SENATE COMMITTEE SUBSTITUTE FOR

SENATE, No. 1975

STATE OF NEW JERSEY

Sponsored by Senator RICE

AN ACT concerning redevelopment and eminent domain and amending and supplementing various parts of statutory law.

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

1. (New Section) The Legislature finds and declares that:

a. Since 1949, New Jersey municipalities have been authorized by the Legislature to undertake programs of redevelopment, rehabilitation and to provide incentives to promote the expansion and improvement of commercial, industrial, residential and civic facilities in blighted areas and that such powers are set forth in the State Constitution.

b. Since 1949, municipalities have used these programs to prevent, arrest and reverse conditions of deterioration and inefficiency in housing, commercial and industrial facilities and to promote sound planning, revitalize their tax bases and improve the public safety, health, and welfare of their communities and in exercising their responsibilities and implementing such programs municipalities have, in certain circumstances, exercised the power to acquire property by eminent domain, also set forth in the State Constitution, to transfer such property to private interests to undertake projects in accordance with approved redevelopment plans and that such power of eminent domain has contributed to the overall effectiveness and success of such redevelopment programs.

c. Since 1949, the laws authorizing such redevelopment programs have been amended from time to time and were last codified in 1992 into one law designed to simplify and codify prior enactments and make the legal mechanisms for exercising such responsibilities and powers in undertaking such improvements more efficient to use and that such changes to the law, together with changing land use and development patterns, have resulted in

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 <u>thus</u> is new matter.

redevelopment programs being undertaken by municipalities of urban, suburban and rural character.

d. The increase in redevelopment activity throughout the State, including the use of eminent domain, which in some circumstances has been misused or misapplied, together with the 2005 United States Supreme Court decision in Kelo v. City of New London, have focused public attention and scrutiny on municipal redevelopment activities and merits legislative review of and amendment to the laws governing redevelopment programs and the process undertaken by municipalities for authorizing redevelopment programs.

e. The Legislature hereby declares that redevelopment remains a valid and important public purpose and public use; that the implementation of redevelopment programs continues to be a vital tool for municipal officials that must be maintained to allow such officials to continue to meet their governmental responsibilities to prevent, arrest and reverse deleterious property conditions within their municipal borders; and that the power of eminent domain remains necessary to effectively implement such redevelopment responsibilities and powers, within certain limits.

f. The Legislature also declares that changes to the existing law are necessary: to ensure that affected property owners and the general public are provided adequate notice of a municipality's interest in developing a redevelopment program and are provided adequate notice of a municipality's intention to exercise its power of eminent domain; to afford such stakeholders the opportunity to be heard during the process undertaken to develop such programs and exercise such power; to add transparency to the exercise of a legitimate governmental function; to create certainty that redevelopment programs and eminent domain are authorized and undertaken in a deliberative and open process; to ensure that the social and economic impacts of redevelopment and eminent domain are adequately addressed; to provide that redevelopment programs, once properly adopted, are implemented and that the power of eminent domain is exercised in a fair and certain manner; to provide a just measure of compensation and relocation assistance to property owners, legal tenants, and lessees who are displace by actions of governmental entities; and to afford protection and finality to such redevelopment programs properly created under these heightened standards for enactment. These changes will restore public confidence in local redevelopment programs by assuring that interested parties are provided access into an open and deliberative process.

g. The Legislature also recognizes that local redevelopment programs are necessary to promote State policies that encourage:

(1) the reuse of existing property, as opposed to the loss of agricultural property and open space to development; and

(2) construction in areas already serviced by public utilities, so that existing infrastructure can be maintained and used in furtherance of the public good.

