

40:37A-45

LEGISLATIVE HISTORY CHECKLIST
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(County improvement)

NJSA: 40:37A-45

LAWS OF: 1994 CHAPTER: 76

BILL NO: A700

SPONSOR(S): Kelly and Brown

DATE INTRODUCED: Pre-filed

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SENATE: Community Affairs

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FOLLOWING STATEMENTS ARE ATTACHED IF AVAILABLE:

SPONSOR STATEMENT: Yes

COMMITTEE STATEMENT: ASSEMBLY: Yes
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REPORTS: No

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[FIRST REPRINT]
ASSEMBLY, No. 700

STATE OF NEW JERSEY

PRE-FILED FOR INTRODUCTION IN THE 1994 SESSION

By Assemblymen KELLY and BROWN

1 AN ACT permitting county improvement authorities to provide
2 services in counties which have not created a county
3 improvement authority, and amending various parts of the
4 statutory law.

5

6 BE IT ENACTED *by the Senate and General Assembly of the*
7 *State of New Jersey:*

8 1. Section 2 of P.L.1960, c.183 (C.40:37A-45) is amended to
9 read as follows:

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

12 (a) "Authority" shall mean a public body created pursuant to
13 this act;

14 (b) "Bond resolution" shall have the meaning ascribed thereto
15 in section 17 of [this act] P.L.1960, c.183 (C.40:37A-60);

16 (c) "Bonds" shall mean bonds, notes or other obligations issued
17 pursuant to this act;

18 (d) "Construct" and "construction" shall connote and include
19 acts of clearance, demolition, construction, development or
20 redevelopment, reconstruction, replacement, extension,
21 improvement and betterment;

22 (e) "Cost" shall mean, in addition to the usual connotations
23 thereof, the cost of planning, acquisition or construction of all or
24 any part of any public facility or facilities of an authority and of
25 all or any property, rights, easements, privileges, agreements and
26 franchises deemed by the authority to be necessary or useful and
27 convenient therefor or in connection therewith, including interest
28 or discount on bonds, cost of issuance of bonds, architectural,
29 engineering and inspection costs and legal expenses, cost of
30 financial, professional and other estimates and advice,
31 organization, administrative, operating and other expenses of the
32 authority prior to and during such acquisition or construction, and
33 all such other expenses as may be necessary or incident to the
34 financing, acquisition, construction and completion of such public
35 facility or facilities or part thereof and the placing of the same
36 fully in operation or the disposition of the same, and also such
37 provision or reserves for working capital, operating, maintenance
38 or replacement expenses or for payment or security of principal
39 of or interest on bonds during or after such acquisition or
40 construction as the authority may determine, and also
41 reimbursements to the authority or any governmental unit or
42 person of any moneys theretofore expended for the purposes of
43 the authority;

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

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹ Senate floor amendments adopted May 12, 1994.

1 (f) The term "county" shall mean any county of any class of the
2 State and shall include, without limitation, the terms "the
3 county" and "beneficiary county" defined in this act, and the
4 term "the county" shall mean the county which created an
5 authority pursuant to this act;

6 (g) "Development project" shall mean any lands, structures, or
7 property or facilities acquired or constructed or to be acquired or
8 constructed by an authority for the purposes of the authority
9 described in [clause] subsection (e) of section 11 of [this act]
10 P.L.1960, c.183 (C.40:37A-54);

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

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

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

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

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

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

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

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

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

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

48 (r) "Garbage and solid waste disposal system" shall mean the
49 plants, structures and other real and personal property acquired,
50 constructed or operated or to be acquired, constructed or
51 operated by a county improvement authority, including
52 incinerators, sanitary landfill facilities or other plants for the
53 treatment and disposal of garbage, solid waste and refuse matter
54 and all other real and personal property and rights therein and

1 appurtenances necessary or useful and convenient for the
2 collection and treatment or disposal in a sanitary manner of
3 garbage, solid waste and refuse matter (but not including sewage);

4 (s) "Garbage, solid waste or refuse matter" shall mean
5 garbage, refuse and other discarded materials resulting from
6 industrial, commercial and agricultural operations, and from
7 domestic and community activities, and shall include all other
8 waste materials including sludge, chemical waste, hazardous
9 wastes and liquids, except for liquids which are treated in public
10 sewage treatment plants and except for solid animal and
11 vegetable wastes collected by swine producers licensed by the
12 State Department of Agriculture to collect, prepare and feed
13 such wastes to swine on their own farms;

