:2-19. Such ordinance shall take effect 20 days after the
22 first publication of the ordinance or of a summary thereof after final
23 adoption. To the extent that bonds or notes are authorized as
24 provided above, such bonds or notes shall be authorized pursuant to
25 the provisions of the "Local Bond Law," N.J.S.40A:2-1 et seq., and
26 shall be deductible from the gross debt of the municipality until
27 such time as such bonds or notes are actually issued, and only up to
28 the amount actually issued, to fund such guarantee.

29 g. **【A financial instrument】** A bond, issued in accordance with
30 the "Redevelopment Area Bond Financing Law," sections 1 through
31 10 of P.L.2001, c.310 (C.40A:12A-64 et seq.), whether issued by a
32 municipality or an authority, that is secured in whole or in part by
33 payments in lieu of taxes or by special assessments, or both, as
34 provided herein shall be subject to the review and approval of the
35 board. That review and approval shall be made prior to approval of,
36 in the case of a **【municipality】** municipal governing body, an
37 introduced ordinance or, in the case of an authority or
38 redevelopment entity that is not a municipal governing body, a
39 resolution. The board shall be entitled to receive from the applicant
40 an amount sufficient to provide for all reasonable professional and
41 other fees and expenses incurred by it for the review, analysis and
42 determination with respect thereto. As part of its review, the board
43 shall specifically solicit comments from the Office of State
44 Planning and the New Jersey Economic Development Authority in
45 addition to comments from the public. The Office of State Planning
46 shall provide comments on whether the redevelopment project or
47 plan promotes congestion reduction, enhanced mobility, further
48 redevelopment, and otherwise improves the quality of life of

1 residents. As part of the board's review and approval, it shall
2 consider the comments submitted and whether the issuance of the
3 redevelopment area bond will adversely impact the financial
4 stability of the municipality or service area of the authority.

5 h. A municipality that has assigned any portion of the
6 payments in lieu of taxes it receives pursuant to a financial
7 agreement, as payment or security for bonds, may also pledge a
8 portion of those payments in lieu of taxes as payment or security for
9 bonds in order to finance or refinance any cost or expense of the
10 municipality, State entity or authority.

11 i. In the case of a municipality which is otherwise subject to
12 tax or revenue sharing pursuant to law and which assigns a portion
13 of the payments in lieu of taxes or special assessments pursuant to a
14 financial agreement to secure bonds issued by the municipality or
15 the authority, the assigned portion of those payments in lieu of taxes
16 or special assessments shall not be considered part of the tax or
17 revenue sharing formula or calculation of municipal revenues for
18 the purpose of determining whether that municipality is obligated to
19 make payment to, or receive a credit from, any tax sharing or
20 revenue sharing pool.

21 j. Notwithstanding any law to the contrary, including subsection
22 a. of section 3 of P.L.2001, c.310 (C.40A:12A-66), payments in lieu
23 of taxes pursuant to a financial agreement to secure bonds may be
24 established in such amounts as shall be sufficient to pay the
25 principal of, redemption premium, if any, and interest on the bonds.

26 k. Notwithstanding any law to the contrary, in the event that
27 bonds shall be issued that are secured by payments in lieu of taxes
28 pursuant to a financial agreement, the financial agreement shall not
29 be terminated for any reason during the period that the bonds are
30 outstanding.

31 (cf: P.L.2015, c.95, s.26)

32

33 15. Section 5 of P.L.2001, c.310 (C.40A:12A-68) is amended to
34 read as follows:

35 5. a. Payments required to be made in accordance with an
36 agreement for payments in lieu of taxes entered into under section 3
37 of P.L.2001, c.310 (C.40A:12A-66) shall be a continuous lien on
38 the land or improvements thereon, or both, or a continuous lien on
39 any leasehold interests in the land or improvements thereon, or
40 both, against which the ordinance is recorded on and after the date
41 of recordation of both the ordinance and the agreement, whether
42 simultaneously or not, or the date of confirmation of the special
43 assessments, whichever is earlier. All subsequent payments in lieu
44 of taxes thereunder, interest, penalties and costs of collection which
45 thereafter fall due or accrue shall be added and relate back to and be
46 a part of the initial lien. Upon recordation of the ordinance and
47 agreement, payments in lieu of taxes shall constitute **[a]** an
48 automatic, enforceable, and perfected statutory municipal lien

1 **【within the meaning, and】** for all purposes, **【of law】** including the
2 federal bankruptcy code, regardless of whether or not the amount of
3 the payments to be made in lieu of taxes has been determined at the
4 time the lien attaches to any interest in the land, leasehold estate, or
5 improvements, as applicable. A confirmation hearing process to
6 determine the amount due shall not affect the commencement or
7 validity of the lien. Notwithstanding any other applicable law, for
8 the purposes of the “Redevelopment Area Bond Financing Law,”
9 sections 1 through 10 of P.L.2001, c.310 (C.40A:12A-64 et seq.), a
10 municipal lien on a leasehold estate shall constitute a lien against
11 such leasehold estate only, unless the financial agreement
12 specifically provides for a lien on the underlying fee interest in the
13 land. In any case, enforcement of a municipal lien on a leasehold
14 estate shall be limited to an in rem proceeding only. No municipal
15 lien shall attach to any interest of a State entity unless such State
16 entity shall have expressly consented to such lien in the financial
17 agreement.

18 b. If bonds are issued, the municipality, the redeveloper or the
19 State entity redeveloper, as the case may be, may record, either
20 simultaneously or at different times, any ordinance enacted by the
21 municipality relating to the payment in lieu of taxes agreement or
22 special assessments and, either simultaneously with the ordinance
23 or at different times, a copy of the agreement or agreements. The
24 ordinance, when recorded, shall contain a legend at the top of the
25 front page substantially as follows:

26
27 "THIS ORDINANCE SECURES BONDS OR OTHER
28 OBLIGATIONS ISSUED IN ACCORDANCE WITH THE
29 PROVISIONS OF THE 'REDEVELOPMENT AREA BOND
30 FINANCING LAW' AND THE LIEN HEREOF IN FAVOR OF
31 THE OWNERS OF SUCH BONDS OR OTHER OBLIGATIONS
32 IS A MUNICIPAL LIEN SUPERIOR TO ALL OTHER NON-
33 MUNICIPAL LIENS HEREAFTER RECORDED."
34

35 c. Notwithstanding any law to the contrary, upon recordation
36 of both the ordinance and any accompanying agreement, the lien
37 thereof shall be perfected for all purposes in accordance with law
38 and the lien shall thereafter be superior to (1) all municipal and
39 non-municipal liens thereafter recorded or otherwise arising, and
40 (2) all prior liens where lienholder consents, without any additional
41 notice, recording, filing, continuation filing or action, until the
42 payment in full of the bonds. The lien thereby established shall
43 apply not only to the bonds initially issued, but also to any
44 refinancing or refunding thereof, as well as to any additional bonds
45 thereafter issued on a parity therewith in accordance with the
46 provisions of the original documents securing the initial bonds;
47 provided, however, that in the event any ordinance or agreement is
48 amended or supplemented in a way which increases the amount of

1 payment in lieu of taxes or special assessments, the lien as to that
2 increase shall be perfected and apply upon the recordation of the
3 amended or supplemented ordinance and agreement (including the
4 above-recited legend). Except as set forth in this section, no
5 amendment or supplement to the ordinance or agreement thereafter
6 recorded shall affect the perfection or priority of the lien established
7 upon original recordation thereof.

8 d. Upon the final payment in full of any bonds secured as
9 provided in this section and section 4 of P.L.2001, c.310
10 (C.40A:12A-67), the lien established hereby shall terminate, and the
11 municipality shall record a notice to that effect.
12 (cf: P.L.2004, c.112, s.4)

13

14 16. Section 10 of P.L.2001, c.310 (C.40A:12A-73) is amended
15 to read as follows:

16 10. **【After issuance, pursuant to the "Redevelopment Area Bond**
17 **Financing Law," P.L.2001, c.310 (C.40A:12A-64 et seq.) all bonds**
18 **shall be conclusively presumed to be fully authorized and issued by**
19 **all courts and officers of this State, and any person shall be**
20 **estopped from questioning their sale, execution or delivery.】 An**
21 **authority or municipality, as applicable, shall cause a copy of any**
22 **bond resolution or bond ordinance, as applicable, adopted by it to**
23 **be filed for public inspection in the office of the municipal clerk of**
24 **the municipality wherein the project financed by the bonds is**
25 **located. In the case of an authority, the resolution also shall be**
26 **filed for public inspection in its office. The authority or**
27 **municipality may cause to be published, at least once in a**
28 **newspaper published or circulating in the municipality, if there be**
29 **one, and if not, in a newspaper published and circulating in the**
30 **county, a notice stating the fact and date of the adoption and the**
31 **places where the bond resolution or bond ordinance, as applicable,**
32 **has been so filed for public inspection along with the date of the**
33 **first publication of the notice and also stating that any action or**
34 **proceeding of any kind or nature in any court questioning the**
35 **validity or proper authorization of bonds provided for by the bond**
36 **resolution or bond ordinance, as applicable, or the validity of any**
37 **covenants, agreements or contracts provided for by the bond**
38 **resolution or bond ordinance, as applicable, shall be commenced**
39 **within 20 days after the first publication of that notice. If any such**
40 **notice shall at any time be published and if no action or proceeding**
41 **questioning the validity or proper authorization of bonds provided**
42 **for by the bond resolution or bond ordinance, as applicable, referred**
43 **to in said notice, or the validity of any covenants, agreements, or**
44 **contracts provided for by said bond resolution or bond ordinance, as**
45 **applicable, shall be commenced or instituted within 20 days after**
46 **the first publication of the notice, then all persons shall be forever**
47 **barred and foreclosed from instituting or commencing any action or**
48 **proceeding in any court, or from pleading any defense to any action**

1 or proceeding, questioning the validity or proper authorization of
2 such bonds, or the validity of such covenants, agreements, or
3 contracts, and said bonds, covenants, agreements, and contracts
4 shall be conclusively deemed to be valid and binding obligations in
5 accordance with their terms and tenor.

6 (cf: P.L.2001, c.310, s.10)

7

8 17. Section 12 of P.L.1991, c.431 (C.40A:20-12) is amended to
9 read as follows:

10 12. The rehabilitation or improvements made in the development
11 or redevelopment of a redevelopment area or area appurtenant
12 thereto or for a redevelopment relocation housing project, pursuant
13 to P.L.1991, c.431 (C.40A:20-1 et seq.), shall be exempt from
14 taxation for a limited period as hereinafter provided. When housing
15 is to be constructed, acquired or rehabilitated by an urban renewal
16 entity, the land upon which that housing is situated shall be exempt
17 from taxation for a limited period as hereinafter provided. The
18 exemption shall be allowed when the clerk of the municipality
19 wherein the property is situated shall certify to the municipal tax
20 assessor that a financial agreement with an urban renewal entity for
21 the development or the redevelopment of the property, or the
22 provision of a redevelopment relocation housing project, or the
23 provision of a low and moderate income housing project has been
24 entered into and is in effect as required by P.L.1991, c.431
25 (C.40A:20-1 et seq.).

26 Delivery by the municipal clerk to the municipal tax assessor of
27 a certified copy of the ordinance of the governing body approving
28 the tax exemption and financial agreement with the urban renewal
29 entity shall constitute the required certification. For each
30 exemption granted pursuant to P.L.2003, c.125 (C.40A:12A-4.1 et
31 al.), upon certification as required hereunder, the tax assessor shall
32 implement the exemption and continue to enforce that exemption
33 without further certification by the clerk until the expiration of the
34 entitlement to exemption by the terms of the financial agreement or
35 until the tax assessor has been duly notified by the clerk that the
36 exemption has been terminated.

37 Within 10 calendar days following the later of the effective date
38 of an ordinance following its final adoption by the governing body
39 approving the tax exemption or the execution of the financial
40 agreement by the urban renewal entity, the municipal clerk shall
41 transmit a certified copy of the ordinance and financial agreement
42 to the chief financial officer of the county and to the county counsel
43 for informational purposes.

44 Whenever an exemption status changes during a tax year, the
45 procedure for the apportionment of the taxes for the year shall be
46 the same as in the case of other changes in tax exemption status
47 during the tax year. Tax exemptions granted pursuant to P.L.2003,
48 c.125 (C.40A:12A-4.1 et al.) represent long term financial

1 agreements between the municipality and the urban renewal entity
2 and as such constitute a single continuing exemption from local
3 property taxation for the duration of the financial agreement. The
4 validity of a financial agreement or any exemption granted pursuant
5 thereto may be challenged only by filing an action in lieu of
6 prerogative writ within 20 days from the publication of a notice of
7 the adoption of an ordinance by the governing body granting the
8 exemption and approving the financial agreement. Such notice
9 shall be published in a newspaper of general circulation in the
10 municipality and in a newspaper of general circulation in the county
11 if different from the municipal newspaper.

12 a. The duration of the exemption for urban renewal entities
13 shall be as follows:

14 (1) for ~~all projects, a term of~~ a project other than a project that
15 qualifies under paragraph (2) of this subsection, not more than 30
16 years from the completion of the entire project, or unit of the
17 project if the project is undertaken in units, or not more than 35
18 years from the execution of the financial agreement between the
19 municipality and the urban renewal entity;

20 (2) for each project undertaken pursuant to a redevelopment
21 agreement which allows the redeveloper to undertake two or more
22 projects sequentially, not more than 30 years from the completion
23 of a project, or unit of the project if the project is undertaken in
24 units, or not more than 50 years from the execution of the first
25 financial agreement implementing a project under the
26 redevelopment agreement. As used in this subsection,
27 “redevelopment agreement” means an agreement entered into
28 pursuant to subsection f. of section 8 of P.L.1992, c.79
29 (C.40A:12A-8) between a municipality or redevelopment entity and
30 a redeveloper .

31 b. During the term of any exemption, in lieu of any taxes to be
32 paid on the buildings and improvements of the project and, to the
33 extent authorized pursuant to this section, on the land, the urban
34 renewal entity shall make payment to the municipality of an annual
35 service charge, which shall remit a portion of that revenue to the
36 county as provided hereinafter. In addition, the municipality may
37 assess an administrative fee, not to exceed two percent of the annual
38 service charge, for the processing of the application. The annual
39 service charge for municipal services supplied to the project to be
40 paid by the urban renewal entity for any period of exemption, shall
41 be determined as follows:

42 (1) An annual amount equal to a percentage determined
43 pursuant to this subsection and section 11 of P.L.1991, c.431
44 (C.40A:20-11), of the annual gross revenue from each unit of the
45 project, if the project is undertaken in units, or from the total
46 project, if the project is not undertaken in units. The percentage of
47 the annual gross revenue shall not be more than 15% in the case of

1 a low and moderate income housing project, nor less than 10% in
2 the case of all other projects.

3 At the option of the municipality, or where because of the nature
4 of the development, ownership, use or occupancy of the project or
5 any unit thereof, if the project is to be undertaken in units, the total
6 annual gross rental or gross shelter rent or annual gross revenue
7 cannot be reasonably ascertained, the governing body shall provide
8 in the financial agreement that the annual service charge shall be a
9 sum equal to a percentage determined pursuant to this subsection
10 and section 11 of P.L.1991, c.431 (C.40A:20-11), of the total
11 project cost or total project unit cost determined pursuant to
12 P.L.1991, c.431 (C.40A:20-1 et seq.) calculated from the first day
13 of the month following the substantial completion of the project or
14 any unit thereof, if the project is undertaken in units. The
15 percentage of the total project cost or total project unit cost shall not
16 be more than 2% in the case of a low and moderate income housing
17 project, and shall not be less than 2% in the case of all other
18 projects.