2. Section 2 of P.L.1971, c.361 (C.20:3-2) is amended to read as follows:

2. When used in [this act] P.L.1971, c.361 (C.20:3-1 et seq.), unless the context or subject matter otherwise requires, the following words shall have the meanings ascribed to them under this section:

(a) "Condemn" means to take private property for a public purpose under the power of eminent domain;

(b) "Condemnor" or "taking agency" means the entity, public or private, including the State of New Jersey, which is condemning or has the power to condemn private property for a public purpose under the power of eminent domain;

(c) "Condemnee" means the owner of an interest in the private property being condemned for a public purpose under the power of eminent domain;

(d) "Property" means land, or any interest in land, and (1) any building, structure or other improvement imbedded or affixed to land, and any article so affixed or attached to such building, structure or improvement as to be an essential and integral part thereof, (2) any article affixed or attached to such property in such manner that it cannot be removed without material injury to itself or to the property, (3) any article so designed, constructed, or specially adapted to the purpose for which such property is used that (a) it is an essential accessory or part of such property; (b) it is not capable of use elsewhere; and (c) would lose substantially all its value if removed from such property;

(e) "Court" means Superior Court of New Jersey or the Land Use Court established pursuant to section 32 of P.L. , c. (C.) (pending before the Legislature as this bill);

(f) "Rules" means the applicable rules governing the courts of the State of New Jersey as promulgated from time to time by the Supreme Court of New Jersey;

(g) "Action" means the legal proceeding in which

(1) property is being condemned or required to be condemned;

(2) the amount of compensation to be paid for such condemnation is being fixed;

(3) the persons entitled to such compensation and their interests therein are being determined; and

(4) all other matters incidental to or arising therefrom are being adjudicated.

(h) "Compensation" means the just compensation which the condemnor is required to pay and the condemnee is entitled to

receive according to law as the result of the condemnation of property;

(i) "Award" means the award of compensation made by the commissioners provided for herein;

(j) "Judgment" means the adjudication by the court of any issue of fact or law, or both, arising under this act. The adjudication of the right to condemn shall be a final judgment. All other judgments shall be interlocutory or final, according to law, or as may be prescribed by the rules;

(k) "Recording office" means the county office of each county in which the property being condemned, or any part thereof, is located, in which office conveyances of real property may be recorded;

(l) "Days" means calendar days, calculated in accordance with the rules of court;

(m) "Public utility" means and includes every public utility, as the same are enumerated in Revised Statutes 48:2-13, and every natural gas pipeline utility as defined in P.L.1952, chapter 166 (C.48:10-2 et seq.) vested with the power of eminent domain and subject to regulation under State or Federal law.

(n) Words used in the singular shall include the plural and vice versa. Words used in the neuter gender shall include masculine and feminine gender, as the case may be.

(cf: P.L.1971, c.361, s.2)

3. Section 6 of P.L.1971, c.361 (C.20:3-6) is amended to read as follows:

6. a. (1) Whenever any condemnor shall have determined to acquire property pursuant to law, including public property already devoted to public purpose, but cannot acquire title thereto or possession thereof by agreement with a prospective condemnee, whether by reason of disagreement concerning the compensation to be paid or for any other cause, the condemnation of such property and the compensation to be paid therefor, and to whom payable, and all matters incidental thereto and arising therefrom shall be governed, ascertained and paid by and in the manner provided by this act; provided, however, that no action to condemn shall be instituted unless the condemnor is unable to acquire such title or possession through bona fide negotiations with the prospective condemnee, which negotiations shall include an offer in writing by the condemnor to the prospective condemnee holding the title of record to the property being condemned, setting forth the property and interest therein to be acquired, the compensation offered to be paid and **[**a reasonable disclosure of the manner in which the amount of such offered compensation has been calculated**]** a copy of the appraisal upon which the offer has been based and which was

approved by the condemnor, and such other matters as may be required by the rules.

(2) Prior to such offer the taking agency shall appraise said property and the owner shall be given an opportunity to accompany the appraiser during inspection of the property. **[**Such offer**]** The owner shall be given the opportunity to provide information to the appraiser concerning outstanding balances on bona fide mortgages, which were valid liens encumbering the property for not less than 180 days prior to the initiation of negotiations for the acquisition of that property, and otherwise raise issues of concern to the owner relating to the valuation of the property and damages to the remainder arising from the proposed acquisition.