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

24 (u) "Redevelopment" may include planning, replanning,
25 conservation, rehabilitation, clearance, development and
26 redevelopment; and the construction and rehabilitation and
27 provision for construction and rehabilitation of residential,
28 commercial, industrial, public or other structures and the grant
29 or dedication or rededication of spaces as may be appropriate or
30 necessary in the interest of the general welfare for streets,
31 parks, playgrounds, or other public purposes including
32 recreational and other facilities incidental or appurtenant
33 thereto, in accordance with a redevelopment plan approved by
34 the governing body of a municipality;

35 (v) "Redevelopment plan" shall mean a plan as it exists from
36 time to time for the redevelopment of all or any part of a
37 redevelopment area, which plan shall be sufficiently complete to
38 indicate such land acquisition, demolition and removal of
39 structures, redevelopment, improvements, conservation or
40 rehabilitation as may be proposed to be carried out in the area of
41 the project, zoning and planning changes, if any, land uses,
42 maximum densities, building requirements, the plan's relationship
43 to definite local objectives respecting appropriate land uses,
44 improved traffic, public transportation, public utilities,
45 recreational and community facilities, and other public
46 improvements and provision for relocation of any residents and
47 occupants to be displaced in a manner which has been or is likely
48 to be approved by the Department of Community Affairs
49 pursuant to the "Relocation Assistance Law of 1967," P.L.1967,
50 c.79 (C.52:31B-1 et seq.) and the "Relocation Assistance Act,"
51 P.L.1971, c.362 (C.20:4-1 et seq.) and rules and regulations
52 pursuant thereto;

53 (w) "Redevelopment project" shall mean any undertakings and
54 activities for the elimination, and for the prevention of the

1 development or spread, of blighted, deteriorated, or deteriorating
2 areas and may involve any work or undertaking pursuant to a
3 redevelopment plan; such undertaking may include: (1)
4 acquisition of real property and demolition, removal or
5 rehabilitation of buildings and improvements thereon; (2) carrying
6 out plans for a program of voluntary repair and rehabilitation of
7 buildings or other improvements; and (3) installation, construction
8 or reconstruction of streets, utilities, parks, playgrounds or other
9 improvements necessary for carrying out the objectives of the
10 redevelopment project;

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

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

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

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

31 (cf: P.L.1982, c.113, s.1)

32 2. Section 1 of P.L.1962, c.224 (C.40:37A-47.1) is amended to
33 read as follows:

34 1. It is hereby found and declared: (a) that there are located
35 within this State various Federal installations comprising
36 substantial tracts of land including, in many cases, buildings and
37 other improvements thereon; (b) that, as the defense and other
38 requirements and plans of the Federal Government continue to
39 change and develop, large areas of such lands are liable to
40 become surplus to the needs of the Federal Government and it is
41 probable that such surplus areas will from time to time be
42 disposed of by the Federal Government and become available for
43 other use and development; (c) that, unless developed or
44 redeveloped in the public interest on a comprehensive basis and
45 under appropriate controls, any such surplus land, when so
46 disposed of by the Federal Government, will constitute or be in
47 danger of becoming a blighted area which will impair economic
48 values and tax revenues, result in increased unemployment, and
49 cause an increase in and spread of poverty, disease and crime,
50 and accordingly be a menace to the health, safety, morals and
51 welfare of residents of this State necessitating excessive and
52 disproportionate expenditure of public funds for relief, crime
53 prevention and punishment, public health and safety, and other
54 public services and facilities; (d) that the several counties of this

1 State, by means and through the agency of or services provided
2 by a county improvement authority, are best qualified and able to
3 provide for public acquisition of such surplus lands and
4 accordingly the orderly development and redevelopment thereof
5 in the public interest in order to remove or prevent the conditions
6 hereinabove recited and to encourage industrial, commercial,
7 residential or other proper uses of such lands or restore or
8 increase employment opportunities for residents of this State;
9 and (e) that the acquisition of such surplus lands and development
10 or redevelopment thereof as aforesaid are public uses and
11 purposes for which public funds may be expended and private
12 property taken or acquired, and are governmental functions of
13 State concern. The necessity in the public interest for the
14 provisions hereinafter enacted is hereby declared as a matter of
15 legislative determination.