19 (2) In either case, the financial agreement shall establish a
20 schedule of annual service charges to be paid over the term of the
21 exemption period, which shall be in stages as follows:

22 (a) For the first stage of the exemption period, which shall
23 commence with the date of completion of the unit or of the project,
24 as the case may be, and continue for a time of not less than six years
25 nor more than 15 years, as specified in the financial agreement, the
26 urban renewal entity shall pay the municipality an annual service
27 charge for municipal services supplied to the project in an annual
28 amount equal to the amount determined pursuant to paragraph (1) of
29 this subsection and section 11 of P.L.1991, c.431 (C.40A:20-11).
30 For the remainder of the period of the exemption, if any, the annual
31 service charge shall be determined as follows:

32 (b) For the second stage of the exemption period, which shall
33 not be less than one year nor more than six years, as specified in the
34 financial agreement, an amount equal to either the amount
35 determined pursuant to paragraph (1) of this subsection and section
36 11 of P.L.1991, c.431 (C.40A:20-11), or 20% of the amount of
37 taxes otherwise due on the value of the land and improvements,
38 whichever shall be greater;

39 (c) For the third stage of the exemption period, which shall not
40 be less than one year nor more than six years, as specified in the
41 financial agreement, an amount equal to either the amount
42 determined pursuant to paragraph (1) of this subsection and section
43 11 of P.L.1991, c.431 (C.40A:20-11), or 40% of the amount of
44 taxes otherwise due on the value of the land and improvements,
45 whichever shall be greater;

46 (d) For the fourth stage of the exemption period, which shall not
47 be less than one year nor more than six years, as specified in the
48 financial agreement, an amount equal to either the amount

1 determined pursuant to paragraph (1) of this subsection and section
2 11 of P.L.1991, c.431 (C.40A:20-11), or 60% of the amount of
3 taxes otherwise due on the value of the land and improvements,
4 whichever shall be greater; and

5 (e) For the final stage of the exemption period, the duration of
6 which shall not be less than one year and shall be specified in the
7 financial agreement, an amount equal to either the amount
8 determined pursuant to paragraph (1) of this subsection and section
9 11 of P.L.1991, c.431 (C.40A:20-11), or 80% of the amount of
10 taxes otherwise due on the value of the land and improvements,
11 whichever shall be greater.

12 If the financial agreement provides for an exemption period of
13 less than 30 years from the completion of the entire project, or less
14 than 35 years from the execution of the financial agreement, the
15 financial agreement shall set forth a schedule of annual service
16 charges for the exemption period which shall be based upon the
17 minimum service charges and staged adjustments set forth in this
18 section.

19 The annual service charge shall be paid to the municipality on a
20 quarterly basis in a manner consistent with the municipality's tax
21 collection schedule.

22 Each municipality which enters into a financial agreement on or
23 after the effective date of P.L.2003, c.125 (C.40A:12A-4.1 et al.)
24 shall remit 5 percent of the annual service charge collected by the
25 municipality to the county in accordance with the provisions of
26 R.S.54:4-74.

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

31 Notwithstanding the provisions of this section or of the financial
32 agreement, the minimum annual service charge shall be the amount
33 of the total taxes levied against all real property in the area covered
34 by the project in the last full tax year in which the area was subject
35 to taxation, and the minimum annual service charge shall be paid in
36 each year in which the annual service charge calculated pursuant to
37 this section or the financial agreement would be less than the
38 minimum annual service charge.

39 c. All exemptions granted pursuant to the provisions of
40 P.L.1991, c.431 (C.40A:20-1 et seq.) shall terminate at the time
41 prescribed in the financial agreement.

42 Upon the termination of the exemption granted pursuant to the
43 provisions of P.L.1991, c.431 (C.40A:20-1 et seq.), the project, all
44 affected parcels, land and all improvements made thereto shall be
45 assessed and subject to taxation as are other taxable properties in
46 the municipality. After the date of termination, all restrictions and
47 limitations upon the urban renewal entity shall terminate and be at

1 an end upon the entity's rendering its final accounting to and with
2 the municipality.

3 (cf: P.L.2015, c.247, s.1)

4

5 18. Section 13 of P.L.1991, c.431 (C.40A:20-13) is amended to
6 read as follows:

7 13. The tax exemption provided in **[this act]** P.L.1991, c.431
8 (C.40A:20-1 et seq.) shall apply only so long as the urban renewal
9 entity and its project remain subject to the provisions of **[this act]**
10 P.L.1991, c.431 (C.40A:20-1 et seq.), but in no event more than: 35
11 years from the date of the execution of the financial agreement; or,
12 if authorized pursuant to paragraph (2) of subsection a. of section
13 12 of P.L.1991, c.431 (C.40A:20-12), 50 years from the date of the
14 execution of the first financial agreement implementing a project
15 under the redevelopment agreement. A tax exemption authorized in
16 connection with a nonprofit limited dividend cooperative housing
17 project under a financial agreement entered into pursuant to the
18 "Limited-Dividend Nonprofit Housing Corporations or Associations
19 Law," P.L.1949, c.184 (C.55:16-1 et seq.) may be extended to
20 coincide with existing first mortgage financing. The terms of any
21 such extension shall be set forth in an amended financial agreement
22 between the urban renewal entity and the municipality. An urban
23 renewal entity may at any time after the expiration of one year from
24 the completion date of the project, notify the governing body of the
25 municipality that, as of a certain date designated in the notice, it
26 relinquishes its status under this act, and if the project includes
27 housing units, that the urban renewal entity has obtained the
28 consent of the Commissioner of Community Affairs to such a
29 relinquishment. As of that date, the tax exemption, the service
30 charges, and the profit and dividend restrictions shall terminate.
31 The date of termination of tax exemption, whether by
32 relinquishment by the entity or by terms of the financial agreement,
33 shall be deemed the close of the fiscal year of the entity. Within 90
34 days of that date, the urban renewal entity shall pay to the
35 municipality the amount of reserve, if any maintained pursuant to
36 section 15 or 16 of **[this act]** P.L.1991, c.431 (C.40A:20-15 or
37 40A:20-16), as well as the excess net profits, if any, payable as of
38 that date.

39 (cf: P.L.1999, c.220, s.1)

40

41 19. This act shall take effect immediately.

42

43

44

STATEMENT

45

46 This bill supplements the Economic Redevelopment and Growth
47 (ERG) program by broadening the mechanisms available to finance
48 the "up-front" costs of certain ERG development projects. The ERG

1 Grant Program, N.J.S.A.52:27D-489a et al., provides economic
2 incentives to developers of qualified projects by granting
3 developers certain incremental increases in tax revenues related to
4 their development projects.

5 The bill is modeled after the “Redevelopment Area Bond Financing
6 Law,” sections 1 through 10 of P.L.2001, c.310 (C.40A:12A-64 et
7 seq.). The bill allows a municipality, either directly or through
8 application to the New Jersey Economic Development Authority or
9 similar public instrumentality of the State, to issue bonds for
10 projects that have been awarded incentive grants under the ERG
11 program. These bonds would be secured by a pledge of the ERG
12 incentive grant payments, and further secured by municipal liens,
13 special assessments, or both, on property benefitting from the
14 improvements.

15 The bill also:

- 16 • adds county improvement authorities to the definition of
17 “authority” in the “Economic Redevelopment and Growth
18 Grant Bond Financing Act” (ERGGBFA), which is being
19 established under sections 1–11 of the bill, and in the
20 “Redevelopment Area Bond Financing Law” (RABFL).
21 (Sections 2 and 12)
- 22 • provides the trustee for the bonds, under the ERGGBFA and
23 the RABFL with the power to conduct a sale of the lands or
24 improvements to satisfy delinquencies in payments in lieu of
25 taxes, special assessments, and incentive grant pledges.
26 (Sections 3 and 14)
- 27 • prohibits termination of a redevelopment incentive grant
28 agreement under the ERGGBFA while bonds secured by
29 incentive grant pledges are outstanding; and prohibit
30 termination of a financial agreement under the RABFL while
31 bonds secured by payments in lieu of taxes are outstanding.
32 (Sections 3 and 15)
- 33 • extends the continuous lien on the land under the ERGGBFA
34 and the RABFL to include improvements and leasehold
35 interests and, upon recordation of the applicable ordinance,
36 extend superiority of the liens over all later arising
37 municipal or non-municipal liens, and prior liens where the
38 lienholder consents. (Sections 4 and 15)
- 39 • establishes requirements concerning notice of adoption of
40 bond ordinances and resolutions under the ERGGBFA and
41 the RABFL and allow a 20-day period to challenge a bond
42 ordinance or resolution, after which all persons are barred
43 from questioning the validity or proper authorization of the
44 bonds. (Sections 9 and 16)
- 45 • provides that local improvements for which special
46 assessments may be made under the ERGGBFA and the
47 RABFL may include environmental remediation, and that

- 1 amount of special assessment may include professional fees.
2 (Sections 10 and 13); and
- 3 • allows extension of the term of the agreement securing a
4 bond under the RABFL if bond proceeds are used to
5 undertake environmental remediation to 35 years after
6 duration of environmental remediation. (Section 13)
 - 7 • extends provisions of “Long Term Tax Exemption Law” that
8 require tax exemptions to have run their course within 35
9 years from the date of execution of the financial agreement,
10 in the case of projects undertaken pursuant to a
11 redevelopment agreement which allows a redeveloper to
12 undertake sequential projects, to 50 years after execution of
13 the first associated financial agreement. This effectively
14 protects against the shortening of the duration of a tax
15 exemption for a project undertaken at a later phase of
16 redevelopment, as long as the later-phased project is
17 completed within 20 years after execution of the first
18 associated financial agreement. This does not extend the
19 current maximum term of a tax exemption beyond 30 years,
20 as authorized under current law. (Sections 17 and 18)

ASSEMBLY COMMERCE AND ECONOMIC DEVELOPMENT
COMMITTEE

STATEMENT TO
ASSEMBLY, No. 2041

with committee amendments

STATE OF NEW JERSEY

DATED: FEBRUARY 8, 2018

The Assembly Commerce and Economic Development Committee reports favorably and with committee amendments Assembly Bill No. 2041.

As amended by the committee, this bill establishes the “Economic Redevelopment and Growth Grant Bond Financing (ERG-BF) Act,” amends the “Redevelopment Area Bond Financing (RAB) Law,” and amends the “Long Term Tax Exemption Law” (LTTL).

The ERG-BF Act, sections 1 through 11 of the bill, modeled after the RAB law (as amended by this bill), establishes a mechanism to finance the “up-front” costs of certain Economic Redevelopment and Growth Grant (ERG) Program development projects. The ERG Program provides economic incentives to the developer of a qualified development project by allowing the developer to receive certain incremental increases in tax revenues attributable to the development project. The revenue stream from this economic incentive does not reach a developer until after the developer completes a project, businesses and residents locating within the new development pay taxes, and the State pays incremental increases in tax revenues to the developer. However, developers often need capital to finance a project at an early stage of development.

The ERG-BF Act addresses this revenue shortfall by establishing a mechanism to bond based upon projected revenues from an incentive grant. The bill allows a developer to assign its right to receive revenues under an incentive grant to the municipality within which the development project is located, and allows the municipality to issue bonds secured by the incentive grant pledge, and by municipal liens and special assessments. Under the bill, a municipality may issue bonds either directly or through certain state and local authorities. To enhance the security of the bonds, the bill authorizes the municipality to directly assign the incentive grant and special assessments to the bondholders as payment or security for the bonds.

The bill amends the RAB law to:

- allow bondholders to enforce liens if payments in lieu of taxes (PILOTs) or special assessments go unpaid;
- prohibit termination of financial agreements while bonds secured by PILOTs remain outstanding;

- provide that liens authorized under the RAB law is superior to all later arising municipal or non-municipal liens, and prior liens where the lienholder consents;
- allow a 20-day period to challenge a bond ordinance or resolution authorizing bonds, after which all are barred from questioning the validity or proper authorization of the bonds;
- extend the permissible duration of agreements when bond proceeds are used to undertake environmental remediation (so they may continue for 35 years after the anticipated duration of conducting the environmental remediation, but no more than 30 years from substantial completion of the redevelopment project); and
- allow environmental remediation and professional fees relating to the projects to be funded from special assessments.

The bill amends the LTTL to extend provisions of the law that require tax exemptions to have run their course within 35 years from the date of execution of the financial agreement. The bill provides that projects undertaken pursuant to a redevelopment agreement which allows a redeveloper to undertake sequential projects may run for 50 years after execution of the first associated financial agreement. This amendment will allow a municipality and a redeveloper to agree to schedule projects in phases and protects against the shortening of the permissible 30-year duration of a tax exemption for a project undertaken at a later phase of redevelopment, as long as the later-phased project is completed within 20 years after execution of the first associated financial agreement. This change does not extend current law's maximum 30-year term of a tax exemption.

This bill was pre-filed for introduction in the 2018-2019 session pending technical review. As reported, the bill includes the changes required by technical review, which has been performed.

COMMITTEE AMENDMENTS:

This amendment clarifies that a municipality and an urban renewal entity may set the duration of a tax exemption period for a project under the LTTL either in accordance with the provisions of current law, or, if the project is undertaken pursuant to a redevelopment agreement that allows two or more projects to be undertaken sequentially, not more than 50 years from the execution of the first financial agreement implementing a project under the redevelopment agreement. This amendment addresses concerns that the new durational provision could have been interpreted as being mandatory for projects undertaken pursuant to a redevelopment agreement that allows two or more projects to be undertaken sequentially. This amendment clarifies the sponsor's intention that the longer durational limitation is permissible if the municipality and urban renewal entity agree that it is appropriate for a particular transaction.

SENATE ECONOMIC GROWTH COMMITTEE

STATEMENT TO

[First Reprint]

ASSEMBLY, No. 2041

STATE OF NEW JERSEY

DATED: FEBRUARY 22, 2018

The Senate Economic Growth Committee reports favorably Assembly Bill No. 2041(1R).

As reported, this bill supplements the Economic Redevelopment and Growth Grant (ERGG) Program by broadening the mechanisms available to finance the “up-front” costs of certain ERGG Program development projects. The ERGG Program provides economic incentives to developers of qualified projects by granting developers certain incremental increases in tax revenues related to their development projects.

The bill establishes the “Economic Redevelopment and Growth Grant Bond Financing Act” (ERGGBFA) which is modeled after the “Redevelopment Area Bond Financing Law” (RABFL). Under the ERGG program, developers that are awarded ERG incentive grants receive a revenue stream from the grant after a project has been completed and tax revenues are being paid to the State from businesses and residents within the new development. Developers often need capital to finance a project at an early stage of development. ERGGBFA addresses this revenue shortfall by allowing a developer to assign its right to receive the incentive grant to the municipality, and authorizes the municipality to issue bonds, either directly or through certain state and local authorities, secured by the incentive grant pledge, and by municipal liens and special assessments. To enhance the security of the bonds, the bill authorizes the municipality to directly assign the incentive grant and special assessments to the bondholders as payment or security for the bonds.

The bill amends the RABFL and establishes comparable provisions in the ERGGBFA, including provisions to:

- (1) Allow bondholders to sell lands and improvements of projects to satisfy delinquencies in payments in lieu of taxes, special assessments, and incentive grant pledges.
- (2) Prohibit termination of incentive grant agreements and financial agreements under these laws while bonds remain outstanding.

- (3) Provide that the liens authorized under these laws are superior to all later arising municipal or non-municipal liens and prior liens where the lienholder consents.
- (4) Allow a 20 day period to challenge a bond ordinance or resolution authorizing bonds, after which all persons are barred from questioning the validity or proper authorization of the bonds.
- (5) Extend the permissible duration of agreements when bond proceeds are used to undertake environmental remediation, so they may continue for 35 years after the anticipated duration of conducting the environmental remediation, but no more than 30 years from substantial completion of the redevelopment project.
- (6) When administering a special assessment for local improvements, allow environmental remediation and professional fees relating to the projects to be funded from special assessments.

The bill extends provisions of the “Long Term Tax Exemption Law” that require tax exemptions to be exercised within 35 years from the date of execution of the financial agreement, so that projects undertaken pursuant to a redevelopment agreement which allows a redeveloper to undertake sequential projects may continue for 50 years after execution of the first associated financial agreement. This change allows a municipality and a redeveloper to agree to schedule projects in phases and protects against the shortening of the permissible 30-year duration of a tax exemption for a project undertaken at a later phase of redevelopment, as long as the later-phased project is completed within 20 years after execution of the first associated financial agreement. This change does not extend the current maximum term of a tax exemption beyond 30 years, as authorized under current law.

As reported, Assembly Bill No. 2041(1R) is identical to Senate Bill No. 1840, which was reported by the committee on this date.