(3) The appraiser shall transmit to the taking agency, in written form signed by the property owner, all information and issues of concern provided to the appraiser by the owner. The approved appraisal shall consider any such information in the determination of the estimate of fair market value to the extent that it has an effect, if any, upon fair market value as permitted by law. If the owner declines sign the written information and issues of concern, the appraiser shall send a confirming letter to that effect to the taking agency, with a copy to the property owner by certified mail, return receipt requested. The confirming letter shall satisfy the requirements of this paragraph.

(4) The written offer made by a condemnor to a prospective condemnee holding record title to the property shall be served by certified mail, return receipt requested, by a private courier, or in person, along with a copy of the approved appraisal. In no event shall such offer be less than the taking agency's approved appraisal **[**of the fair market value**]** of such property; provided, however, that when the condemnation is authorized under the "Local Redevelopment and Housing Law," P.L.1992, c.79 (C.40A:12A-1 et al.), if the amount of the approved appraisal is less than the amount of one or more bona fide mortgages, which were valid liens encumbering the property for not less than 180 days prior to the initiation of negotiations for the acquisition of such property, the amount of the written offer shall be no less than the payoff amount for those mortgage liens, calculated in accordance with the provision in section 5 of P.L.1971, c.362 (C.20:4-5). **[**A rejection of said offer or failure to accept the same within the period fixed in written offer, which shall in no case be less than 14 days from the mailing of the offer, shall**]**

(5) The prospective condemnee shall be afforded a period of 45 calendar days from receipt of the written offer to review the offer and the approved appraisal upon which the offer was based, to seek clarification thereof as well as any other relevant information, to allow an opportunity to negotiate the compensation to be paid, and to request an opportunity to discuss the offer and the basis thereof

with a representative of the condemnor in person. Prior to the expiration of this 45-day period, the prospective condemnee may request, in writing, an extension of this 45-day period for a period not exceeding an additional 25 days, for a total of 70 calendar days, which shall not be denied except for good cause shown by the condemnor. During this period, as it may be extended as provided above, the prospective condemnee may seek additional relevant information regarding the offer or regarding the project, but not including information on offers or appraisals made to other property owners. Within the time period, as may be extended, the condemnor shall provide reasonable and timely responses to requests for information and for explanations, and also shall afford an opportunity for the prospective condemnee to meet in person on at least one occasion with a representative of the condemnor to discuss the offer and the basis thereof. The prospective condemnee also may obtain its own appraisal and share it with the condemnor and seek a review thereof by the condemnor.

(6) If the prospective condemnee rejects the written offer of the condemnor or otherwise does not affirmatively respond to the offer, the condemnor may then send, in writing by certified mail, return receipt requested, private courier, or in person, a letter setting forth an intent to commence condemnation proceedings in the Superior Court. The letter of intent, upon receipt, shall conclude bona fide negotiations between the condemnor and prospective condemnee. A disagreement over the amount of the offer, how the offer was calculated, or the method or manner in which the property was appraised shall not constitute grounds to continue negotiations or prevent the condemnor from successfully seeking to acquire the property through the commencement of a condemnation proceeding and the appointment of condemnation commissioners.

(7) Nothing in this subsection shall be construed as requiring a condemnor to increase the amount of an offer during the review and negotiation period.

(8) A condemnor may file a complaint for condemnation in the manner provided by the Rules of Court anytime after expiration of the review and negotiation period provided for in this subsection, including any extension thereof as set forth above, without the consent of the prospective condemnee, provided the condemnor is otherwise empowered to exercise the power of eminent domain and the condemnor has complied with the provisions of this section. Proof of the delivery of a written offer, the delivery of a copy of the approved appraisal and other information requested by the prospective condemnee, and the delivery of a letter of intent at the expiration of the negotiation period as set forth above, shall be deemed to be [conclusive] prima facie proof [of the] that bona fide negotiations were, in fact, conducted by the prospective condemnor with the prospective condemnee and that there was an inability on

the part of the condemnor and prospective condemnee to agree to the compensation to [acquire the property or possession thereof through negotiations] obtain title and possession to the property sought to be acquired other than by filing an action in condemnation.