16 (cf: P.L.1962, c.224, s.1)

17 3. Section 9 of P.L.1960, c.183 (C.40:37A-52) is amended to
18 read as follows:

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

32 (cf: P.L.1982, c.113, s.6)

33 4. Section 11 of P.L.1960, c.183 (C.40:37A-54) is amended to
34 read as follows:

35 11. The purposes of every authority shall be (a) provision
36 within the county or any beneficiary county of public facilities
37 for use by the State, the county or any beneficiary county, or any
38 municipality in [the] any such county, or any two or more or any
39 subdivisions, departments, agencies or instrumentalities of any of
40 the foregoing for any of their respective governmental purposes,
41 (b) provision within the county or any beneficiary county of public
42 facilities for use as convention halls, or the rehabilitation,
43 improvement or enlargement of any convention hall, including
44 appropriate and desirable appurtenances located within the
45 convention hall or near, adjacent to or over it within boundaries
46 determined at the discretion of the authority, including but not
47 limited to office facilities, commercial facilities, community
48 service facilities, parking facilities, hotel facilities and other
49 facilities for the accommodation and entertainment of tourists
50 and visitors, (c) provision within the county or any beneficiary
51 county of structures, franchises, equipment and facilities for
52 operation of public transportation or for terminal purposes,
53 including development and improvement of port terminal
54 structures, facilities and equipment for public use in counties in,

1 along or through which a navigable river flows, (d) provision
2 within the county or any beneficiary county of structures or other
3 facilities used or operated by the authority or any governmental
4 unit in connection with, or relative to development and
5 improvement of, aviation for military or civilian purposes,
6 including research in connection therewith, and including
7 structures or other facilities for the accommodation of
8 passengers, (e) provision within the county or any beneficiary
9 county of a public facility for a combination of governmental and
10 nongovernmental uses; provided that not more than 50% of the
11 usable space in any such facility shall be made available for
12 nongovernmental use under a lease or other agreement by or with
13 the authority, (f) acquisition of any real property within the
14 county or any beneficiary county, with or without the
15 improvements thereof or thereon or personal property
16 appurtenant or incidental thereto, from the United States of
17 America or any department, agency of instrumentality heretofore
18 or hereafter created, designated or established by or for it, and
19 the clearance, development or redevelopment, improvement, use
20 or disposition of the acquired lands and premises in accordance
21 with the provisions and for the purposes stated in this act,
22 including the construction, reconstruction, demolition,
23 rehabilitation, conversion, repair or alteration of improvements
24 on or to said lands and premises, and structures and facilities
25 incidental to the foregoing as may be necessary, convenient or
26 desirable, (g) acquisition, construction, maintenance and
27 operation of garbage and solid waste disposal systems for the
28 purpose of collecting and disposing of garbage, solid waste or
29 refuse matter, whether owned or operated by any person, the
30 authority or any other governmental unit, within or without the
31 county or any beneficiary county, (h) the improvement,
32 furtherance and promotion of the tourist industries and
33 recreational attractiveness of the county or any beneficiary
34 county through the planning, acquisition, construction,
35 improvement, maintenance and operation of facilities for the
36 recreation and entertainment of the public, which facilities may
37 include, without being limited to, a center for the performing and
38 visual arts, (i) provision of loans and other financial assistance
39 and technical assistance for the construction, reconstruction,
40 demolition, rehabilitation, conversion, repair or alteration of
41 buildings or facilities designed to provide decent, safe and
42 sanitary dwelling units for persons of low and moderate income in
43 need of housing, including the acquisition of land, equipment or
44 other real or personal properties which the authority determines
45 to be necessary, convenient or desirable appurtenances, all in
46 accordance with the provisions of this act, as amended and
47 supplemented, (j) planning, initiating and carrying out
48 redevelopment projects for the elimination, and for the
49 prevention of the development or spread of blighted, deteriorated
50 or deteriorating areas and the disposition, for uses in accordance
51 with the objectives of the redevelopment project, of any property
52 or part thereof acquired in the area of such project, and (k) any
53 combination or combinations of the foregoing.

54 (cf: P.L.1982, c.113, s.7)

1 5. Section 13 of P.L.1960, c.183 (C.40:37A-56) is amended to
2 read as follows:

3 13. (1) Whenever an authority after investigation and study
4 shall plan to undertake any public facility or facilities (other than
5 a development project or redevelopment project) for the purposes
6 of the authority, the authority shall make to the governing body
7 of the county and if the public facility or facilities ¹(including a
8 development project or redevelopment project)¹ benefit any
9 beneficiary county, to the governing body of any such beneficiary
10 county a detailed report dealing with the proposed public facility
11 or facilities. Notwithstanding any other provision of this act, the
12 authority shall not construct or acquire such public facility or
13 facilities (other than a development project or redevelopment
14 project ¹within the county which created the authority¹), or
15 make any lease or other agreement relating to use by any
16 governmental unit or person of all or any part of any such public
17 facility or facilities for a term in excess of 5 years, until there
18 has been filed with the authority a copy of a resolution adopted
19 by the governing body of the county and, if applicable, by any
20 beneficiary county, certified by its clerk, describing such public
21 facility or facilities in terms sufficient for reasonable
22 identification and consenting to the construction or acquisition
23 thereof by the authority or the making of such leases or other
24 agreements.