SENATE BUDGET AND APPROPRIATIONS COMMITTEE

STATEMENT TO

[First Reprint]

ASSEMBLY, No. 2041

with committee amendments

STATE OF NEW JERSEY

DATED: JUNE 18, 2018

The Senate Budget and Appropriations Committee reports favorably Assembly Bill No. 2041 (1R), with committee amendments.

As amended, this bill establishes the “Economic Redevelopment and Growth Grant Bond Financing (ERGGBFA) Act,” amends the “Redevelopment Area Bond Financing (RAB) Law,” and amends the “Long Term Tax Exemption Law” (LTTL).

The ERGGBFA (sections 1 through 11 of the bill) establishes a mechanism to finance the “up-front” costs of certain Economic Redevelopment and Growth Grant (ERG) Program development projects. The ERG Program provides economic incentives to the developer of a qualified development project by allowing the developer to receive certain incremental increases in tax revenues attributable to the development project. Currently the revenue stream from an ERG program incentive is not available to a developer until after the developer completes a project as the incentive is based on incremental increases in tax revenues attributable to the project.

The ERGGBFA addresses this revenue shortfall by establishing a mechanism to bond based upon projected revenues from an incentive grant. The bill, as amended, allows a developer to assign its right to receive revenues under an incentive grant to the municipality within which the development project is located, and allows the municipality to issue bonds secured by the incentive grant pledge, and by municipal liens and special assessments. Under the bill, as amended, a municipality may issue bonds either directly or through certain state and local authorities. To enhance the security of the bonds, the bill authorizes the municipality to impose special assessments on an ERG project and to directly assign the incentive grant and special assessments to the bondholders as payment or security for the bonds. The bill, as amended, provides that a State incentive grant cannot be pledged without notice to and the consent of the New Jersey Economic Development Authority and the State Treasurer.

Sections 12 through 16 of the bill amend the RAB law to:

- prohibit termination of financial agreements while bonds secured by PILOTs remain outstanding, unless other parties have violated terms of the financial agreement;
- provide that liens authorized under the RAB law are superior to all later arising municipal or non-municipal liens, and to prior liens where the lienholder consents;
- allow a 20-day period to challenge a bond ordinance or resolution authorizing bonds, after which all are barred from questioning the validity or proper authorization of the bonds;
- extend the permissible duration of agreements when bond proceeds are used to undertake environmental remediation (so they may continue for 35 years after the anticipated duration of conducting the environmental remediation, but no more than 30 years from substantial completion of the redevelopment project); and
- allow environmental remediation and professional fees relating to the projects to be funded from special assessments.

Sections 17 and 18 of the bill amend the LTTL to extend provisions of that law, which require tax exemptions to have run their course within 35 years from the date of execution of the financial agreement. The bill, as amended, provides that projects undertaken pursuant to a redevelopment agreement which allows a redeveloper to undertake a project in phases, or undertake sequential projects, may run for 50 years after execution of the financial agreement in the case of a phased project, or from execution of the first associated financial agreement in the case of two or more projects. The bill, as amended, provides that a financial agreement which specifies a duration of more than 35 years from the execution of the first financial agreement implementing a project under a redevelopment agreement is subject to the prior review and approval of the Local Finance Board. This provision in the amended bill will allow a municipality and a redeveloper to agree to schedule projects in phases and protects against the shortening of the permissible 30-year duration of a tax exemption for a project undertaken at a later phase of redevelopment, as long as the later-phased project is completed within 20 years after execution of the first associated financial agreement. This change does not extend current law's maximum 30-year term of a tax exemption.

COMMITTEE AMENDMENTS:

Committee amendments make the following changes to the bill:

- clarifies that the participation in projects under the ERGGBFA, and the RAB law are an essential public, governmental and corporate purpose, thereby allowing the statutes to have the broadest effect;
- applicable to the ERGGBFA, omits from the definition of the term "bonds," the phrase "State entity," thereby limiting the

ability to issue bonds under the ERGGBFA to an authority, as defined in the bill, or a municipality;

- amends the definition of the term "incentive grant" under the ERGGBFA to specify that the amount of reimbursements for a State economic redevelopment and growth grant project is subject to appropriation by the Legislature and to availability of funds;
- amends the definition of the term "incentive grant pledge" under the ERGGBFA to delete language that would have required a pledge agreement to be between a developer and the issuer of the bonds and to specify that the pledge of a State incentive grant is subject to consent of the New Jersey Economic Development Authority ("EDA") and the State Treasurer;
- amends definition of the term "State entity" under the ERGGBFA and the RAB law to refer to the New Jersey Sports and Exposition Authority, successor to the New Jersey Meadowlands Commission, and streamline the reference to projects.
- deletes definitions of "State entity developer" and "State entity development agreement" under the ERGGBFA;
- specifies that the term of any bond issued under the ERGGBFA may not exceed the eligibility period of the redevelopment incentive grant agreement that provides for the incentive grant that is pledged;
- provides that ERGGBFA shall not be construed as preventing the pledge, assignment, transfer, or sale of a developer's right to an incentive grant or to limit the use of that pledge, assignment, transfer, or sale with respect to the issuance of bonds under ERGGBFA;
- specifies that nothing in ERGGBFA shall prevent a State entity from financing an economic redevelopment and growth grant project in accordance with its enabling legislation;
- clarifies that special assessments that may be authorized under ERGGBFA are with respect to local improvements, not with respect to the incentive grant pledge itself;
- provides that the maximum term of a special assessment under ERGGBFA or RAB law matches the term of the bonds being issued;
- provides that the amount of special assessments under ERGGBFA will be based on costs and expenses paid with respect to property benefitted by the improvements;
- provides that the assignment of the pledge of a State incentive grant is subject to the approval of EDA and the State Treasurer;
- deletes language that would have tax sales relating to nonpayment under the ERGGBFA or the RAB law conducted by the bond trustee rather than the municipality;

- provides that bonds issued under ERGGBFA are non-recourse obligations;
- deletes provisions that would have allowed a municipality to extend the municipality's credit to a developer;
- adds provisions recognizing that EDA and the State Treasurer may terminate a redevelopment incentive grant agreement in accordance with provisions of the agreement, although bonds secured by incentive grant pledges have been issued, if the ERG project has not been completed within the period of time required by the agreement, or the project has materially changed without prior approval of EDA and the State Treasurer;
- adds provisions specifying that the bill does not preclude EDA or the State Treasurer from exercising its rights under the redevelopment incentive grant agreement to compel specific performance or terminating the redevelopment incentive grant agreement prior to the issuance of bonds for any reason in accordance with the terms of the agreement;
- deletes provisions that would have made liens recorded under ERGGBFA superior to all municipal liens;
- makes bond trustee, rather than the municipality, responsible for recording notice that a lien has terminated, upon full payment on bonds issued under ERGGBFA;
- corrects references to the municipal debt enactment process; and
- amends provisions extending the duration of projects under the Long Term Tax Exemption Law to include projects that are undertaken in two or more phases.

FISCAL IMPACT:

This bill has not been certified as requiring a Fiscal Note.

SENATE, No. 1840

STATE OF NEW JERSEY 218th LEGISLATURE

INTRODUCED FEBRUARY 8, 2018

Sponsored by:

Senator JOSEPH F. VITALE

District 19 (Middlesex)

Senator VIN GOPAL

District 11 (Monmouth)

Co-Sponsored by:

Senator Brown

SYNOPSIS

Establishes “Economic Redevelopment and Growth Grant Bond Financing Act,” authorizing issuance of bonds secured by pledge of Economic Redevelopment and Growth Grant proceeds, municipal liens, and special assessment; expands “Redevelopment Area Bond Financing Law;” extends time to complete certain projects under “Long Term Tax Exemption Law.”

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 3/27/2018)

1 AN ACT concerning tax exemptions, the issuance of bonds and
2 imposition of certain municipal liens and special assessments,
3 establishing the “Economic Redevelopment and Growth Grant
4 Bond Financing Act,” supplementing Title 52 of the Revised
5 Statutes, amending the "Redevelopment Area Bond Financing
6 Law," P.L.2001, c.310 (C.40A:12A-64 et seq.), and amending the
7 "Long Term Tax Exemption Law," P.L.1991, c.431 (C.40A:20-1 et
8 seq.).

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

12
13 1. (New section) Sections 1 through 11 of this act shall be
14 known and may be cited as the “Economic Redevelopment and
15 Growth Grant Bond Financing Act.”

16
17 2. (New section) As used in sections 1 through 11 of P.L. ,
18 c. (C.) (pending before the Legislature as this bill):

19 “Authority” means the New Jersey Economic Development
20 Authority established pursuant to P.L.1974, c.80 (C.34:1B-1 et
21 seq.), the New Jersey Redevelopment Authority established
22 pursuant to section 4 of P.L.1996, c.62 (C.55:19-23), a county
23 improvement authority established pursuant to P.L.1960, c.183
24 (C.40:37A-44 et seq.), or other instrumentality created by law of the
25 State with the power to incur debt and issue bonds and other
26 obligations.

27 “Board” means the Local Finance Board established in the
28 Division of Local Government Services in the Department of
29 Community Affairs.

30 “Bonds” mean bonds, notes or other obligations issued by an
31 authority, including any State entity, or a municipality to finance or
32 refinance economic redevelopment and growth grant projects, and
33 in connection therewith, to finance or refinance any other cost or
34 expense of an authority, a State entity or a municipality pursuant to
35 sections 1 through 11 of P.L. , c. (C.) (pending before the
36 Legislature as this bill), the “Local Redevelopment and Housing
37 Law,” P.L.1992, c.79 (C.40A:12A-1 et al.), or other applicable law.

38 “Developer” means any person who enters or proposes to enter
39 into a redevelopment incentive grant agreement pursuant to the
40 provisions of section 9 of P.L.2009, c.90 (C.52:27D-489i), or its
41 successors or assigns, including but not limited to a lender that
42 completes an economic redevelopment and growth grant project,
43 operates an economic redevelopment and growth grant project, or
44 completes and operates an economic redevelopment and growth

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.

1 grant project. A developer also may be a municipal redeveloper as
2 defined herein.

3 “Economic redevelopment and growth grant project” means a
4 project for which an incentive grant has been approved pursuant to
5 section 4 or section 5 of P.L.2009, c.90 (C.52:27D-489d or
6 C.52:27D-489e).

7 “Incentive grant” means reimbursement of all or a portion of the
8 project financing gap of an economic redevelopment and growth
9 grant project through the State or a local Economic Redevelopment
10 and Growth Grant program pursuant to section 4 or section 5 of
11 P.L.2009, c. 90 (C.52:27D-489d or C.52:27D-489e).

12 “Incentive grant pledge” means an agreement between a
13 developer and the issuer of bonds pursuant to which the developer
14 pledges its incentive grant for repayment of the bonds, which
15 pledge may be part of a bond indenture or other agreement related
16 to the issuance of the bonds.

17 “Municipal redeveloper” means an applicant for a redevelopment
18 incentive grant agreement, which applicant is:

19 a. a municipal government, a municipal parking authority, or a
20 redevelopment agency acting on behalf of a municipal government
21 as defined in section 3 of P.L.1992, c.79 (C.40A:12A-3); or

22 b. a developer of a mixed use parking project, provided that the
23 parking component of the mixed use parking project is operated and
24 maintained by a municipal parking authority for the term of any
25 financial assistance granted pursuant to P.L.2015, c. 69.

26 “Municipality” means the municipal governing body or an entity
27 acting on behalf of the municipality if permitted by the federal
28 Internal Revenue Code of 1986, or, if a redevelopment agency or
29 redevelopment entity is established in the municipality pursuant to
30 P.L.1992, c.79 (C.40A:12A-1 et seq.) and the municipality so
31 provides, the redevelopment agency or entity so established.

32 “Redevelopment incentive grant agreement” means an agreement
33 between:

34 a. the State and the New Jersey Economic Development
35 Authority and a developer; or

36 b. a municipality and a developer, or a municipal ordinance
37 authorizing a project to be undertaken by a municipal redeveloper,
38 under which, in exchange for the proceeds of an incentive grant, the
39 developer agrees to perform any work or undertaking necessary for
40 an economic redevelopment and growth grant project, including the
41 clearance, development or redevelopment, construction, or
42 rehabilitation of any structure or improvement of commercial,
43 industrial, residential, or public structures or improvements within a
44 qualifying economic redevelopment and growth grant incentive area
45 or a transit village.

46 “Special assessment” means an assessment upon the lands or
47 improvements on such lands, or both, on the real property
48 benefitted by improvements undertaken pursuant to sections 1

1 through 11 of P.L. , c. (C.) (pending before the Legislature as
2 this bill) and assessed pursuant to chapter 56 of Title 40 of the
3 Revised Statutes, R.S.40:56-1 et seq., except as otherwise provided
4 in subsection b. of section 3 of P.L. , c. (C.) (pending before
5 the Legislature as this bill).

6 “State entity” means any entity created by State law with the
7 power to undertake an economic redevelopment and growth grant
8 project directly or through a State entity developer and with the
9 power to determine the location, type, and character of an economic
10 redevelopment and growth grant project or part of an economic
11 redevelopment and growth grant project on land owned or
12 controlled by it.

13 “State entity developer” means any person, firm, or corporation
14 that shall enter into or propose to enter into a State entity
15 development agreement with a State entity for an economic
16 redevelopment and growth grant project under the enabling
17 legislation governing the actions of the State entity or for any
18 construction or other work forming a part of an economic
19 redevelopment and growth grant project.

20 “State entity development agreement” means an agreement
21 between a State entity and a State entity developer for an economic
22 redevelopment and growth grant project.

23

24 3. (New section) a. In connection with any economic
25 redevelopment and growth grant project, the municipality in which
26 the project is located may issue bonds itself in the manner provided
27 for herein or pursuant to the “Local Redevelopment and Housing
28 Law,” P.L.1992, c.79 (C.40A:12A-1 et al.) or may apply to an
29 authority to issue bonds, regardless of whether the economic
30 redevelopment and growth grant project is undertaken under
31 municipal authority pursuant to section 4 of P.L.2009, c.90
32 (C.52:27D-489d) or by a State entity developer pursuant to a State
33 entity development agreement, which, in any case, may be secured
34 by an incentive grant pledge, and may be further secured by a
35 municipal lien, by special assessments, or both a municipal lien and
36 special assessments, by the adoption of a resolution or ordinance, as
37 applicable, of the governing body of the municipality, the authority,
38 or the State entity to that effect.

39 b. In addition to, or in lieu of, an incentive grant pledge, a
40 municipality may provide by ordinance for one or more special
41 assessments on the economic redevelopment and growth grant
42 project in accordance with chapter 56 of Title 40 of the Revised
43 Statutes, R.S.40:56-1 et seq.; provided, however, the local
44 improvements for which such special assessments may be made
45 may include any improvement in the economic redevelopment and
46 growth grant project whether or not listed at R.S.40:56-1 and,
47 provided further, that the provisions of R.S.40:56-35 shall be
48 applied so that if any installment of a special assessment shall

1 remain unpaid for 30 days after the time at which it shall become
2 due, the municipality may provide, by ordinance, either that: (1) the
3 whole assessment or balance due thereon shall become and be
4 immediately due; or, (2) any subsequent installments which would
5 not yet have become due except for the default shall be considered
6 as not in default and that the lien for the installments not yet due
7 shall continue; and provided, further, that the ordinance may require
8 that the assessments be payable in quarterly, semi-annual, or yearly
9 installments, with legal interest thereon, over a period of years up to
10 but in no event exceeding the period of years for which the bonds
11 were issued, or for 30 years, whichever shall be less. In levying a
12 special assessment on the lands or improvements, or both, on which
13 the economic redevelopment and growth grant project is located,
14 the municipality may provide that the amount of the special
15 assessment shall be a specific amount, not to exceed the cost of the
16 improvements, plus any out-of-pocket costs or expenses incurred in
17 connection with such improvements, including, but not limited to,
18 architectural, engineering, financing, legal, and other professional
19 fees, paid with respect to property on which the economic
20 redevelopment and growth grant project is located. That specific
21 amount shall, to the extent accepted by the owner of the property
22 benefitted, be deemed the conferred benefit, in lieu of the amount
23 being determined by the procedures otherwise applicable to
24 determining the actual benefit conferred on the property. Special
25 assessments levied pursuant to an ordinance adopted under this
26 subsection shall constitute a municipal lien under R.S.40:56-33.