(9) When the holder of the title is unknown, resides out of the State, or for other good cause, the court, upon application as a notice of motion as provided by the Rules of Court, may dispense with the necessity of [such] negotiations required under paragraph (1) of this subsection. Neither the offer, the amount thereof, nor the refusal thereof by the prospective condemnee shall be evidential in the determination of compensation.

b. (1) A complaint on the authority to use eminent domain to acquire a specific property or properties for redevelopment purposes pursuant to P.L.1992, c.79 (C.40A:12A-1 et seq.) shall be heard within 90 days of filing, or as otherwise provided in section 32 of P.L. , c. (C.) (pending before the Legislature as this bill), with the goal of expediting the proceedings to the greatest extent possible.

(2) Whenever an action is commenced in the Superior Court concerning the authority to use eminent domain to acquire a specific property or properties for redevelopment purposes, excluding all other purposes of acquisition, and the assignment judge determines that it cannot be heard within the 90-day period allowed under this subsection, the case shall be transferred to the Land Use Court established under section 32 of P.L. , c. (C.) (pending before the Legislature as this bill), in accordance with Rules of the Supreme Court, for expedited proceedings.

(cf: P.L.1971, c.361, s.6)

4. Section 3 of P.L.1971, c.362 (C.20:4-3) is amended to read as follows:

3. As used in this act the term:

a. "Taking agency" means the entity, public or private, including the State of New Jersey, which is condemning or has the power to condemn private property for a public purpose under the power of eminent domain.

b. "Person" means any individual, partnership, corporation, or association.

c. "Displaced person" means any person who, on or after the effective date of this act, moves from real property, or moves his personal property from real property, as a result of the acquisition of such real property, in whole or in part, or as the result of the written order of the acquiring agency to vacate real property, for a program or project undertaken by a taking agency; and solely for the purposes of sections 4 a. and b. and section 7 of this act, as a result of the acquisition of or as the result of the written order of the

acquiring agency to vacate other real property, on which such person conducts a business or farm operation, for such program or project.

d. "Business" means any lawful activity, excepting a farm operation, conducted primarily:

(1) for the purchase, sale, lease and rental of personal and real property, and for the manufacture, processing, or marketing of products, commodities, or any other personal property;

(2) for the sale of services to the public;

(3) by a nonprofit organization; or

(4) solely for the purposes of section 4 a. of this act for assisting in the purchase, sale, resale, manufacture, processing, or marketing of products, commodities, personal property, or services by the erection and maintenance of an outdoor advertising display or displays, whether or not such display or displays are located on the premises on which any of the above activities are conducted.

e. "Farm operation" means any activity conducted solely or primarily for the production of one or more agricultural products or commodities, including timber, for sale or home use, and customarily producing such products or commodities in sufficient quantity to be capable of contributing materially to the operator's support.

f. The term "commissioner" shall mean the Commissioner of **[**the Department of**]** Community Affairs.

(cf: P.L.1971, c.362, s.3)

5. Section 4 of P.L.1971, c.362 (C.20:4-4) is amended to read as follows:

4. a. If a taking agency acquires real property for public use, it shall make fair and reasonable relocation payments to displaced persons and businesses as required by this act, for:

(1) actual reasonable expenses in moving himself, his family, business, farm operation, or other personal property;

(2) actual direct losses of tangible personal property as a result of moving or discontinuing a business or farm operation, but not to exceed an amount equal to the reasonable expenses that would have been required to relocate such property, as determined by the taking agency; and

(3) actual reasonable expenses in searching for a replacement business or farm.

b. Any displaced person eligible for payments under subsection a. of this section who is displaced from a dwelling and who elects to accept the payments authorized by this subsection in lieu of the payments authorized by subsection a. of this section may receive a moving expense allowance, determined according to a schedule established by the taking agency, not to exceed **[**$300.00**]** $450, provided that on the first day of the 12th month next following

enactment of P.L. , c. (C.) (pending before the Legislature as this bill), the moving expense allowance shall be increased not to exceed $900, and further increased on the first day of the 24th month next following enactment of P.L. , c. (C.) (pending before the Legislature as this bill), not to exceed $1,350, and a dislocation allowance of **[**$200.00**]** $300, provided that on the first day of the 12th month next following enactment of P.L. , c. (C.) (pending before the Legislature as this bill), the dislocation allowance shall be $600, and on the first day of the 24th month next following enactment of P.L. , c. (C.) (pending before the Legislature as this bill), that allowance shall be $900 provided, however, such amounts shall be adjusted annually in accordance with section 10 of P.L. , c. (C.) (pending before the Legislature as this bill).