25 (2) Unless otherwise required by any agreement of the
26 authority with holders of its bonds, no authority shall sell any
27 part of a development project or make any lease or other
28 agreement relating to use by any governmental unit or person of
29 said part for a term in excess of 5 years (A) Until the
30 Commissioner of Community Affairs (hereinafter called the
31 "commissioner") has approved a plan (hereinafter called, with
32 respect to such part, the "development plan") prepared by the
33 authority which provides an outline for the development of said
34 part sufficient, in the opinion of the commissioner: (i) to indicate
35 its relationship to appropriate land uses in the area and proper
36 traffic, public transportation, public utility, recreational and
37 community facilities, and other public improvements, (ii) to
38 indicate proposed land uses and building requirements and
39 restrictions in said part, and (iii) to provide reasonable assurance
40 that said part will not be in danger of becoming a blighted area
41 and will be developed in a manner reasonably designed in the
42 public interest to encourage industrial, commercial, residential or
43 other proper uses thereof or restore or increase employment
44 opportunities for residents of the State; or (B) Unless such sale,
45 lease or other agreement, in the opinion of the authority, is
46 necessary or desirable in order to effectuate and carry out the
47 said development plan.

48 (3) Every authority shall have power, subject to the provisions
49 of [paragraph] subsection (2) of this section, to sell or otherwise
50 dispose of all or any part of any development project or to lease
51 the same to any governmental unit or person or make agreement
52 of any kind with any governmental unit or person for the use or
53 operation thereof, for such consideration and for such period or
54 periods of time and upon such other terms and conditions as it
55 may fix and agree upon. In the exercise of such power, the

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

21 (cf: P.L.1979, c.275, s.35)

22 6. Section 19 of P.L.1960, c.183 (C.40:37A-62) is amended to
23 read as follows:

24 19. An authority shall cause a copy of any bond resolution
25 adopted by it to be filed for public inspection in its office and in
26 the office of the clerk of the governing body of the county, and if
27 the public facility financed by such bond resolution benefits a
28 beneficiary county, in the office of the clerk of the governing
29 body of the beneficiary county, and may thereupon cause to be
30 published at least once in a newspaper published or circulating in
31 the county, and if applicable, any beneficiary county, a notice
32 stating the fact and date of such adoption and the places where
33 such bond resolution has been so filed for public inspection and
34 also the date of the first publication of such notice and also
35 stating that any action or proceeding of any kind or nature in any
36 court questioning the validity or proper authorization of bonds
37 provided for by the bond resolution, or the validity of any
38 covenants, agreements or contracts provided for by the bond
39 resolution shall be commenced within 20 days after the first
40 publication of such notice. If any such notice shall at any time be
41 published and if no action or proceeding questioning the validity
42 or proper authorization of bonds provided for by the bond
43 resolution referred to in said notice, or the validity of any
44 covenants, agreements or contracts provided for by said bond
45 resolution shall be commenced or instituted within 20 days after
46 the first publication of said notice, then all residents and
47 taxpayers and owners of property in the county and, if applicable,
48 any beneficiary county and all other persons shall be forever
49 barred and foreclosed from instituting or commencing any action
50 or proceeding in any court, or from pleading any defense to any
51 action or proceeding, questioning the validity or proper
52 authorization of such bonds, or the validity of such covenants,
53 agreements or contracts, and said bonds, covenants, agreements
54 and contracts shall be conclusively deemed to be valid and
55 binding obligations in accordance with their terms and tenor.

56 (cf: P.L.1960, c.183, s.19)

1 7. Section 26 of P.L.1960, c.183 (C.40:37A-69) is amended to
2 read as follows:

3 26. Every authority is hereby empowered, in its own name but
4 for the county or any beneficiary county, to acquire by purchase,
5 gift, grant or devise and to take for public use real property,
6 within or without the county or any beneficiary county, or any
7 interest therein which may be deemed by the authority necessary
8 for its purposes, including public lands owned by or in which any
9 municipality within the county or any beneficiary county has a
10 right, title or interest. Such authority is hereby empowered to
11 acquire and take such real property including such public property
12 or interests therein, by condemnation, in the manner provided [by
13 chapter 1 of Title 20, Eminent Domain, of the Revised Statutes
14 (R.S. 20:1-1 et seq.)] for in the "Eminent Domain Act of 1971,"
15 P.L.1971, c.361 (C.20:3-1 et seq.) and, to that end, may invoke
16 and exercise in the manner or mode of procedure prescribed in
17 [said chapter] that act, either in its own name or in the name of
18 the county or any beneficiary county, all of the powers of such
19 county to acquire or take property for public use; provided,
20 however, that, notwithstanding the foregoing or any other
21 provision of this act, no authority shall take, by condemnation,
22 any real property except upon consent thereto by the county
23 which created the authority or, if applicable, any beneficiary
24 county given by resolution adopted by its governing body and
25 further provided, in the case of authorities operating a public
26 transportation facility, every taking by condemnation in
27 connection with such powers, shall be subject to the provisions of
28 sections 48, 49 and 63 of P.L.1962, c.198 (C.48:3-17.6 to
29 48:3-17.8).

30 (cf: P.L.1968, c.66, s.5)

31 8. Section 33 of P.L.1960, c.183 (C.40:37A-76) is amended to
32 read as follows:

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

52 (cf: P.L.1960, c.183, s.33)

53 9. Section 36 of P.L.1960, c.183 (C.40:37A-79) is amended to
54 read as follows:

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

30 (cf: P.L.1960, c.183, s.36)

31 10. Section 37 of P.L.1960, c.183 (C.40:37A-80) is amended to
32 read as follows:

33 37. For the purpose of aiding an authority in the planning,
34 undertaking, acquisition, construction, financing or operation of
35 any facility which the authority is authorized to undertake
36 pursuant to section 11 of P.L.1960, c.183 (C.40:37A-54), the
37 county or any beneficiary county may, pursuant to resolution duly
38 adopted by its governing body, or any municipality in the county
39 or beneficiary county may, by ordinance of its governing body, in
40 the manner provided for adoption of a bond ordinance as provided
41 in the local bond law and with or without consideration and upon
42 such terms and conditions as may be agreed to by and between
43 the county or beneficiary county or the municipality and the
44 authority, unconditionally guarantee the punctual payment of the
45 principal of and interest on any bonds of the authority. Any
46 guaranty of bonds of an authority made pursuant to this section
47 shall be evidenced by endorsement thereof on such bonds,
48 executed in the name of the county or beneficiary county or the
49 municipality and on its behalf by such officer thereof as may be
50 designated in the resolution or ordinance authorizing such
51 guaranty, and such county or municipality shall thereupon and
52 thereafter be obligated to pay the principal of and interest on
53 said bonds in the same manner and to the same extent as in the
54 case of bonds issued by it. Any such guaranty of bonds of an

1 authority may be made, and any resolution authorizing such
2 guaranty may be adopted, notwithstanding any statutory debt or
3 other limitations, including particularly any limitation or
4 requirement under or pursuant to the local bond law, but the
5 principal amount of bonds so guaranteed, shall, after their
6 issuance, be included in the gross debt of such county or
7 municipality for the purpose of determining the indebtedness of
8 such county or municipality under or pursuant to the local bond
9 law. The principal amount of said bonds so guaranteed and
10 included in gross debt shall be deducted and is hereby declared to
11 be and to constitute a deduction from such gross debt under and
12 for all the purposes of said local bond law (a) from and after the
13 time of issuance of said bonds until the end of the fiscal year
14 beginning next after the completion of acquisition or construction
15 of the facility to be financed from the proceeds of such bonds and
16 (b) in any annual debt statement filed pursuant to said local bond
17 law as of the end of said fiscal year or any subsequent fiscal year
18 if the revenues or other receipts or moneys of the authority in
19 such year are sufficient to pay its expenses of operation and
20 maintenance in such year and all amounts payable in such year on
21 account of the principal and interest on all such guaranteed
22 bonds, all bonds of [the] any such county or any municipality
23 issued as provided in section 36 of [this act] P.L.1960, c.183 (C.
24 40:37A-79), and all bonds of the authority issued under this act.
25 (cf: P.L.1982, c.113, s.11)

26 11. Section 47 of P.L.1960, c.183 (C.40:37A-90) is amended to
27 read as follows:

28 47. This act shall be construed liberally to effectuate the
29 legislative intent and as complete and independent authority for
30 the performance of each and every act and thing herein
31 authorized, and an authority shall not constitute or be deemed to
32 be a county or municipality or agency or component of a
33 municipality for the purposes of any other law; provided,
34 however, that no authority, other than an authority created in or
35 performing services for a county of the second class having a
36 population in excess of 265,000, but less than 350,000 inhabitants,
37 in a county of the third class having a population not in excess of
38 [65,000] 70,000 inhabitants, or in a county of the fifth class
39 having a population in excess of 150,000, but less than 300,000
40 inhabitants, shall exercise the powers of a common carrier in any
41 such county, and, except as hereinabove in this section set forth,
42 nothing contained in this act shall in any way affect or limit the
43 jurisdiction, rights, powers or duties of any State regulatory
44 agencies.