27 c. Upon adoption, a copy of the ordinance shall be filed for
28 public inspection in the office of the municipal clerk, and there
29 shall be published in a newspaper, published or circulating in the
30 municipality, a notice stating the fact and the date of adoption and
31 the place where the ordinance is filed and a summary of the
32 contents of the ordinance. The notice shall state that any action or
33 proceeding of any kind or nature in any court questioning the
34 validity or proper authorization of the ordinance or the actions
35 authorized to be taken as set forth in the ordinance shall be
36 commenced within 20 days after the publication of the notice. If no
37 action or proceeding questioning the validity of the ordinance
38 providing for special assessments or other actions authorized by the
39 ordinance shall be commenced or instituted within 20 days after the
40 publication of the notice, the county and the school district and all
41 other municipalities within the county and all residents and
42 taxpayers and owners of property therein shall be forever barred
43 and foreclosed from instituting or commencing any action or
44 proceeding in any court questioning the validity or enforceability of
45 the ordinance or the validity or enforceability of acts authorized
46 under the ordinance, and the ordinance and acts authorized by the
47 ordinance shall be conclusively deemed to be valid and enforceable
48 in accordance with their terms and tenor.

1 d. The municipality may include in the terms of a bond or
2 contract, including an incentive grant pledge, a provision that the
3 pledge of an incentive grant or special assessments shall constitute a
4 municipal charge for the purposes of R.S.54:4-66.

5 e. The incentive grant pledge or special assessments, or both,
6 may be assigned directly by the municipality or the authority to the
7 trustee for the bonds as payment or security for the bonds.
8 Notwithstanding any law to the contrary, the assignment shall be an
9 absolute assignment of all the municipality's right, title, and interest
10 in the incentive grant pledge or special assessments, or both, or
11 portion thereof, along with the rights and remedies provided to the
12 municipality under the agreement including, but not limited to, the
13 right of collection of payments due. Pursuant to an absolute
14 assignment, the trustee, in lieu of the municipality, shall possess the
15 power to conduct a sale of the land or improvements thereon, or
16 both, or any leasehold interests in the land or improvements
17 thereon, or both, to satisfy delinquencies in incentive grant pledges
18 or special assessments, or both. The sale shall be held in
19 accordance with the provisions of the "tax sale law," R.S.54:5-1 et
20 seq.; provided, however that notwithstanding any provision of that
21 law, the trustee shall have the power to issue a tax sale certificate
22 making sale of any interest, including any interest less than a fee
23 interest, that is subject to a lien established under this section. Prior
24 to conducting a sale of the lands or improvements or issuing a tax
25 sale certificate pursuant to the power conferred under this section,
26 the trustee shall provide the governing body of the municipality
27 with written notice of the proposed sale or issuance at least five
28 working days prior to the date of the proposed sale or issuance.
29 Any interest that is subject to a lien established under this section
30 shall not be transferred, conveyed, assigned, disposed of, or sold,
31 whether by tax sale or otherwise, free and clear of the
32 redevelopment incentive grant agreement and any incentive grant
33 pledges due thereunder while bonds are secured thereby, regardless
34 of the consent of the parties or order of any court, whether in law or
35 in equity, unless any such transfer or conveyance is provided for
36 under the terms and conditions set forth in the bond resolution or
37 bond ordinance, as applicable. Any purchaser, transferee,
38 successor, grantee, or assignee of such interest, whether at a tax sale
39 or otherwise, shall take title to such interest subject to the
40 obligations imposed by the redevelopment incentive grant
41 agreement. Incentive grant pledges and special assessments
42 assigned as provided hereunder shall not be included in the general
43 funds of the municipality, nor shall they be subject to any laws
44 regarding the receipt, deposit, investment, or appropriation of
45 public funds and shall retain such status notwithstanding
46 enforcement of the payment or assessment by the municipality or
47 assignee as provided herein. The municipality shall be a "person"
48 within the meaning of that term as defined in section 3 of P.L.1974,

1 c.80 (C.34:1B-3); and the purpose described in this section shall be
2 a “project” within the meaning of that term as defined in section 3
3 of P.L.1974, c.80 (C.34:1B-3).

4 f. Notwithstanding the provisions of subsection g. of section
5 37 of P.L.1992, c.79 (C.40A:12A-37), the bonds issued pursuant to
6 this section may be issued as non-recourse obligations, and unless
7 otherwise provided for by a separate action of the municipality to
8 guarantee such bonds or otherwise provide for a pledge of the
9 municipality's full faith and credit shall not, except for such action,
10 be considered to be direct and general obligations of the
11 municipality, and, absent such action, the municipality shall not be
12 obligated to levy and collect a tax sufficient in an amount to pay the
13 principal and interest on the bonds when the same become due and
14 payable. The provisions of the “Local Government Supervision Act
15 (1947),” P.L.1947, c.151 (C.52:27BB-1 et seq.) shall not apply to
16 any bonds issued or authorized pursuant to this section and those
17 bonds shall not be considered gross debt of the municipality on any
18 debt statement filed in accordance with the “Local Bond Law,”
19 N.J.S.40A:2-1 et seq., and the provisions of chapter 27 of Title 52
20 of the Revised Statutes shall not apply to such bonds.

21 g. The proceeds from the sale of bonds and any funds provided
22 by any department of the State, authority created by the State, or bi-
23 state authority, for the purposes described in sections 1 through 11
24 of P.L. , c. (C.) (pending before the Legislature as this bill),
25 or for the purpose of financing or refinancing an economic
26 redevelopment and growth grant project pursuant to a State entity
27 development agreement, shall not require compliance with public
28 bidding laws, including the “Local Public Contracts Law,”
29 P.L.1971, c.198 (C.40A:11-1 et seq.), or any other statute where the
30 developer or State entity developer, as the case may be, shall
31 undertake the economic redevelopment and growth grant project.
32 The use of these funds shall be subject to public accountability and
33 oversight by the issuer of those bonds, regardless of whether the
34 municipality, agency, or authority provides the funds.

35 h. In order to provide additional security for bonds issued to
36 finance an economic redevelopment and growth grant project, the
37 municipality may utilize powers otherwise provided by law,
38 including the “Local Redevelopment and Housing Law,” P.L.1992,
39 c.79 (C.40A:12A-1 et al), to provide for any extension of the
40 municipality's credit to any developer or State entity developer, as
41 the case may be, or its full faith and credit which may include a full
42 faith and credit lease as security for the bonds or any loan to a
43 developer or State entity developer, as the case may be. To the
44 extent that the municipality provides for a full faith and credit
45 guarantee of any bonds, but determines not to authorize the issuance
46 of bonds or notes to provide for the funding source thereof, or
47 otherwise determines to enter into a full faith and credit lease, it
48 may do so by resolution approved by a majority of the full

1 governing body. To the extent that bonds or notes are authorized as
2 provided above, such bonds or notes shall be authorized pursuant to
3 the provisions of the "Local Bond Law," N.J.S.40A:2-1 et seq., and
4 shall be deductible from the gross debt of the municipality until
5 such time as such bonds or notes are actually issued, and only up to
6 the amount actually issued, to fund such guarantee.

7 i. A bond, whether issued by a municipality or an authority,
8 which is secured in whole or in part by the full faith and credit
9 thereof as provided herein, shall be subject to the review and
10 approval of the Local Finance Board. That review and approval
11 shall be made prior to approval of, in the case of a municipal
12 governing body, an introduced ordinance or, in the case of an
13 authority or redevelopment entity that is not a municipal governing
14 body, a resolution. The board shall be entitled to receive from the
15 applicant an amount sufficient to provide for all reasonable
16 professional and other fees and expenses incurred by it for the
17 review, analysis, and determination with respect thereto. As part of
18 its review, the board shall specifically solicit comments from the
19 New Jersey Economic Development Authority in addition to
20 comments from the public. As part of the board's review and
21 approval, it shall consider comments submitted, and whether the
22 issuance of the bond will adversely impact the financial stability of
23 the municipality or the service area of the authority.

24 j. A municipality that has assigned any portion of the incentive
25 grant pledge it receives as payment or security for bonds, may, with
26 the consent of the developer, also pledge a portion of the incentive
27 grant pledge as payment or security for bonds in order to finance or
28 refinance any cost or expense of the municipality, State entity or
29 authority.

30 k. In the case of a municipality which is otherwise subject to
31 tax or revenue sharing pursuant to law and which assigns a portion
32 of the incentive grant pledge or special assessments to secure bonds
33 issued by the municipality or the authority, the assigned portion of
34 the incentive grant pledge or special assessments shall not be
35 considered part of the tax or revenue sharing formula or calculation
36 of municipal revenues for the purpose of determining whether that
37 municipality is obligated to make payment to, or receive a credit
38 from, any tax sharing or revenue sharing pool.

39 l. Notwithstanding any law to the contrary, in the event that
40 bonds shall be issued that are secured by incentive grant pledges
41 pursuant to a redevelopment incentive grant agreement, the
42 redevelopment incentive grant agreement shall not be terminated for
43 any reason during the period that the bonds are outstanding.

44

45 4. (New section) a. If authorized by ordinance of a
46 municipality adopted pursuant to subsection a. of section 3 of
47 P.L. , c. (C.) (pending before the Legislature as this bill),
48 payments required to be made in accordance with an incentive grant

1 pledge entered into pursuant to sections 1 through 11 of P.L. , c.
2 (C.) (pending before the Legislature as this bill) shall be a
3 continuous lien on the land or improvements thereon, or both, or a
4 continuous lien on any leasehold interests in the land or
5 improvements thereon, or both, against which the ordinance is
6 recorded on and after the date of recordation of both the ordinance
7 and the agreement, whether simultaneously or not, or the date of
8 confirmation of the special assessments, whichever is earlier. All
9 subsequent payments of the incentive grant pledge thereunder,
10 interest, penalties, and costs of collection which thereafter fall due
11 or accrue shall be added and relate back to and be a part of the
12 initial lien. Upon recordation of the ordinance and agreement, the
13 incentive grant pledge shall constitute an automatic, enforceable,
14 and perfected statutory municipal lien for all purposes, including
15 the federal bankruptcy code, regardless of whether or not the
16 amount of the incentive grant pledge has been determined at the
17 time the lien attaches to any interest in the land, leasehold estate, or
18 improvements, as applicable. A confirmation hearing process to
19 determine the amount due shall not affect the commencement or
20 validity of a lien established pursuant to subsection a. of section 3
21 of P.L. , c. (C.) (pending before the Legislature as this bill).
22 Notwithstanding any other applicable law, for the purposes of
23 subsection a. of section 3 of P.L. , c. (C.) (pending before
24 the Legislature as this bill), a municipal lien on a leasehold estate
25 shall constitute a lien against such leasehold estate only, unless the
26 redevelopment incentive grant agreement specifically provides for a
27 lien on the underlying fee interest in the land. In any case,
28 enforcement of a municipal lien on a leasehold estate shall be
29 limited to an in rem proceeding only. No municipal lien shall
30 attach to any interest of a State entity unless such State entity shall
31 have expressly consented to such lien in the redevelopment
32 incentive grant agreement.

33 b. If bonds are issued, the municipality, the developer or the
34 State entity developer, as the case may be, may record, either
35 simultaneously or at different times, any ordinance adopted by the
36 municipality relating to the incentive grant pledge or special
37 assessments and, either simultaneously with the ordinance or at
38 different times, a copy of the agreement or agreements. The
39 ordinance, when recorded, shall contain a legend at the top of the
40 front page substantially as follows:

41
42 THIS ORDINANCE SECURES BONDS OR OTHER
43 OBLIGATIONS ISSUED IN ACCORDANCE WITH THE
44 PROVISIONS OF THE "ECONOMIC REDEVELOPMENT AND
45 GROWTH GRANT BOND FINANCING ACT" AND THE LIEN
46 HEREOF IN FAVOR OF THE OWNERS OF SUCH BONDS OR
47 OTHER OBLIGATIONS IS A MUNICIPAL LIEN SUPERIOR TO

1 ALL OTHER NON-MUNICIPAL LIENS HEREAFTER
2 RECORDED.

3
4 c. Notwithstanding any law to the contrary, upon recordation
5 of both the ordinance and any accompanying agreement, the lien
6 thereof shall be perfected for all purposes in accordance with law
7 and the lien shall thereafter be superior to (1) all municipal and
8 non-municipal liens thereafter recorded or otherwise arising, and,
9 (2) each prior lien where the lienholder consents, without any
10 additional notice, recording, filing, continuation filing, or action,
11 until the payment in full of the bonds. The lien thereby established
12 shall apply not only to the bonds initially issued, but also to any
13 refinancing or refunding thereof, as well as to any additional bonds
14 thereafter issued on a parity therewith in accordance with the
15 provisions of the original documents securing the initial bonds;
16 provided, however, that in the event any ordinance or agreement is
17 amended or supplemented in a way which increases the amount of
18 an incentive grant pledge or special assessments, the lien as to that
19 increase shall be perfected and apply upon the recordation of the
20 amended or supplemented ordinance and agreement (including the
21 above-recited legend). Except as set forth in this section, no
22 amendment or supplement to the ordinance or agreement thereafter
23 recorded shall affect the perfection or priority of the lien established
24 upon original recordation thereof.

25 d. Upon the final payment in full of any bonds secured as
26 provided in sections 1 through 11 of P.L. , c. (C.) (pending
27 before the Legislature as this bill), the lien established hereby shall
28 terminate, and the municipality shall record a notice to that effect.

29
30 5. (New section) a. In lieu of, or in addition to, the provisions
31 of section 4 of P.L. , c. (C.) (pending before the Legislature
32 as this bill), the municipality may provide in the agreement that the
33 incentive grant pledge, if any, is to be secured by a mortgage. In
34 that event the mortgage may also be assigned and pledged to the
35 repayment of the bonds authorized herein.

36 b. The assignment of any mortgage that secures an incentive
37 grant pledge, if any, may also be an absolute assignment of all or
38 part of the municipality's right, title, and interest in the mortgage
39 and, to the extent assigned, any moneys realized from the
40 foreclosure of the mortgaged property shall not be included in the
41 general funds of the municipality.

42 c. After the bonds are paid and no longer deemed to be
43 outstanding, the assignment of the mortgage shall terminate.

44
45 6. (New section) All bonds issued pursuant to sections 1
46 through 11 of P.L. , c. (C.) (pending before the Legislature as
47 this bill), are hereby declared to be issued by a political subdivision
48 of this State and for an essential public and governmental purpose

1 and the bonds, and the interest thereon and the income therefrom,
2 and all facility charges, funds, revenues, and other moneys pledged
3 or available to pay or secure the payment of the bonds, or interest
4 thereon, shall at all times be exempt from taxation except for
5 transfer inheritance and estate taxes.

6
7 7. (New section) The State of New Jersey does hereby pledge to
8 and covenant and agree with the holders of any bonds issued
9 pursuant to sections 1 through 11 of P.L. , c. (C.) (pending
10 before the Legislature as this bill) that the State will not limit or
11 alter the terms of any agreement, ordinance, or resolution made in
12 connection with the security for and the issuance and sale of any
13 bonds, so as to in any way impair the rights or remedies of such
14 holders, and will not modify in any way the exemption from
15 taxation provided for in sections 1 through 11 of P.L. , c. (C.)
16 (pending before the Legislature as this bill) until the bonds, together
17 with interest thereon, with interest on any unpaid installments of
18 interest, and all costs and expenses in connection with any action or
19 proceeding by or on behalf of such holders, are fully met and
20 discharged or provided for.

21
22 8. (New section) If any section, subsection, clause or provision
23 of the “Economic Redevelopment and Growth Grant Bond
24 Financing Act,” sections 1 through 11 of P.L. , c. (C.)
25 (pending before the Legislature as this bill), shall be adjudged to be
26 unconstitutional or ineffective in whole or in part, to the extent that
27 it is not adjudged unconstitutional or is not ineffective, it shall be
28 valid and effective and no other section, subsection, clause or
29 provision of the “Economic Redevelopment and Growth Grant
30 Bond Financing Act,” sections 1 through 11 of P.L. , c. (C.)
31 (pending before the Legislature as this bill), shall on account
32 thereof be deemed invalid or ineffective, and the inapplicability or
33 invalidity of any section, subsection, clause or provision of the
34 “Economic Redevelopment and Growth Grant Bond Financing
35 Act,” sections 1 through 11 of P.L. , c. (C.) (pending before
36 the Legislature as this bill), in any one or more instances or under
37 any one or more circumstances shall not be taken to affect or
38 prejudice in any way its applicability or validity in any other
39 instance or under any other circumstance.