c. Any displaced person eligible for payments under subsection a. of this section who is displaced from his place of business or from his farm operation and who elects to accept the payment authorized by this subsection in lieu of the payment authorized by subsection a. of this section, may receive a fixed payment in an amount equal to the average annual net earnings of the business or farm operation, except that such payment shall not be less than **[**$2,500.00**]** $3,750, provided that on the first day of the 12th month next following enactment of P.L. , c. (C.) (pending before the Legislature as this bill), the payment shall not be less than $7,500, and on the first day of the 24th month next following enactment of P.L. , c. (C.) (pending before the Legislature as this bill), the payment shall not be less than $11,250 nor more than **[**$10,000.00**]** $15,000, provided on the first day of the 12th month next following enactment of P.L. , c. (C.) (pending before the Legislature as this bill), the payment shall not be more than $22,500, and on the first day of the 24th month next following enactment of P.L. , c. (C.) (pending before the Legislature as this bill) the payment shall not be more than $45,000 provided, however, such amounts shall be adjusted annually in accordance with section 10 of P.L. , c. (C.) (pending before the Legislature as this bill). In the case of a business no payment shall be made under this subsection unless the taking agency is satisfied that the business (1) cannot be relocated without a substantial loss of its existing patronage, and (2) is not a part of a commercial enterprise having at least one other establishment not being acquired by the taking agency, which is engaged in the same or similar business. The business owner shall have the right to appeal this decision in court. For purposes of this subsection, the term "average annual net earnings," means 1/2 of any net earnings of the business or farm operation, before Federal, State, and local income taxes, during the 2 taxable years immediately preceding the taxable year in which such business or farm operation moves from the real

property acquired or leased for such project, or during such other period as such agency determines to be more equitable for establishing such earnings, and includes any compensation paid by the business or farm operation to the owner, his spouse, or his dependents during such period.
(cf: P.L.1971, c.362, s.4)

6. Section 5 of P.L.1971, c.362 (C.20:4-5) is amended to read as follows:

5. a. In addition to payments otherwise authorized by this act, P.L.1971, c.362 (C.20:4-1 et seq.), the taking agency shall make an additional payment not in excess of **[**$15,000.00**]** $22,500, provided that on the first day of the 12th month next following enactment of P.L. , c. (C.) (pending before the Legislature as this bill), the additional payment shall not be in excess of $45,000, and on the first day of the 24th month next following enactment of P.L. , c. (C.) (pending before the Legislature as this bill) the additional payment shall not be in excess of $67,500 to any displaced person who is displaced from a dwelling actually owned and occupied by such displaced person for not less than 180 days prior to the initiation of negotiations for the acquisition of the property ; provided, however, such amounts shall be adjusted annually in accordance with section 10 of P.L. , c. (C.) (pending before the Legislature as this bill). Such additional payment shall include the following elements:

(1) The amount, if any, which when added to the acquisition cost of the dwelling acquired, equals the reasonable cost of a comparable replacement dwelling **[**which is a decent, safe, and sanitary dwelling adequate to accommodate such displaced person, reasonably accessible to public services and places of employment and available on the private market**]**. For the purposes of this paragraph, a "comparable replacement dwelling" is housing that is affordable to the household, as defined by the Council on Affordable Housing in the Department of Community Affairs, and that is comparable to the household's dwelling in the redevelopment area with respect to the size and amenities of the dwelling unit, the quality of the neighborhood, and the level of public services and facilities offered by the municipality in which the redevelopment area is located, and which is within reasonable proximity under the circumstances to the dwelling from which the person has been displaced. All determinations required to carry out this subparagraph shall be determined by regulations issued pursuant to section 10 of **[**this act**]** P.L.1971, c.362 (C.20:4-10).