45 (cf: P.L.1977, c.154, s.1)

46 12. Section 13 of P.L.1968, c.66 (C.40:37A-98) is amended to
47 read as follows:

48 13. Any county improvement authority may engage in the
49 business of operation of public transportation facilities for the
50 transportation of passengers and property on scheduled routes,
51 within and beyond the territorial limits of the county [and beyond
52 the territorial limits of the county] or any beneficiary county,
53 with the consent of the governing bodies of the municipalities
54 into which such operation is extended, and on nonscheduled

1 routes, by contract. A copy of each contract for charter or
2 operation on a nonscheduled route shall be maintained in the
3 office of the authority as a public record available for inspection
4 during normal business hours.

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

9 (cf: P.L.1968, c.66, s.13)

10 13. Section 4 of P.L.1973, c.330 (C.40:37A-101) is amended to
11 read as follows:

12 4. Whenever any county improvement authority chooses to
13 exercise the powers granted by [this amendatory and
14 supplementary act] P.L.1973, c.330 (C.40:37A-100 et al.) with
15 respect to the selection of a site location or locations for any
16 facility of its garbage and solid waste disposal system, it shall so
17 inform the Commissioner of Environmental Protection, and shall
18 make or cause to be made, after consultation with the
19 commissioner, such preliminary surveys, investigations, studies,
20 borings, maps, plans, drawings and estimates of costs and
21 revenues relating to the type and location of such garbage and
22 solid waste disposal facilities, or any part thereof, which the
23 authority may deem necessary to purchase or construct in order
24 to protect the health, safety and welfare of the inhabitants of the
25 county or any beneficiary county. In addition, the authority may
26 make or cause to be made a study and a map of all existing
27 garbage and solid waste disposal treatment and disposal facilities
28 proposed for or already operating in the county or any beneficiary
29 county. The undertaking of all such studies and surveys and the
30 provision of the necessary maps, sketches, data and plans in
31 connection therewith, shall be deemed a county purpose and the
32 costs thereof may be paid out of general funds of the county or
33 beneficiary county; but all such costs shall be reimbursed to the
34 county or any beneficiary county by the county improvement
35 authority.

36 (cf: P.L.1973, c.330, s.4)

37 14. Section 5 of P.L.1973, c.330 (C.40:37A-102) is amended to
38 read as follows:

39 5. Subject to an enabling resolution adopted by the governing
40 body of the county which has created such an authority or by the
41 governing body of any beneficiary county (hereinafter referred to
42 as the host county) pursuant to [the act to which this act is
43 amendatory and supplementary] P.L.1960, c.183 (C.40:37A-44 et
44 seq.), the county improvement authority shall have the
45 responsibility for selecting a final site location or locations for
46 any garbage and solid waste collection, treatment or disposal
47 facilities to be operated by said authority. The governing body of
48 [the] such county shall not, however, adopt any such enabling
49 resolution until the site location or locations tentatively
50 designated by the improvement authority shall have been
51 approved by:

52 a. The Commissioner of Environmental Protection after an
53 evaluation of all studies, surveys and plans, and any
54 accompanying maps and data, as may be required by the