40
41 9. (New section) An authority or municipality, as applicable,
42 shall cause a copy of any bond resolution or bond ordinance, as
43 applicable, adopted by it to be filed for public inspection in the
44 office of the municipal clerk of the municipality wherein the project
45 financed by the bonds is located. In the case of an authority, the
46 resolution also shall be filed for public inspection in its office. The
47 authority or municipality may cause to be published, at least once in
48 a newspaper published or circulating in the municipality, if there be

1 one, and if not, in a newspaper published and circulating in the
2 county, a notice stating the fact and date of the adoption and the
3 places where the bond resolution or bond ordinance, as applicable,
4 has been so filed for public inspection along with the date of the
5 first publication of the notice and also stating that any action or
6 proceeding of any kind or nature in any court questioning the
7 validity or proper authorization of bonds provided for by the bond
8 resolution or bond ordinance, as applicable, or the validity of any
9 covenants, agreements or contracts provided for by the bond
10 resolution or bond ordinance, as applicable, shall be commenced
11 within 20 days after the first publication of that notice. If any such
12 notice shall at any time be published and if no action or proceeding
13 questioning the validity or proper authorization of bonds provided
14 for by the bond resolution or bond ordinance, as applicable, referred
15 to in said notice, or the validity of any covenants, agreements, or
16 contracts provided for by said bond resolution or bond ordinance, as
17 applicable, shall be commenced or instituted within 20 days after
18 the first publication of the notice, then all persons shall be forever
19 barred and foreclosed from instituting or commencing any action or
20 proceeding in any court, or from pleading any defense to any action
21 or proceeding, questioning the validity or proper authorization of
22 such bonds, or the validity of such covenants, agreements, or
23 contracts, and said bonds, covenants, agreements, and contracts
24 shall be conclusively deemed to be valid and binding obligations in
25 accordance with their terms and tenor.

26

27 10. (New section) Any municipality may undertake, as a local
28 improvement; the investigation, analysis, planning, monitoring,
29 acquisition, removal, containment, remediation, construction, or
30 improvement of any real property or facility necessary or desirable
31 for the cleanup of actual, potential, or perceived environmental
32 contamination or pollution, including without limitation, water
33 pollution, air pollution, pollution caused by solid waste disposal,
34 thermal pollution, radiation contamination, or other general
35 environmental contamination or pollution which is or may become
36 injurious to the environment or to the public health, safety, or
37 welfare.

38 The governing body of a municipality undertaking a local
39 improvement under this section may make, amend, repeal, and
40 enforce ordinances for carrying into effect the powers granted in
41 this section. Whenever convenient, one or more of the works
42 provided for in R.S.40:56-1 may be undertaken together with the
43 local improvement authorized under this section as one
44 improvement.

45

46 11. (New section) Whenever a municipality issues bonds in
47 accordance with sections 1 through 11 of P.L. , c. (C.)
48 (pending before the Legislature as this bill), or a municipality

1 applies to an authority to issue bonds pursuant to sections 1 through
2 11 of P.L. , c. (C.) (pending before the Legislature as this
3 bill), the municipality by ordinance may cause local improvements
4 to be undertaken, or otherwise agree to acknowledge the
5 undertaking of local improvements, by or on behalf of a
6 redeveloper, for the powers granted under R.S.40:56-1 et seq.,
7 including section 10 of P.L. , c. (C.) (pending before the
8 Legislature as this bill).

9
10 12. Section 2 of P.L.2001, c.310 (C.40A:12A-65) is amended to
11 read as follows:

12 2. As used in sections 1 through 10 of P.L.2001, c.310
13 (C.40A:12A-64 et seq.):

14 "Authority" means the New Jersey Economic Development
15 Authority established pursuant to P.L.1974, c.80 (C.34:1B-1 et
16 seq.), the New Jersey Redevelopment Authority established
17 pursuant to section 4 of P.L.1996, c.62 (C.55:19-23), a county
18 improvement authority established pursuant to P.L.1960, c.183
19 (C.40:37A-44 et seq.), or other instrumentality created by law **[by]**
20 **of** the State with the power to incur debt and issue bonds and other
21 obligations.

22 "Board" means the Local Finance Board established in the
23 Division of Local Government Services in the Department of
24 Community Affairs.

25 "Bonds" mean bonds, notes or other obligations issued by the
26 authority, including any State entity, or a municipality to finance or
27 refinance redevelopment projects, and in connection therewith, to
28 finance or refinance any other cost or expense of an authority, a
29 State entity or a municipality pursuant to the "Redevelopment Area
30 Bond Financing Law," sections 1 through 10 of P.L.2001, c.310
31 (C.40A:12A-64 et seq.), the "Local Redevelopment and Housing
32 Law", P.L.1992, c.79 (C.40A:12A-1 et seq.), or other applicable
33 law.

34 "Environmental remediation" means the investigation, analysis,
35 planning, monitoring, acquisition, removal, containment,
36 remediation, construction, or improvement of any real property or
37 facility necessary or desirable for the cleanup of actual, potential, or
38 perceived environmental contamination or pollution, including
39 without limitation, water pollution, air pollution, pollution caused
40 by solid waste disposal, thermal pollution, radiation contamination,
41 or other general environmental contamination or pollution which is
42 or may become injurious to the environment or to the public health,
43 safety, or welfare.

44 "Financial agreement" means an agreement that meets the
45 requirements of a financial agreement under P.L.1991, c.431
46 (C.40A:20-1 et seq.) or, in the event that real property within a
47 redevelopment area is exempt from taxation or has been or will be
48 abated pursuant to applicable law, an agreement among , as

1 applicable, a State entity **[,]** or a municipality or both, and a State
2 entity redeveloper providing for payment of payments in lieu of
3 taxes or special assessments by the State entity redeveloper with
4 respect to a redevelopment project, or part thereof, to be carried out
5 pursuant to a State entity redevelopment agreement.

6 "Municipality" means the municipal governing body or an entity
7 acting on behalf of the municipality if permitted by the federal
8 Internal Revenue Code of 1986, or, if a redevelopment agency or
9 redevelopment entity is established in the municipality pursuant to
10 P.L.1992, c.79 (C.40A:12A-1 et seq.) and the municipality so
11 provides, the redevelopment agency or entity so established.

12 "Redeveloper" means any person, firm, corporation or public
13 body, including the New Jersey Economic Development Authority
14 or the New Jersey Redevelopment Authority to the extent permitted
15 by law, that shall enter into or propose to enter into a contract with
16 a municipality or other redevelopment entity for the redevelopment
17 or rehabilitation of an area in need of redevelopment, or an area in
18 need of rehabilitation, or any part thereof, under the provisions of
19 the "Redevelopment Area Bond Financing Law," sections 1 through
20 10 of P.L.2001, c.310 (C.40A:12A-64 et seq.), or for any
21 construction or other work forming part of a redevelopment or
22 rehabilitation project.

23 "Redevelopment" means clearance, replanning, development and
24 redevelopment; the conservation and rehabilitation of any structure
25 or improvement, the construction and provision for construction of
26 residential, commercial, industrial, public or other structures **[and]**,
27 the grant or dedication of spaces as may be appropriate or necessary
28 in the interest of the general welfare for streets, parks, playgrounds,
29 or other public purposes, including recreational and other facilities
30 incidental or appurtenant thereto, environmental remediation, the
31 construction, enhancement or mitigation of wetlands impacted by a
32 redevelopment project, and any other related costs and expenses
33 including preliminary planning and development costs and any
34 financing costs and expenses in accordance with a redevelopment
35 plan.

36 "Redevelopment bond financing agreement" means a contract
37 between a municipality and a redeveloper for any work or
38 undertaking for the redevelopment of a redevelopment area, or part
39 thereof, under the provisions of the "Redevelopment Area Bond
40 Financing Law," sections 1 through 10 of P.L.2001, c.310
41 (C.40A:12A-64 et seq.) or the "Local Redevelopment and Housing
42 Law," P.L.1992, c.79 (C.40A:12A-1 et seq.), as the case may be.

43 "Redevelopment area" means an area which has been delineated
44 a "redevelopment area" or "area in need of redevelopment" pursuant
45 to the "Local Redevelopment and Housing Law," P.L.1992, c.79
46 (C.40A:12A-1 et seq.) or with respect to a State entity, an area in
47 need of, or suitable for, redevelopment delineated by a resolution of
48 a State entity or a State entity redevelopment agreement, in either

1 case, in accordance with the provisions of the enabling statute
2 governing that State entity.

3 "Redevelopment plan" means a plan for the redevelopment or
4 rehabilitation of all or any part of a redevelopment area as described
5 in the redevelopment plan adopted pursuant to section 7 of
6 P.L.1992, c.79 (C.40A:12A-7) or as described in the resolution
7 adopted by a State entity determining the location, type and
8 character of a redevelopment project.

9 "Redevelopment project" means any work or undertaking
10 pursuant to a redevelopment plan; such undertaking may include
11 any buildings, land, including demolition, clearance or removal of
12 buildings from land, equipment, facilities, or other real or personal
13 properties which are necessary, convenient, or desirable
14 appurtenances, such as but not limited to streets, sewers, utilities,
15 parks, site preparation, landscaping, and administrative, community,
16 health, recreational, educational, and welfare facilities and any
17 other related costs and expenses including preliminary planning and
18 development costs and any financing costs and expenses.

19 "Special assessment" means an assessment upon the lands or
20 improvements on such lands, or both, in the redevelopment area
21 benefitted by improvements undertaken pursuant to the
22 "Redevelopment Area Bond Financing Law," sections 1 through 10
23 of P.L.2001, c.310 (C.40A:12A-64 et seq.), or the "Local
24 Redevelopment and Housing Law," P.L.1992, c.79 (C.40A:12A-1 et
25 seq.), and assessed pursuant to chapter 56 of Title 40 of the Revised
26 Statutes, R.S. 40:56-1 et seq., except as otherwise provided in
27 subsection c. of section 3 of P.L.2001, c.310 (C.40A:12A-66).

28 "State entity" means [the New Jersey Meadowlands Commission
29 established pursuant to P.L.1968, c.404 (C.13:17-1 et seq.) or] any
30 [other] entity created by State law with the power to undertake a
31 redevelopment project directly or through a State entity redeveloper
32 and with the power to determine the location, type and character of
33 a redevelopment project or part of a redevelopment project on land
34 owned or controlled by it.

35 "State entity redeveloper" means any person, firm or corporation
36 that shall enter into or propose to enter into a State entity
37 redevelopment agreement with a State entity for the redevelopment
38 or rehabilitation of a redevelopment area under the enabling
39 legislation governing the actions of the State entity or for any
40 construction or other work forming a part of a redevelopment
41 project.

42 "State entity redevelopment agreement" means an agreement
43 between a State entity and a State entity redeveloper for any work
44 or undertaking in a redevelopment area.

45 (cf: P.L.2004, c.112, s.1)

46

47 13. Section 3 of P.L.2001, c.310 (C.40A:12A-66) is amended to
48 read as follows:

1 3. a. A municipality that has designated a redevelopment area
2 or a municipality in which a redevelopment project is undertaken by
3 a State entity redeveloper pursuant to a State entity redevelopment
4 agreement may provide for tax abatement within that
5 redevelopment area and for payments in lieu of taxes in accordance
6 with the provisions of P.L.1991, c.431 (C.40A:20-1 et seq.) and
7 P.L.1991, c.441 (C.40A:21-1 et seq.) ; provided, however, that the
8 provisions of section 12 of P.L.1991, c.431 (C.40A:20-12)
9 establishing a minimum or maximum annual service charge and
10 requiring staged increases in annual service charges over the term
11 of the exemption period, and of section 13 of P.L.1991, c.431
12 (C.40A:20-13) permitting the relinquishment of status under that
13 act, shall not apply to redevelopment projects financed with bonds.

14 b. A municipality in which a redevelopment project is
15 undertaken by a State entity redeveloper pursuant to a State entity
16 redevelopment agreement regarding real property that is **【or may be**
17 **abated by applicable law】** not otherwise subject to real property tax
18 may provide for **【a tax abatement within the redevelopment area**
19 **and for】** payments in lieu of taxes pursuant to a financial agreement
20 **【between】** among, as applicable, the State entity or the municipality
21 or both, and the State entity redeveloper receiving the benefits of
22 **【P.L.2004, c.112】** sections 1 through 10 of P.L.2001, c.310
23 (C.40A:12A-64 et seq.) without regard to the **【limitations and**
24 **other】** provisions of P.L.1991, c.431 (C.40A:20-1 et seq.).

25 c. In addition to, or in lieu of, the **【tax abatement】** payments in
26 lieu of taxes provided for in subsection a. or b. of this section, the
27 municipality may provide by ordinance for one or more special
28 assessments within the redevelopment area in accordance with
29 chapter 56 of Title 40 of the Revised Statutes, R.S.40:56-1 et seq.,
30 provided, however, the local improvements for which special
31 assessments may be made may include any improvement in the
32 redevelopment area whether or not listed at R.S.40:56-1 and
33 environmental remediation and, provided further, that the
34 provisions of R.S.40:56-35 shall be applied so that if any
35 installment of a special assessment shall remain unpaid for 30 days
36 after the time at which it shall become due, the municipality may
37 provide, by ordinance, either that: (1) the whole assessment or
38 balance due thereon shall become and be immediately due; or, (2)
39 any subsequent installments which would not yet have become due
40 except for the default shall be considered as not in default and that
41 the lien for the installments not yet due shall continue; and
42 provided, further, that the ordinance may require that the
43 assessments be payable in quarterly, semi-annual or yearly
44 installments, with legal interest thereon, over a period of years up to
45 but in no event exceeding the period of years for which the bonds
46 were issued, or for 30 years, whichever shall be less. In levying a
47 special assessment on the lands or improvements, or both, located

1 in the redevelopment area, the municipality may provide that the
2 amount of the special assessment shall be a specific amount, not to
3 exceed the cost of the improvements, plus any out-of-pocket costs
4 or expenses incurred in connection with such improvements,
5 including, but not limited to, architectural, engineering, financing,
6 legal, and other professional fees, paid with respect to property
7 located in the redevelopment area. That specific amount shall, to
8 the extent accepted by the owner of the property benefitted, be
9 deemed the conferred benefit, in lieu of the amount being
10 determined by the procedures otherwise applicable to determining
11 the actual benefit conferred on the property. Special assessments
12 levied pursuant to an ordinance adopted under this subsection shall
13 constitute a municipal lien under R.S.40:56-33.

14 d. Upon adoption, a copy of the ordinance shall be filed for
15 public inspection in the office of the municipal clerk, and there
16 shall be published in a newspaper, published or circulating in the
17 municipality, a notice stating the fact and the date of adoption and
18 the place where the ordinance is filed and a summary of the
19 contents of the ordinance. The notice shall state that any action or
20 proceeding of any kind or nature in any court questioning the
21 validity or proper authorization of the ordinance or the actions
22 authorized to be taken as set forth in the ordinance shall be
23 commenced within 20 days after the publication of the notice. If no
24 action or proceeding questioning the validity of the ordinance
25 providing for tax abatement, special assessments, payments in lieu
26 of taxes or other actions authorized by the ordinance shall be
27 commenced or instituted within 20 days after the publication of the
28 notice, the county and the school district and all other
29 municipalities within the county and all residents and taxpayers and
30 owners of property therein shall be forever barred and foreclosed
31 from instituting or commencing any action or proceeding in any
32 court questioning the validity or enforceability of the ordinance or
33 the validity or enforceability of acts authorized under the ordinance,
34 and the ordinance and acts authorized by the ordinance shall be
35 conclusively deemed to be valid and enforceable in accordance with
36 their terms and tenor.