(2) The amount, if any, which will compensate such displaced person for any increased interest costs which such person is required to pay for financing the acquisition of any such comparable replacement dwelling. Such amount shall be paid only

if the dwelling acquired was encumbered by a bona fide mortgage which was a valid lien on such dwelling for not less than 180 days prior to the initiation of negotiations for the acquisition of such dwelling. Such amount shall be equal to the excess in the aggregate interest and other debt service costs of that amount of the principal of the mortgage on the replacement dwelling which is equal to the unpaid balance of the mortgage on the acquired dwelling, over the remainder term of the mortgage on the acquired dwelling, reduced to discounted present value. The discount rate shall be determined by regulations issued pursuant to section 10 of **[**this act**]** P.L.1971, c.362 (C.20:4-10).

(3) Reasonable expenses incurred by such displaced person for evidence of title, recording fees, and other closing costs incident to the purchase of the replacement dwelling, but not including prepaid expenses.

(4) Penalty costs for prepayment of any mortgage entered into in good faith encumbering such real property if such mortgage is on record or has been filed for record as provided by law on the date of approval by taking agency of the location of such project.

(5) The pro rata portion of real property taxes payable during the calendar year in which the property was acquired which are allocable to the period of the year subsequent to the date of vesting of title in the taking agency, or the effective date of the possession of such real property by the taking agency, whichever is earlier.

b. The additional payment authorized by this section shall be made only to such a displaced person who purchases and occupies a replacement dwelling which is decent, safe, and sanitary not later than the end of the one year period beginning on the date on which he receives final payment of all costs of the acquired dwelling, or on the date on which he moves from the acquired dwelling, whichever is the later date.

(cf: P.L.1971, c.362, s.5)

7. Section 6 of P.L.1971, c.362 (C.20:4-6) is amended to read as follows:

6. In addition to amounts otherwise authorized by **[**this act**]** P.L.1971, c.362 (C.20:4-1 et seq.), a taking agency shall make a payment to or for any displaced person displaced from any dwelling not eligible to receive a payment under section 5 which dwelling was actually and lawfully occupied by such displaced person for not less than 90 days prior to the initiation of negotiations for acquisition of such dwelling. Such payment shall be either:

a. the amount necessary **[**to enable**]**, that when added to the amount the displaced person pays to rent the dwelling he is being displaced from, would enable such displaced person to lease or rent for a period not to exceed **[**4**]** five years, a decent, safe, and sanitary dwelling of standards adequate to accommodate such

person in areas not generally less desirable in regard to public utilities and public and commercial facilities, and reasonably accessible to his place of employment[, but not to exceed $4,000.00]; or

b. the amount necessary to enable such person to make a downpayment (including incidental expenses described in section 5 a. (3)) on the purchase of a decent, safe, and sanitary dwelling of standards adequate to accommodate such persons in areas not generally less desirable in regard to public utilities and public and commercial facilities, but not to exceed [$4,000.00] $6,000, provided that on the first day of the 12th month next following enactment of P.L. , c. (C.) (pending before the Legislature as this bill), the amount shall be increased not to exceed $12,000, and further increased on the first day of the 24th month next following enactment of P.L. , c. (C.) (pending before the Legislature as this bill), not to exceed $18,000. Of that amount the first [$2,000.00] $3,000, provided that on the first day of the 12th month next following enactment of P.L. , c. (C.) (pending before the Legislature as this bill), the first $6,000, and on the first day of the 24th month next following enactment of P.L. , c. (C.) (pending before the Legislature as this bill), the first $9,000 [of which is to] shall be paid without contribution from the displaced person, but thereafter such payments will only be made on a matching dollar-for-dollar basis with the displaced person provided, however, all such amounts in this section shall be adjusted annually in accordance with section 10 of P.L. , c. (C.) (pending before the Legislature as this bill).
(cf: P.L.1971, c.362, s.6)