- 1 commissioner pursuant to section 4 of [this amendatory and
2 supplementary act] P.L.1973, c.330 (C.40:37A-101);
- 3 b. The governing bodies of the several municipalities situate
4 within [the] such county, by the adoption of concurring
5 resolutions by any combination of such municipalities with an
6 aggregate population of at least 75% of the total population of
7 said county, as determined by the last decennial census; and
- 8 c. The planning board of the host county, by a resolution
9 affirming that such site location or locations are compatible with
10 the host county's master plan, or such county planning policies as
11 may exist.
- 12 (cf: P.L.1973, c.330, s.5)
- 13 15. Section 2 of P.L.1979, c.275 (C.40:37A-107) is amended to
14 read as follows:
- 15 2. As used in this act:
- 16 a. "Authority" means any public body created pursuant to the
17 "county improvement authorities law," P.L.1960, c.183
18 (C.40:37A-44 et seq.).
- 19 b. "Bonds, bond anticipation notes and other notes and
20 obligations," or "bonds, bond anticipation notes or other notes or
21 obligations" mean any bonds, notes, debentures or other
22 evidences of financial indebtedness issued by the authority
23 pursuant to this act.
- 24 c. "Family" means two or more persons related by blood,
25 marriage or adoption who live or expect to live together as a
26 single household in the same dwelling unit; provided, however,
27 that any individual who (1) has attained retirement age as defined
28 in section 216a of the Federal Social Security Act, or (2) is under
29 a disability as defined in section 223 of that act, or (3) is the
30 surviving member of a family whose other members died during
31 occupancy of a housing project, shall be considered as a family
32 for purposes of permitting continued occupancy of the dwelling
33 unit occupied by such family. The authority may provide by rule
34 or regulation that any other individual not specified in this
35 subsection shall be considered as a family for the purpose of this
36 subsection.
- 37 d. "Family of low and moderate income" means a family (1)
38 whose income is too low to compete successfully in the normal
39 rental or mutual housing market, and (2) whose gross aggregate
40 family income does not exceed the limits established under this
41 act.
- 42 e. "Gross aggregate family income" mean the total annual
43 income of all members of a family, from whatever source
44 derived, including, but not limited to, pension, annuity,
45 retirement and social security benefits; except that the authority
46 may, by rule or regulation, exclude therefrom: (1) such reasonable
47 allowances for dependents, (2) such reasonable allowances for
48 medical expenses, (3) all or any part of the earnings of any family
49 members below the age of 18 years, or of any other family
50 members, other than the chief wage earner, (4) such income as is
51 not received regularly by any family member, or (5) any two or
52 more such items.
- 53 f. "Housing project" or "project" means any work or
54 undertaking, whether new construction or rehabilitation, which is

1 designed for the primary purpose of providing decent, safe and
2 sanitary dwelling units for families of low and moderate income
3 in need of housing, including any buildings, land, equipment,
4 facilities, or other real or personal properties, such as streets,
5 sewers, utilities, parks, site preparation, landscaping, stores,
6 offices, and administrative, community, health, recreational,
7 educational and welfare facilities, all as determined by the
8 authority to be necessary, convenient or desirable appurtenances
9 to improve or enhance the housing project and the neighborhood
10 or area in which the housing project is located.

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

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

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

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

53 j. "Qualified housing sponsor" means: (1) any housing
54 corporation heretofore qualified under the provisions of the

1 "Limited-Dividend Nonprofit Housing Corporations or
2 Associations Law," P.L.1949, c.184 (C.55:16-1 et seq.), repealed
3 by P.L.1991, c.431, (2) any urban renewal corporation or
4 association heretofore qualified under the provisions of the
5 "Urban Renewal Corporation and Association Law of 1961,"
6 P.L.1961, c.40 (C.40:55C-40 et seq.), repealed by P.L.1991, c.431,
7 or any urban renewal nonprofit corporation or association
8 heretofore qualified under the provisions of "Urban Renewal
9 Nonprofit Corporation Law of 1965," P.L.1965, c.95 (C.40:55C-77
10 et seq.), repealed by P.L.1991, c.431, which has as one of its
11 purposes the construction, rehabilitation or operation of housing
12 projects, (3) any general corporation formed under the provisions
13 of Title 14 of the Revised Statutes or Title 14A of the New
14 Jersey Statutes, which has as one of its purposes the
15 construction, rehabilitation or operation of housing projects, (4)
16 any corporation or association organized not for profit under the
17 provisions of Title 15 of the Revised Statutes or any other law of
18 this State, which has as one of its purposes the construction,
19 rehabilitation or operation of housing projects, (5) any horizontal
20 property regime formed under the "Horizontal Property Act,"
21 P.L.1963, c.168 (C.46:8A-1 et seq.) or any condominium formed
22 under the "Condominium Act," P.L.1969, c.257 (C.46:8B-1 et
23 seq.), which has as one of its purposes the construction,
24 rehabilitation or operation of housing projects, and (6) any
25 individual, partnership, limited partnership, joint venture or other
26 association, including a partnership, limited partnership, joint
27 venture or association in which the authority is a general or
28 limited partner or participant, approved by the authority as
29 qualified to own, construct, rehabilitate, operate, manage and
30 maintain a housing project.

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

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

45 (cf: P.L.1982, c.113, s.14)

46 16. Section 25 of P.L.1979, c.275 (C.40:37A-130) is amended
47 to read as follows:

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

53 The annual audit pursuant to section 45 of the "county
54 improvement authorities law," P.L.1960, c.183 (C.40:37A-88)

1 shall include the activities of the authority pursuant to this act.
2 (cf: P.L.1979, c.275, s.25)

3 17. Section 19 of P.L.1982, c.113 (C.40:37A-131.1) is amended
4 to read as follows:

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

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

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

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

55 (cf: P.L.1982, c.113, s.19)

1 18. This act shall take effect immediately.