37 e. Notwithstanding any provision of the "Redevelopment Area
38 Bond Financing Law," sections 1 through 10 of P.L.2001, c.310
39 (C.40A:12A-64 et seq.), or the "Long Term Tax Exemption Law,"
40 P.L.1991, c.431 (C.40A:20-1 et seq.), to the contrary, whenever
41 proceeds of a bond are used to conduct environmental remediation,
42 the term of any agreement securing that bond, whether a financial
43 agreement providing a payment in lieu of taxes or a special
44 assessment agreement providing for the payment of a special
45 assessment, or both, may, subject to the board's review and
46 approval pursuant to subsection g. of section 4 of P.L.2001, c.310
47 (C.40A:12A-67), be 35 years plus the anticipated duration of
48 conducting environmental remediation; provided, however, that the

1 term of any such agreement securing the bonds shall not exceed 30
2 years from substantial completion of the redevelopment project
3 associated with the environmental remediation.
4 (cf: P.L.2004, c.112. s.2)

5
6 14. Section 4 of P.L.2001, c.310 (C.40A:12A-67) is amended to
7 read as follows:

8 4. a. The municipality may issue bonds itself in the manner
9 provided for herein or pursuant to the "Local Redevelopment and
10 Housing Law," P.L.1992, c.79 (C.40A:12A-1 et seq.) or may apply
11 to **the** an authority to issue bonds, regardless of whether the
12 redevelopment project is undertaken under municipal authority
13 pursuant to P.L.1991, c.431 (C.40A:20-1 et seq.) or by a State
14 entity redeveloper pursuant to a State entity redevelopment
15 agreement, which in any case may be secured by payments in lieu
16 of taxes or special assessments or both or a portion thereof, by the
17 adoption of a resolution or ordinance, as applicable, of the
18 governing body of the municipality, authority, or State entity to that
19 effect.

20 b. A municipality that has designated a redevelopment area or
21 in which a redevelopment project is undertaken by a State entity
22 redeveloper pursuant to a State entity redevelopment agreement
23 may, by resolution of its governing body, if it determines to issue
24 bonds through **the** an authority, enter into contracts with the
25 authority relating to that redevelopment project, or to act as a
26 redeveloper or to finance or refinance a redevelopment project
27 undertaken by a State entity redeveloper pursuant to a State entity
28 redevelopment agreement within a redevelopment area. A
29 resolution so adopted shall contain findings and determinations of
30 the governing body: (1) that all or a portion of the redevelopment
31 project undertaken within the municipality will result in the
32 redevelopment of the municipality; and, (2) that the contract with
33 the authority or, to the extent applicable, the financial agreement
34 with the State entity redeveloper, is a necessary or important
35 inducement to the undertaking of the project or the redevelopment
36 project undertaken by the State entity redeveloper in that it makes
37 the financing thereof feasible. The contract or contracts, or the
38 terms of any bonds issued directly by a municipality may provide
39 for the assignment, for the benefit of bondholders, of all or any
40 portion of payments in lieu of taxes, or special assessments, or both
41 **[. A contract]** , and may further provide that the State entity
42 redeveloper may use, access, or draw upon bond proceeds to pay
43 costs of the redevelopment project. These contracts may be made
44 and entered into for a term beginning currently or at some future or
45 contingent date, and with or without consideration, and for a
46 specified or unlimited time, and on any terms and conditions which
47 may be requested by the municipality and, to the extent applicable,
48 the State entity redeveloper, and, if applicable, as may be agreed to

1 by the authority and, to the extent applicable, the State entity
2 redeveloper, in conformity with its contracts with the holders of
3 bonds, and shall be valid and binding on the municipality. The
4 municipality is hereby authorized and directed to do and perform
5 any contract so entered into by it and to provide for the discharge of
6 any obligation thereunder in the same manner as other obligations
7 of the municipality.

8 Any contract, and any instrument making or evidencing the
9 same, may be pledged or assigned by the authority, with the consent
10 of the municipality executing the contract, and, to the extent
11 applicable, the consent of the State entity redeveloper, to secure its
12 bonds and thereafter may not be modified except as provided by the
13 terms of the instrument or by the terms of the pledge or assignment.

14 The municipality may include in the terms of a bond or contract,
15 including a financial agreement, a provision that the payments in
16 lieu of taxes or special assessments shall constitute a municipal
17 charge for the purposes of R.S.54:4-66.

18 c. The payments in lieu of taxes or special assessments, or
19 both, may be assigned directly by the municipality or the authority
20 **[or]** to the trustee for the bonds as payment or security for the
21 bonds. Notwithstanding any law to the contrary, the assignment
22 shall be an absolute assignment of all the municipality's right, title,
23 and interest in the payment in lieu of taxes or special assessments,
24 or both, or portion thereof, along with the rights and remedies
25 provided to the municipality under the agreement including, but not
26 limited to, the right of collection of payments due. Pursuant to an
27 absolute assignment, the trustee, in lieu of the municipality, shall
28 possess the power to conduct a sale of the land or improvements
29 thereon, or both, or any leasehold interests in the land or
30 improvements thereon, or both, to satisfy delinquencies in payments
31 in lieu of taxes or special assessments, or both. The sale shall be
32 held in accordance with the provisions of the "tax sale law,"
33 R.S.54:5-1 et seq.; provided, however that notwithstanding any
34 provision of that law, the trustee shall have the power to issue a tax
35 sale certificate making sale of any interest, including any interest
36 less than a fee interest, that is subject to the lien established under
37 the "Redevelopment Area Bond Financing Law," sections 1 through
38 10 of P.L.2001, c.310 (C.40A:12A-64 et seq.). Prior to conducting
39 a sale of the lands or improvements or issuing a tax sale certificate
40 pursuant to the power conferred under this section, the trustee shall
41 provide the governing body of the municipality with written notice
42 of the proposed sale or issuance at least five working days prior to
43 the date of the proposed sale or issuance. Any interest that is
44 subject to the lien established under the "Redevelopment Area Bond
45 Financing Law" shall not be transferred, conveyed, assigned,
46 disposed of, or sold, whether by tax sale or otherwise, free and clear
47 of the financial agreement and any payments in lieu of taxes due
48 thereunder while bonds are secured thereby, regardless of the

1 consent of the parties or order of any court, whether in law or in
2 equity, unless any such transfer or conveyance is provided for under
3 the terms and conditions set forth in the bond resolution or bond
4 ordinance, as applicable. Any purchaser, transferee, successor,
5 grantee, or assignee of such interest, whether at tax sale or
6 otherwise, shall take title to such interest subject to the obligations
7 imposed by the financial agreement. Payments in lieu of taxes and
8 special assessments assigned as provided hereunder shall not be
9 included in the general funds of the municipality, nor shall they be
10 subject to any laws regarding the receipt, deposit, investment or
11 appropriation of public funds and shall retain such status
12 notwithstanding enforcement of the payment or assessment by the
13 municipality or assignee as provided herein. The municipality shall
14 be a "person" within the meaning of that term as defined in section
15 3 of P.L.1974, c.80 (C.34:1B-3); and the purpose described in this
16 section shall be a "project" within the meaning of that term as
17 defined in section 3 of P.L.1974, c.80 (C.34:1B-3).

18 d. Notwithstanding the provisions of subsection g. of section
19 37 of P.L.1992, c.79 (C.40A:12A-37), the bonds issued pursuant to
20 this section may be issued as non-recourse obligations, and unless
21 otherwise provided for by a separate action of the municipality to
22 guarantee such bonds or otherwise provide for a pledge of the
23 municipality's full faith and credit shall not, except for such action,
24 be considered to be direct and general obligations of the
25 municipality, and, absent such action, the municipality shall not be
26 obligated to levy and collect a tax sufficient in an amount to pay the
27 principal and interest on the bonds when the same become due and
28 payable. The provisions of the "Local Government Supervision Act
29 (1947)," P.L.1947, c.151 (C.52:27BB-1 et seq.) shall not apply to
30 any bonds issued or authorized pursuant to this section and those
31 bonds shall not be considered gross debt of the municipality on any
32 debt statement filed in accordance with the "Local Bond Law,"
33 N.J.S.40A:2-1 et seq., and the provisions of chapter 27 of Title 52
34 of the Revised Statutes shall not apply to such bonds.

35 e. The proceeds from the sale of bonds and any funds provided
36 by any department of the State, authority created by the State, or bi-
37 state authority, for the purposes described in the "Redevelopment
38 Area Bond Financing Law," sections 1 through 10 of P.L.2001,
39 c.310 (C.40A:12A-64 et seq.) or for the purpose of financing or
40 refinancing a redevelopment project pursuant to a State entity
41 redevelopment agreement, shall not require compliance with public
42 bidding laws, including the "Local Public Contracts Law,"
43 P.L.1971, c.198 (C.40A:11-1 et seq.), or any other statute where the
44 redeveloper or State entity redeveloper, as the case may be, shall
45 undertake the redevelopment project. The use of these funds shall
46 be subject to public accountability and oversight by the issuer of
47 those bonds, regardless of whether the municipality, agency or
48 authority provides the funds.

1 f. In order to provide additional security for any loan to a
2 redeveloper or a State entity redeveloper, as the case may be, or to
3 bonds issued to finance a redevelopment project, regardless of
4 whether that redevelopment project is undertaken under municipal
5 authority pursuant to P.L.1991, c.431 (C.40A:20-1 et seq.) or by a
6 State entity redeveloper pursuant to a State entity redevelopment
7 agreement, the municipality may utilize powers otherwise provided
8 by law, including the "Local Redevelopment and Housing Law,"
9 P.L.1992, c.79 (C.40A:12A-1 et seq.), to provide for any extension
10 of the municipality's credit to any redeveloper or State entity
11 redeveloper, as the case may be, or its full faith and credit which
12 may include a full faith and credit lease as security for the bonds or
13 any loan to a redeveloper or State entity redeveloper, as the case
14 may be. To the extent that the municipality provides for a full faith
15 and credit guarantee of any loan to a redeveloper or State entity
16 redeveloper, as the case may be, or any bonds, but determines not to
17 authorize the issuance of bonds or notes to provide for the funding
18 source thereof, or otherwise determines to enter into a full faith and
19 credit lease, it may do so by an ordinance introduced, adopted, and
20 published in accordance with the provisions of N.J.S.40A:2-17 and
21 N.J.S.40A:2-19. Such ordinance shall take effect 20 days after the
22 first publication of the ordinance or of a summary thereof after final
23 adoption. To the extent that bonds or notes are authorized as
24 provided above, such bonds or notes shall be authorized pursuant to
25 the provisions of the "Local Bond Law," N.J.S.40A:2-1 et seq., and
26 shall be deductible from the gross debt of the municipality until
27 such time as such bonds or notes are actually issued, and only up to
28 the amount actually issued, to fund such guarantee.

29 g. **【A financial instrument】** A bond, issued in accordance with
30 the "Redevelopment Area Bond Financing Law," sections 1 through
31 10 of P.L.2001, c.310 (C.40A:12A-64 et seq.), whether issued by a
32 municipality or an authority, that is secured in whole or in part by
33 payments in lieu of taxes or by special assessments, or both, as
34 provided herein shall be subject to the review and approval of the
35 board. That review and approval shall be made prior to approval of,
36 in the case of a **【municipality】** municipal governing body, an
37 introduced ordinance or, in the case of an authority or
38 redevelopment entity that is not a municipal governing body, a
39 resolution. The board shall be entitled to receive from the applicant
40 an amount sufficient to provide for all reasonable professional and
41 other fees and expenses incurred by it for the review, analysis and
42 determination with respect thereto. As part of its review, the board
43 shall specifically solicit comments from the Office of State
44 Planning and the New Jersey Economic Development Authority in
45 addition to comments from the public. The Office of State Planning
46 shall provide comments on whether the redevelopment project or
47 plan promotes congestion reduction, enhanced mobility, further
48 redevelopment, and otherwise improves the quality of life of

1 residents. As part of the board's review and approval, it shall
2 consider the comments submitted and whether the issuance of the
3 redevelopment area bond will adversely impact the financial
4 stability of the municipality or service area of the authority.

5 h. A municipality that has assigned any portion of the
6 payments in lieu of taxes it receives pursuant to a financial
7 agreement, as payment or security for bonds, may also pledge a
8 portion of those payments in lieu of taxes as payment or security for
9 bonds in order to finance or refinance any cost or expense of the
10 municipality, State entity or authority.

11 i. In the case of a municipality which is otherwise subject to
12 tax or revenue sharing pursuant to law and which assigns a portion
13 of the payments in lieu of taxes or special assessments pursuant to a
14 financial agreement to secure bonds issued by the municipality or
15 the authority, the assigned portion of those payments in lieu of taxes
16 or special assessments shall not be considered part of the tax or
17 revenue sharing formula or calculation of municipal revenues for
18 the purpose of determining whether that municipality is obligated to
19 make payment to, or receive a credit from, any tax sharing or
20 revenue sharing pool.

21 j. Notwithstanding any law to the contrary, including subsection
22 a. of section 3 of P.L.2001, c.310 (C.40A:12A-66), payments in lieu
23 of taxes pursuant to a financial agreement to secure bonds may be
24 established in such amounts as shall be sufficient to pay the
25 principal of, redemption premium, if any, and interest on the bonds.

26 k. Notwithstanding any law to the contrary, in the event that
27 bonds shall be issued that are secured by payments in lieu of taxes
28 pursuant to a financial agreement, the financial agreement shall not
29 be terminated for any reason during the period that the bonds are
30 outstanding.

31 (cf: P.L.2015, c.95, s.26)

32

33 15. Section 5 of P.L.2001, c.310 (C.40A:12A-68) is amended to
34 read as follows:

35 5. a. Payments required to be made in accordance with an
36 agreement for payments in lieu of taxes entered into under section 3
37 of P.L.2001, c.310 (C.40A:12A-66) shall be a continuous lien on
38 the land or improvements thereon, or both, or a continuous lien on
39 any leasehold interests in the land or improvements thereon, or
40 both, against which the ordinance is recorded on and after the date
41 of recordation of both the ordinance and the agreement, whether
42 simultaneously or not, or the date of confirmation of the special
43 assessments, whichever is earlier. All subsequent payments in lieu
44 of taxes thereunder, interest, penalties and costs of collection which
45 thereafter fall due or accrue shall be added and relate back to and be
46 a part of the initial lien. Upon recordation of the ordinance and
47 agreement, payments in lieu of taxes shall constitute **[a]** an
48 automatic, enforceable, and perfected statutory municipal lien

1 【within the meaning, and】 for all purposes, 【of law】 including the
2 federal bankruptcy code, regardless of whether or not the amount of
3 the payments to be made in lieu of taxes has been determined at the
4 time the lien attaches to any interest in the land, leasehold estate, or
5 improvements, as applicable. A confirmation hearing process to
6 determine the amount due shall not affect the commencement or
7 validity of the lien. Notwithstanding any other applicable law, for
8 the purposes of the “Redevelopment Area Bond Financing Law,”
9 sections 1 through 10 of P.L.2001, c.310 (C.40A:12A-64 et seq.), a
10 municipal lien on a leasehold estate shall constitute a lien against
11 such leasehold estate only, unless the financial agreement
12 specifically provides for a lien on the underlying fee interest in the
13 land. In any case, enforcement of a municipal lien on a leasehold
14 estate shall be limited to an in rem proceeding only. No municipal
15 lien shall attach to any interest of a State entity unless such State
16 entity shall have expressly consented to such lien in the financial
17 agreement.