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6 Permits county improvement authorities to provide services in
7 counties with no improvement authority.

1 18. This act shall take effect immediately.

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SPONSORS' STATEMENT

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6 This bill would permit a county improvement authority to
7 provide services in the county which created that authority and in
8 any other county which has not yet chosen to create an
9 improvement authority. This bill effectively provides access to
10 improvement authority services to those governmental units
11 which currently do not have access to such services. This access
12 would be subject to the desires of the "beneficiary county," since
13 it could remove the authorization by simply creating its own
14 improvement authority as currently permitted by law.

15 Since each governmental unit would be able to determine
16 whether to participate in improvement authority programs, the
17 provisions of this bill do not violate the principal of home rule.
18 Rather, the bill expands the options available to local units for
19 the efficient and economical delivery of public services.

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24 _____
25 Permits county improvement authorities to provide services in
counties with no improvement authority.

ASSEMBLY INDEPENDENT AUTHORITIES COMMITTEE

STATEMENT TO

ASSEMBLY, No. 700

STATE OF NEW JERSEY

DATED: JANUARY 24, 1994

The Assembly Independent Authorities Committee reports favorably Assembly Bill No. 700.

This bill would permit a county improvement authority to provide services not only in the county which created that authority, but also in any other county which has not yet chosen to create an improvement authority. The bill effectively provides access to improvement authority services to those governmental units which currently do not have access to such services. This access would be subject to the desires of the "beneficiary county," since it could remove the authorization by simply creating its own improvement authority as currently permitted by law.

Since each governmental unit would be able to determine whether to participate in improvement authority programs, the provisions of this bill do not violate the principal of home rule. Rather, the bill expands the options available to local units for the efficient and economical delivery of public services.

The provisions of P.L.1960, c.183 (C.40:37A-44 et seq.) do not currently allow county improvement authorities this discretion.

Technical review was performed on this pre-filed bill, as required under Joint Rule 18A of the Senate and General Assembly.

SENATE COMMUNITY AFFAIRS COMMITTEE

STATEMENT TO

ASSEMBLY, No. 700

STATE OF NEW JERSEY

DATED: MARCH 10, 1994

The Senate Community Affairs Committee reports favorably Assembly Bill No. 700.

This Bill would permit a county improvement authority (authority) to provide services not only in the county which created that authority, but also in any other county which has not chosen to create an improvement authority. The provisions of the "county improvement authorities law," P.L.1960, c.183 (C.40:37A-44 et seq.), generally limit the operations of an authority to the confines of the county which created the authority.

The bill defines the term "beneficiary county" as "any county that has not created an authority" and incorporates that term throughout various sections of the "county improvement authorities law" in order to accomplish the purpose of permitting county improvement authorities to operate in counties which have not created their own county improvement authorities, and in order to provide beneficiary counties with the same safeguards provided to counties which have created county improvement authorities.

The bill would prohibit a member of a governing body of any existing or potential beneficiary county from being appointed as a member of, or being employed by, an authority. Current law prohibits a member of a governing body which has created an authority from membership on or employment by the authority.

Assembly Bill No. 700 is identical to Senate Bill No. 511 which was also favorably reported by the Senate Community Affairs Committee on March 10, 1994.

OFFICE OF THE GOVERNOR

FOR IMMEDIATE RELEASE

CONTACT: KATHERINE BROKAW

WEDNESDAY, AUGUST 18, 1982

Governor Thomas H. Kean has signed legislation to clarify the use of revenues from luxury taxes such as the Atlantic City Luxury Tax fund.

Sponsored by Assemblyman William Gormley (R-Atlantic), A-1728 allows luxury tax revenues to be used for construction and improvements of a convention center, payments on notes and bonds arising from such construction and rental payments under a lease between the county improvement authority operating the center and the lessor of the center.

The bill also revises the "County Improvement Authority Law" to expand the activities of the authorities to include bonding, leasing and partnership operations with regard to low and middle income housing construction.

The legislation is especially designed to account for any cases arising from the Atlantic City convention center and follows the corrections to the conditionally vetoed A-1657. The original version of the latter bill attempted to tap the Atlantic City Luxury Tax fund for general municipal purposes; the fund is dedicated to backing notes issued by the Atlantic County Improvement Authority for housing construction.

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