18 b. If bonds are issued, the municipality, the redeveloper or the
19 State entity redeveloper, as the case may be, may record, either
20 simultaneously or at different times, any ordinance enacted by the
21 municipality relating to the payment in lieu of taxes agreement or
22 special assessments and, either simultaneously with the ordinance
23 or at different times, a copy of the agreement or agreements. The
24 ordinance, when recorded, shall contain a legend at the top of the
25 front page substantially as follows:

26
27 "THIS ORDINANCE SECURES BONDS OR OTHER
28 OBLIGATIONS ISSUED IN ACCORDANCE WITH THE
29 PROVISIONS OF THE 'REDEVELOPMENT AREA BOND
30 FINANCING LAW' AND THE LIEN HEREOF IN FAVOR OF
31 THE OWNERS OF SUCH BONDS OR OTHER OBLIGATIONS
32 IS A MUNICIPAL LIEN SUPERIOR TO ALL OTHER NON-
33 MUNICIPAL LIENS HEREAFTER RECORDED."
34

35 c. Notwithstanding any law to the contrary, upon recordation
36 of both the ordinance and any accompanying agreement, the lien
37 thereof shall be perfected for all purposes in accordance with law
38 and the lien shall thereafter be superior to (1) all municipal and
39 non-municipal liens thereafter recorded or otherwise arising, and
40 (2) all prior liens where lienholder consents, without any additional
41 notice, recording, filing, continuation filing or action, until the
42 payment in full of the bonds. The lien thereby established shall
43 apply not only to the bonds initially issued, but also to any
44 refinancing or refunding thereof, as well as to any additional bonds
45 thereafter issued on a parity therewith in accordance with the
46 provisions of the original documents securing the initial bonds;
47 provided, however, that in the event any ordinance or agreement is
48 amended or supplemented in a way which increases the amount of

1 payment in lieu of taxes or special assessments, the lien as to that
2 increase shall be perfected and apply upon the recordation of the
3 amended or supplemented ordinance and agreement (including the
4 above-recited legend). Except as set forth in this section, no
5 amendment or supplement to the ordinance or agreement thereafter
6 recorded shall affect the perfection or priority of the lien established
7 upon original recordation thereof.

8 d. Upon the final payment in full of any bonds secured as
9 provided in this section and section 4 of P.L.2001, c.310
10 (C.40A:12A-67), the lien established hereby shall terminate, and the
11 municipality shall record a notice to that effect.

12 (cf: P.L.2004, c.112, s.4)

13

14 16. Section 10 of P.L.2001, c.310 (C.40A:12A-73) is amended
15 to read as follows:

16 10. **【**After issuance, pursuant to the "Redevelopment Area Bond
17 Financing Law," P.L.2001, c.310 (C.40A:12A-64 et seq.) all bonds
18 shall be conclusively presumed to be fully authorized and issued by
19 all courts and officers of this State, and any person shall be
20 estopped from questioning their sale, execution or delivery.**】** An
21 authority or municipality, as applicable, shall cause a copy of any
22 bond resolution or bond ordinance, as applicable, adopted by it to
23 be filed for public inspection in the office of the municipal clerk of
24 the municipality wherein the project financed by the bonds is
25 located. In the case of an authority, the resolution also shall be
26 filed for public inspection in its office. The authority or
27 municipality may cause to be published, at least once in a
28 newspaper published or circulating in the municipality, if there be
29 one, and if not, in a newspaper published and circulating in the
30 county, a notice stating the fact and date of the adoption and the
31 places where the bond resolution or bond ordinance, as applicable,
32 has been so filed for public inspection along with the date of the
33 first publication of the notice and also stating that any action or
34 proceeding of any kind or nature in any court questioning the
35 validity or proper authorization of bonds provided for by the bond
36 resolution or bond ordinance, as applicable, or the validity of any
37 covenants, agreements or contracts provided for by the bond
38 resolution or bond ordinance, as applicable, shall be commenced
39 within 20 days after the first publication of that notice. If any such
40 notice shall at any time be published and if no action or proceeding
41 questioning the validity or proper authorization of bonds provided
42 for by the bond resolution or bond ordinance, as applicable, referred
43 to in said notice, or the validity of any covenants, agreements, or
44 contracts provided for by said bond resolution or bond ordinance, as
45 applicable, shall be commenced or instituted within 20 days after
46 the first publication of the notice, then all persons shall be forever
47 barred and foreclosed from instituting or commencing any action or
48 proceeding in any court, or from pleading any defense to any action

1 or proceeding, questioning the validity or proper authorization of
2 such bonds, or the validity of such covenants, agreements, or
3 contracts, and said bonds, covenants, agreements, and contracts
4 shall be conclusively deemed to be valid and binding obligations in
5 accordance with their terms and tenor.

6 (cf: P.L.2001, c.310, s.10)

7
8 17. Section 12 of P.L.1991, c.431 (C.40A:20-12) is amended to
9 read as follows:

10 12. The rehabilitation or improvements made in the development
11 or redevelopment of a redevelopment area or area appurtenant
12 thereto or for a redevelopment relocation housing project, pursuant
13 to P.L.1991, c.431 (C.40A:20-1 et seq.), shall be exempt from
14 taxation for a limited period as hereinafter provided. When housing
15 is to be constructed, acquired or rehabilitated by an urban renewal
16 entity, the land upon which that housing is situated shall be exempt
17 from taxation for a limited period as hereinafter provided. The
18 exemption shall be allowed when the clerk of the municipality
19 wherein the property is situated shall certify to the municipal tax
20 assessor that a financial agreement with an urban renewal entity for
21 the development or the redevelopment of the property, or the
22 provision of a redevelopment relocation housing project, or the
23 provision of a low and moderate income housing project has been
24 entered into and is in effect as required by P.L.1991, c.431
25 (C.40A:20-1 et seq.).

26 Delivery by the municipal clerk to the municipal tax assessor of
27 a certified copy of the ordinance of the governing body approving
28 the tax exemption and financial agreement with the urban renewal
29 entity shall constitute the required certification. For each
30 exemption granted pursuant to P.L.2003, c.125 (C.40A:12A-4.1 et
31 al.), upon certification as required hereunder, the tax assessor shall
32 implement the exemption and continue to enforce that exemption
33 without further certification by the clerk until the expiration of the
34 entitlement to exemption by the terms of the financial agreement or
35 until the tax assessor has been duly notified by the clerk that the
36 exemption has been terminated.

37 Within 10 calendar days following the later of the effective date
38 of an ordinance following its final adoption by the governing body
39 approving the tax exemption or the execution of the financial
40 agreement by the urban renewal entity, the municipal clerk shall
41 transmit a certified copy of the ordinance and financial agreement
42 to the chief financial officer of the county and to the county counsel
43 for informational purposes.

44 Whenever an exemption status changes during a tax year, the
45 procedure for the apportionment of the taxes for the year shall be
46 the same as in the case of other changes in tax exemption status
47 during the tax year. Tax exemptions granted pursuant to P.L.2003,
48 c.125 (C.40A:12A-4.1 et al.) represent long term financial

1 agreements between the municipality and the urban renewal entity
2 and as such constitute a single continuing exemption from local
3 property taxation for the duration of the financial agreement. The
4 validity of a financial agreement or any exemption granted pursuant
5 thereto may be challenged only by filing an action in lieu of
6 prerogative writ within 20 days from the publication of a notice of
7 the adoption of an ordinance by the governing body granting the
8 exemption and approving the financial agreement. Such notice
9 shall be published in a newspaper of general circulation in the
10 municipality and in a newspaper of general circulation in the county
11 if different from the municipal newspaper.

12 a. The financial agreement shall specify the duration of the
13 exemption for urban renewal entities [shall be as follows] in
14 accordance with the parameters of either paragraph (1) or paragraph
15 (2) of this subsection:

16 (1) [for all projects, a term of] the financial agreement may
17 specify a duration of not more than 30 years from the completion of
18 the entire project, or unit of the project if the project is undertaken
19 in units, or not more than 35 years from the execution of the
20 financial agreement between the municipality and the urban renewal
21 entity; or

22 (2) for each project undertaken pursuant to a redevelopment
23 agreement which allows the redeveloper to undertake two or more
24 projects sequentially, the financial agreement may specify a
25 duration of not more than 30 years from the completion of a project,
26 or unit of the project if the project is undertaken in units, or not
27 more than 50 years from the execution of the first financial
28 agreement implementing a project under the redevelopment
29 agreement. As used in this subsection, "redevelopment agreement"
30 means an agreement entered into pursuant to subsection f. of section
31 8 of P.L.1992, c.79 (C.40A:12A-8) between a municipality or
32 redevelopment entity and a redeveloper .

33 A financial agreement may provide for an exemption period of
34 less than 30 years from the completion of the entire project, less
35 than 35 years from the execution of the financial agreement, or less
36 than 50 years from the execution of the first financial agreement
37 implementing a project under the redevelopment agreement.
38 Nothing in this subsection shall be construed as requiring a
39 financial agreement for a project undertaken pursuant to a
40 redevelopment agreement which allows the redeveloper to
41 undertake two or more projects sequentially to specify a duration
42 within the parameters of paragraph (2) of this subsection.

43 b. During the term of any exemption, in lieu of any taxes to be
44 paid on the buildings and improvements of the project and, to the
45 extent authorized pursuant to this section, on the land, the urban
46 renewal entity shall make payment to the municipality of an annual
47 service charge, which shall remit a portion of that revenue to the
48 county as provided hereinafter. In addition, the municipality may

1 assess an administrative fee, not to exceed two percent of the annual
2 service charge, for the processing of the application. The annual
3 service charge for municipal services supplied to the project to be
4 paid by the urban renewal entity for any period of exemption, shall
5 be determined as follows:

6 (1) An annual amount equal to a percentage determined
7 pursuant to this subsection and section 11 of P.L.1991, c.431
8 (C.40A:20-11), of the annual gross revenue from each unit of the
9 project, if the project is undertaken in units, or from the total
10 project, if the project is not undertaken in units. The percentage of
11 the annual gross revenue shall not be more than 15% in the case of
12 a low and moderate income housing project, nor less than 10% in
13 the case of all other projects.

14 At the option of the municipality, or where because of the nature
15 of the development, ownership, use or occupancy of the project or
16 any unit thereof, if the project is to be undertaken in units, the total
17 annual gross rental or gross shelter rent or annual gross revenue
18 cannot be reasonably ascertained, the governing body shall provide
19 in the financial agreement that the annual service charge shall be a
20 sum equal to a percentage determined pursuant to this subsection
21 and section 11 of P.L.1991, c.431 (C.40A:20-11), of the total
22 project cost or total project unit cost determined pursuant to
23 P.L.1991, c.431 (C.40A:20-1 et seq.) calculated from the first day
24 of the month following the substantial completion of the project or
25 any unit thereof, if the project is undertaken in units. The
26 percentage of the total project cost or total project unit cost shall not
27 be more than 2% in the case of a low and moderate income housing
28 project, and shall not be less than 2% in the case of all other
29 projects.

30 (2) In either case, the financial agreement shall establish a
31 schedule of annual service charges to be paid over the term of the
32 exemption period, which shall be in stages as follows:

33 (a) For the first stage of the exemption period, which shall
34 commence with the date of completion of the unit or of the project,
35 as the case may be, and continue for a time of not less than six years
36 nor more than 15 years, as specified in the financial agreement, the
37 urban renewal entity shall pay the municipality an annual service
38 charge for municipal services supplied to the project in an annual
39 amount equal to the amount determined pursuant to paragraph (1) of
40 this subsection and section 11 of P.L.1991, c.431 (C.40A:20-11).
41 For the remainder of the period of the exemption, if any, the annual
42 service charge shall be determined as follows:

43 (b) For the second stage of the exemption period, which shall
44 not be less than one year nor more than six years, as specified in the
45 financial agreement, an amount equal to either the amount
46 determined pursuant to paragraph (1) of this subsection and section
47 11 of P.L.1991, c.431 (C.40A:20-11), or 20% of the amount of

1 taxes otherwise due on the value of the land and improvements,
2 whichever shall be greater;

3 (c) For the third stage of the exemption period, which shall not
4 be less than one year nor more than six years, as specified in the
5 financial agreement, an amount equal to either the amount
6 determined pursuant to paragraph (1) of this subsection and section
7 11 of P.L.1991, c.431 (C.40A:20-11), or 40% of the amount of
8 taxes otherwise due on the value of the land and improvements,
9 whichever shall be greater;

10 (d) For the fourth stage of the exemption period, which shall not
11 be less than one year nor more than six years, as specified in the
12 financial agreement, an amount equal to either the amount
13 determined pursuant to paragraph (1) of this subsection and section
14 11 of P.L.1991, c.431 (C.40A:20-11), or 60% of the amount of
15 taxes otherwise due on the value of the land and improvements,
16 whichever shall be greater; and

17 (e) For the final stage of the exemption period, the duration of
18 which shall not be less than one year and shall be specified in the
19 financial agreement, an amount equal to either the amount
20 determined pursuant to paragraph (1) of this subsection and section
21 11 of P.L.1991, c.431 (C.40A:20-11), or 80% of the amount of
22 taxes otherwise due on the value of the land and improvements,
23 whichever shall be greater.

24 If the financial agreement provides for an exemption period of
25 less than 30 years from the completion of the entire project, **[or]**
26 less than 35 years from the execution of the financial agreement, or
27 less than 50 years from the execution of the first financial
28 agreement implementing a project under the redevelopment
29 agreement, the financial agreement shall set forth a schedule of
30 annual service charges for the exemption period which shall be
31 based upon the minimum service charges and staged adjustments set
32 forth in this section.

33 The annual service charge shall be paid to the municipality on a
34 quarterly basis in a manner consistent with the municipality's tax
35 collection schedule.

36 Each municipality which enters into a financial agreement on or
37 after the effective date of P.L.2003, c.125 (C.40A:12A-4.1 et al.)
38 shall remit 5 percent of the annual service charge collected by the
39 municipality to the county in accordance with the provisions of
40 R.S.54:4-74.

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

45 Notwithstanding the provisions of this section or of the financial
46 agreement, the minimum annual service charge shall be the amount
47 of the total taxes levied against all real property in the area covered
48 by the project in the last full tax year in which the area was subject

1 to taxation, and the minimum annual service charge shall be paid in
2 each year in which the annual service charge calculated pursuant to
3 this section or the financial agreement would be less than the
4 minimum annual service charge.

5 c. All exemptions granted pursuant to the provisions of
6 P.L.1991, c.431 (C.40A:20-1 et seq.) shall terminate at the time
7 prescribed in the financial agreement.

8 Upon the termination of the exemption granted pursuant to the
9 provisions of P.L.1991, c.431 (C.40A:20-1 et seq.), the project, all
10 affected parcels, land and all improvements made thereto shall be
11 assessed and subject to taxation as are other taxable properties in
12 the municipality. After the date of termination, all restrictions and
13 limitations upon the urban renewal entity shall terminate and be at
14 an end upon the entity's rendering its final accounting to and with
15 the municipality.

16 (cf: P.L.2015, c.247, s.1)

17

18 18. Section 13 of P.L.1991, c.431 (C.40A:20-13) is amended to
19 read as follows:

20 13. The tax exemption provided in **[this act]** P.L.1991, c.431
21 (C.40A:20-1 et seq.) shall apply only so long as the urban renewal
22 entity and its project remain subject to the provisions of **[this act]**
23 P.L.1991, c.431 (C.40A:20-1 et seq.), but in no event more than: 35
24 years from the date of the execution of the financial agreement; or,
25 if authorized pursuant to paragraph (2) of subsection a. of section
26 12 of P.L.1991, c.431 (C.40A:20-12), 50 years from the date of the
27 execution of the first financial agreement implementing a project
28 under the redevelopment agreement. A tax exemption authorized in
29 connection with a nonprofit limited dividend cooperative housing
30 project under a financial agreement entered into pursuant to the
31 "Limited-Dividend Nonprofit Housing Corporations or Associations
32 Law," P.L.1949, c.184 (C.55:16-1 et seq.) may be extended to
33 coincide with existing first mortgage financing. The terms of any
34 such extension shall be set forth in an amended financial agreement
35 between the urban renewal entity and the municipality. An urban
36 renewal entity may at any time after the expiration of one year from
37 the completion date of the project, notify the governing body of the
38 municipality that, as of a certain date designated in the notice, it
39 relinquishes its status under this act, and if the project includes
40 housing units, that the urban renewal entity has obtained the
41 consent of the Commissioner of Community Affairs to such a
42 relinquishment. As of that date, the tax exemption, the service
43 charges, and the profit and dividend restrictions shall terminate.
44 The date of termination of tax exemption, whether by
45 relinquishment by the entity or by terms of the financial agreement,
46 shall be deemed the close of the fiscal year of the entity. Within 90
47 days of that date, the urban renewal entity shall pay to the
48 municipality the amount of reserve, if any maintained pursuant to

1 section 15 or 16 of **[this act]** P.L.1991, c.431 (C.40A:20-15 or
2 40A:20-16), as well as the excess net profits, if any, payable as of
3 that date.
4 (cf: P.L.1999, c.220, s.1)

5

6 19. This act shall take effect immediately.

7

8

9

STATEMENT

10

11 This bill supplements the Economic Redevelopment and Growth
12 Grant (ERGG) Program by broadening the mechanisms available to
13 finance the “up-front” costs of certain ERGG Program development
14 projects. The ERGG Program provides economic incentives to
15 developers of qualified projects by granting developers certain
16 incremental increases in tax revenues related to their development
17 projects.

18 The bill establishes the “Economic Redevelopment and Growth
19 Grant Bond Financing Act” (ERGGBFA) which is modeled after
20 the “Redevelopment Area Bond Financing Law” (RABFL). Under
21 the ERGG program, developers that are awarded ERG incentive
22 grants receive a revenue stream from the grant after a project has
23 been completed and tax revenues are being paid to the State from
24 businesses and residents within the new development. Developers
25 often need capital to finance a project at an early stage of
26 development. ERGGBFA addresses this revenue shortfall by
27 allowing a developer to assign its right to receive the incentive
28 grant to the municipality, and authorizes the municipality to issue
29 bonds, either directly or through certain state and local authorities,
30 secured by the incentive grant pledge, and by municipal liens and
31 special assessments. To enhance the security of the bonds, the bill
32 authorizes the municipality to directly assign the incentive grant
33 and special assessments to the bondholders as payment or security
34 for the bonds.

35 The bill amends the RABFL and establishes comparable
36 provisions in the ERGGBFA, including provisions to:

37 (1) Allow bondholders to sell lands and improvements of projects
38 to satisfy delinquencies in payments in lieu of taxes, special
39 assessments, and incentive grant pledges.

40 (2) Prohibit termination of incentive grant agreements and
41 financial agreements under these laws while bonds remain
42 outstanding.

43 (3) Provide that the liens authorized under these laws are superior
44 to all later arising municipal or non-municipal liens and prior
45 liens where the lienholder consents.

46 (4) Allow a 20 day period to challenge a bond ordinance or
47 resolution authorizing bonds, after which all persons are barred

1 from questioning the validity or proper authorization of the
2 bonds.

3 (5) When administering a special assessment for local
4 improvements, allow environmental remediation and
5 professional fees relating to the projects to be funded from the
6 special assessments.

7 The bill amends the RABFL to extend the permissible duration
8 of agreements when bond proceeds are used to undertake
9 environmental remediation so they may continue for 35 years after
10 the anticipated duration of conducting the environmental
11 remediation, but no more than 30 years from substantial completion
12 of the redevelopment project.

13 The bill extends provisions of the “Long Term Tax Exemption
14 Law” that require tax exemptions to have run their course within 35
15 years from the date of execution of the financial agreement, so that
16 projects undertaken pursuant to a redevelopment agreement which
17 allows a redeveloper to undertake sequential projects may run for
18 50 years after execution of the first associated financial agreement.
19 This amendment will allow a municipality and a redeveloper to
20 agree to schedule projects in phases and protects against the
21 shortening of the permissible 30-year duration of a tax exemption
22 for a project undertaken at a later phase of redevelopment, as long
23 as the later-phased project is completed within 20 years after
24 execution of the first associated financial agreement. This does not
25 extend the current maximum term of a tax exemption beyond 30
26 years, as authorized under current law.

27 The bill also makes various technical and clarifying changes to
28 the ERGGBGA and RABFL.

SENATE ECONOMIC GROWTH COMMITTEE

STATEMENT TO

SENATE, No. 1840

STATE OF NEW JERSEY

DATED: FEBRUARY 22, 2018

The Senate Economic Growth Committee reports favorably Senate Bill No. 1840.

As reported, this bill supplements the Economic Redevelopment and Growth Grant (ERGG) Program by broadening the mechanisms available to finance the “up-front” costs of certain ERGG Program development projects. The ERGG Program provides economic incentives to developers of qualified projects by granting developers certain incremental increases in tax revenues related to their development projects.

The bill establishes the “Economic Redevelopment and Growth Grant Bond Financing Act” (ERGGBFA) which is modeled after the “Redevelopment Area Bond Financing Law” (RABFL). Under the ERGG program, developers that are awarded ERG incentive grants receive a revenue stream from the grant after a project has been completed and tax revenues are being paid to the State from businesses and residents within the new development. Developers often need capital to finance a project at an early stage of development. ERGGBFA addresses this revenue shortfall by allowing a developer to assign its right to receive the incentive grant to the municipality, and authorizes the municipality to issue bonds, either directly or through certain state and local authorities, secured by the incentive grant pledge, and by municipal liens and special assessments. To enhance the security of the bonds, the bill authorizes the municipality to directly assign the incentive grant and special assessments to the bondholders as payment or security for the bonds.

The bill amends the RABFL and establishes comparable provisions in the ERGGBFA, including provisions to:

- (1) Allow bondholders to sell lands and improvements of projects to satisfy delinquencies in payments in lieu of taxes, special assessments, and incentive grant pledges.
- (2) Prohibit termination of incentive grant agreements and financial agreements under these laws while bonds remain outstanding.
- (3) Provide that the liens authorized under these laws are superior to all later arising municipal or non-municipal liens and prior liens where the lienholder consents.

- (4) Allow a 20 day period to challenge a bond ordinance or resolution authorizing bonds, after which all persons are barred from questioning the validity or proper authorization of the bonds.
- (5) Extend the permissible duration of agreements when bond proceeds are used to undertake environmental remediation, so they may continue for 35 years after the anticipated duration of conducting the environmental remediation, but no more than 30 years from substantial completion of the redevelopment project.
- (6) When administering a special assessment for local improvements, allow environmental remediation and professional fees relating to the projects to be funded from special assessments.

The bill extends provisions of the “Long Term Tax Exemption Law” that require tax exemptions to be exercised within 35 years from the date of execution of the financial agreement, so that projects undertaken pursuant to a redevelopment agreement which allows a redeveloper to undertake sequential projects may change for 50 years after execution of the first associated financial agreement. This change allows a municipality and a redeveloper to agree to schedule projects in phases and protects against the shortening of the permissible 30-year duration of a tax exemption for a project undertaken at a later phase of redevelopment, as long as the later-phased project is completed within 20 years after execution of the first associated financial agreement. This change does not extend the current maximum term of a tax exemption beyond 30 years, as authorized under current law.

As reported, Senate Bill No. 1840 is identical to Assembly Bill No. 2041(1R), which was reported by the committee on this date.

SENATE BUDGET AND APPROPRIATIONS COMMITTEE

STATEMENT TO

SENATE, No. 1840

with committee amendments

STATE OF NEW JERSEY

DATED: JUNE 18, 2018

The Senate Budget and Appropriations Committee reports favorably Senate Bill No. 1840, with committee amendments.

As amended, this bill establishes the “Economic Redevelopment and Growth Grant Bond Financing (ERGGBFA) Act,” amends the “Redevelopment Area Bond Financing (RAB) Law,” and amends the “Long Term Tax Exemption Law” (LTTL).

The ERGGBFA (sections 1 through 11 of the bill) establishes a mechanism to finance the “up-front” costs of certain Economic Redevelopment and Growth Grant (ERG) Program development projects. The ERG Program provides economic incentives to the developer of a qualified development project by allowing the developer to receive certain incremental increases in tax revenues attributable to the development project. Currently the revenue stream from an ERG program incentive is not available to a developer until after the developer completes a project as the incentive is based on incremental increases in tax revenues attributable to the project.

The ERGGBFA addresses this revenue shortfall by establishing a mechanism to bond based upon projected revenues from an incentive grant. The bill, as amended, allows a developer to assign its right to receive revenues under an incentive grant to the municipality within which the development project is located, and allows the municipality to issue bonds secured by the incentive grant pledge, and by municipal liens and special assessments. Under the bill, as amended, a municipality may issue bonds either directly or through certain state and local authorities. To enhance the security of the bonds, the bill authorizes the municipality to impose special assessments on an ERG project and to directly assign the incentive grant and special assessments to the bondholders as payment or security for the bonds. The bill, as amended, provides that a State incentive grant cannot be pledged without notice to and the consent of the New Jersey Economic Development Authority and the State Treasurer.

Sections 12 through 16 of the bill amend the RAB law to:

- prohibit termination of financial agreements while bonds secured by PILOTs remain outstanding, unless other parties have violated terms of the financial agreement;

- provide that liens authorized under the RAB law are superior to all later arising municipal or non-municipal liens, and to prior liens where the lienholder consents;
- allow a 20-day period to challenge a bond ordinance or resolution authorizing bonds, after which all are barred from questioning the validity or proper authorization of the bonds;
- extend the permissible duration of agreements when bond proceeds are used to undertake environmental remediation (so they may continue for 35 years after the anticipated duration of conducting the environmental remediation, but no more than 30 years from substantial completion of the redevelopment project); and
- allow environmental remediation and professional fees relating to the projects to be funded from special assessments.

Sections 17 and 18 of the bill amend the LTTL to extend provisions of that law, which require tax exemptions to have run their course within 35 years from the date of execution of the financial agreement. The bill, as amended, provides that projects undertaken pursuant to a redevelopment agreement which allows a redeveloper to undertake a project in phases, or undertake sequential projects, may run for 50 years after execution of the financial agreement in the case of a phased project, or from execution of the first associated financial agreement in the case of two or more projects. The bill, as amended, provides that a financial agreement which specifies a duration of more than 35 years from the execution of the first financial agreement implementing a project under a redevelopment agreement is subject to the prior review and approval of the Local Finance Board. This provision in the amended bill will allow a municipality and a redeveloper to agree to schedule projects in phases and protects against the shortening of the permissible 30-year duration of a tax exemption for a project undertaken at a later phase of redevelopment, as long as the later-phased project is completed within 20 years after execution of the first associated financial agreement. This change does not extend current law's maximum 30-year term of a tax exemption.

COMMITTEE AMENDMENTS:

Committee amendments make the following changes to the bill:

- clarifies that the participation in projects under the ERGGBFA, and the RAB law are an essential public, governmental and corporate purpose, thereby allowing the statutes to have the broadest effect;
- applicable to the ERGGBFA, omits from the definition of the term "bonds," the phrase "State entity," thereby limiting the ability to issue bonds under the ERGGBFA to an authority, as defined in the bill, or a municipality;
- amends the definition of the term "incentive grant" under the ERGGBFA to specify that the amount of reimbursements for a

State economic redevelopment and growth grant project is subject to appropriation by the Legislature and to availability of funds;

- amends the definition of the term "incentive grant pledge" under the ERGGBFA to delete language that would have required a pledge agreement to be between a developer and the issuer of the bonds and to specify that the pledge of a State incentive grant is subject to consent of the New Jersey Economic Development Authority ("EDA") and the State Treasurer;
- amends definition of the term "State entity" under the ERGGBFA and the RAB law to refer to the New Jersey Sports and Exposition Authority, successor to the New Jersey Meadowlands Commission, and streamline the reference to projects.
- deletes definitions of "State entity developer" and "State entity development agreement" under the ERGGBFA;
- specifies that the term of any bond issued under the ERGGBFA may not exceed the eligibility period of the redevelopment incentive grant agreement that provides for the incentive grant that is pledged;
- provides that ERGGBFA shall not be construed as preventing the pledge, assignment, transfer, or sale of a developer's right to an incentive grant or to limit the use of that pledge, assignment, transfer, or sale with respect to the issuance of bonds under ERGGBFA;
- specifies that nothing in ERGGBFA shall prevent a State entity from financing an economic redevelopment and growth grant project in accordance with its enabling legislation;
- clarifies that special assessments that may be authorized under ERGGBFA are with respect to local improvements, not with respect to the incentive grant pledge itself;
- provides that the maximum term of a special assessment under ERGGBFA or RAB law matches the term of the bonds being issued;
- provides that the amount of special assessments under ERGGBFA will be based on costs and expenses paid with respect to property benefitted by the improvements;
- provides that the assignment of the pledge of a State incentive grant is subject to the approval of EDA and the State Treasurer;
- deletes language that would have tax sales relating to nonpayment under the ERGGBFA or the RAB law conducted by the bond trustee rather than the municipality;
- provides that bonds issued under ERGGBFA are non-recourse obligations;
- deletes provisions that would have allowed a municipality to extend the municipality's credit to a developer;

- adds provisions recognizing that EDA and the State Treasurer may terminate a redevelopment incentive grant agreement in accordance with provisions of the agreement, although bonds secured by incentive grant pledges have been issued, if the ERG project has not been completed within the period of time required by the agreement, or the project has materially changed without prior approval of EDA and the State Treasurer;
- adds provisions specifying that the bill does not preclude EDA or the State Treasurer from exercising its rights under the redevelopment incentive grant agreement to compel specific performance or terminating the redevelopment incentive grant agreement prior to the issuance of bonds for any reason in accordance with the terms of the agreement;
- deletes provisions that would have made liens recorded under ERGGBFA superior to all municipal liens;
- makes bond trustee, rather than the municipality, responsible for recording notice that a lien has terminated, upon full payment on bonds issued under ERGGBFA;
- corrects references to the municipal debt enactment process; and
- amends provisions extending the duration of projects under the Long Term Tax Exemption Law to include projects that are undertaken in two or more phases.

FISCAL IMPACT:

This bill has not been certified as requiring a Fiscal Note.



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Newark, N.J.

Governor Murphy Takes Action on Legislation

08/17/2018

TRENTON – Governor Phil Murphy earlier today signed the following bills into law:

AJR-125/SJR-85 (Quijano, Jimenez/Pou, Cruz-Perez) - Designates June 20th annually as “World Refugee Day” in New Jersey.

ACS for A-538/S-2257 (Mazzeo, Murphy, Mukherji/Beach) - Permits county governing body, with approval of county board of taxation, to revise real property assessment calendar.

A-1033/S-1760 (Johnson, Vainieri Huttel/Weinberg) - Makes Palisades Interstate Park Commission eligible for certain open space and historic preservation funding.

A-1627/S-1873 (Schepisi, A.M. Bucco, Auth, Danielsen, DiMaio/Sarlo, T. Kean) - Provides that PERS or PFRS member who continues to be volunteer firefighter or emergency services worker after retirement with employer from whom member retires has bona fide severance for compliance with State and federal law.

A-2041/S-1840 (Coughlin, Holley, Pintor Marin/Vitale, Gopal) - Establishes “Economic Redevelopment and Growth Grant Bond Financing Act,” authorizing issuance of bonds secured by pledge of Economic Redevelopment and Growth Grant proceeds, municipal liens, and special assessment; expands “Redevelopment Area Bond Financing Law;” extends time to complete certain projects under “Long Term Tax Exemption Law”.

ACS for A-2747, 880/S-1532 (Houghtaling, Downey, Munoz, Danielsen/Bateman) - Limits time continuing care retirement communities may retain refundable entrance fee after resident vacates facility; provides for disposition of certain personal property.

A-3704/S-2550 (DeAngelo, Space, Quijano/Cryan, Sweeney) - Clarifies training requirements of certain HVACR contractors.

A-3765/S-2456 (Houghtaling, Downey, Jones, Wimberly/Gopal, Oroho) - Permits school district superintendent to designate school employee with certain expertise as school safety specialist.

A-3888/S-2498 (Houghtaling, Downey, Egan/Gopal, Scutari) - Allows issuance of additional alcoholic beverage licenses within boundaries of formerly federally owned or operated military installations.

A-4065/S-2724 (Lopez, Mukherji/Vitale) - Authorizes State Treasurer to sell surplus real property located in Township of Woodbridge, Middlesex County.

A-4194/S-2738 (Coughlin/Weinberg, Beach) - Requires NJ Historical Commission to establish program for commemorations and observance of 250th anniversary of United States; permits commission to enter into public-private partnership agreement in preparation of anniversary; appropriates \$500,000.

S-767/A-3829 (Cunningham, Sweeney, T. Kean/Jasey) - Directs Secretary of Higher Education to establish

communication campaign to encourage students to enroll in 30 credits per year and institutions to report to secretary on strategies and incentives to accomplish this goal.

S-1265/A-3634 (Turner, Cruz-Perez, Singer/Jasey, Pinkin) - Provides that no more than 120 credits will be required for baccalaureate degree awarded by a public institution and no more than 60 credits for associate degree.

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