8. Section 1 of P.L.1991, c.5 (C.20:4-6.1) is amended to read as follows:

1. Notwithstanding the limitations set forth in P.L.1971, c.362 (C.20:4-1 et seq.) on the amounts of relocation payments that may be provided to various categories of persons displaced by land acquisition, code-enforcement, or redevelopment or rehabilitation programs of State or local government, a displaced person entitled to receive relocation assistance pursuant to the federal "Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970," Pub.L.91-646 (42 U.S.C. s.4601 et seq.), as amended by the "Uniform Relocation Act Amendments of 1987," Title IV of Pub.L.100-17, shall be entitled to receive such amount as may be determined pursuant to that federal act in lieu of any lesser amount determined pursuant to P.L.1971, c.362 (C.20:4-1 et seq.).
(cf: P.L.1991, c.5, s.1)

9. (New section) The taking agency shall make an additional payment to the owner of a business for the value of a location

premium that will be lost due to dislocation. For the purposes of this subsection, "location premium" means the benefits that accrue to a business as a result of favorable pedestrian, mass transportation, and vehicular traffic peculiar to its location.

10. (New section) Beginning on the first day of the 36th month next following enactment of P.L. , c. (pending before the Legislature as this bill) all payment amounts set forth in sections 4 through 6 of P.L.1971, c.362 (C.20:4-4 through 20:4-6), as amended by P.L. , c. (C.) (pending before the Legislature as this bill), shall be annually automatically adjusted on the basis of the Consumer Price Index for All Urban Consumers (CPI-U), U. S. City Average, published by the United States Department of Labor, Bureau of Labor Statistics, using the last published index figure as of the date of displacement as the numerator and the index figure for the month in which P.L. , c. (C.) (pending before the Legislature as this bill) becomes effective as the denominator.

11. Section 8 of P.L.1971, c.362 (C.20:4-8) is amended to read as follows:

8. Whenever the acquisition of real property for a program or project undertaken by a taking agency will result in the displacement of any person on or after the effective date of this section, such agency shall assure that, within a reasonable period of time, prior to displacement, there will be available, in areas <u>generally comparable and</u> not generally less desirable in regard to public utilities and public and commercial facilities and at rents or prices within the financial means of the families and individuals displaced, decent, safe and sanitary dwellings equal in number to the number of and available to such displaced persons who require such dwellings and reasonably accessible to their places of employment; except that regulations issued pursuant to section 10 of **[**this act**]** <u>P.L.1971, c.362 (C.20:4-10),</u> may prescribe situations when these assurances may be waived.

(cf: P.L.1971, c.361, s.8)

12. Section 22 of P.L.1971, c.362 (C.20:4-22) is amended to read as follows:

22. The provisions of this act shall not apply to the State Department of Transportation <u>or the New Jersey Transit Corporation</u>; provided, however, that the State Department of Transportation <u>and the New Jersey Transit Corporation</u> shall supplement its existing relocation assistance program designed to minimize the hardships of persons and business concerns displaced as a result of the acquisition by said State Department of Transportation <u>and the New Jersey Transit Corporation</u> of any real property for a public use, by July 1, 1972. Said supplemented

program shall be in compliance with the rules and regulations of the Federal Highway Administration and the Federal Transit Administration relating to relocation assistance so as to fully qualify the Department of Transportation and the New Jersey Transit Corporation for Federal aid reimbursement and to equal or exceed the requirements of this statute. For purposes of coordinating and formulating uniform relocation programs of the State, the Commissioner of Transportation shall consult with the Commissioner of the Department of Community Affairs in order that said relocation assistance program will be in general conformity with any rules and regulations promulgated by the Commissioner of the Department of Community Affairs pursuant to P.L. 91-646, the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, and amendments thereto.

The Commissioner of Transportation shall have the right and authority to promulgate regulations appropriate for the relocation programs of both the State Department of Transportation and the New Jersey Transit Corporation. The Department of Transportation shall act as the lead entity with regard to relocation appeals.

(cf: P.L.1971, c.362, s.22)

13. R.S.40:8-1 is amended to read as follows:

40:8-1. The governing body of any county and the governing body of any municipality, or either of them, may acquire by gift, grant, purchase, condemnation or in any other lawful manner real estate or any right or interest therein for airport purposes and so use lands theretofore acquired for other public purposes and being used for airport purposes and erect thereon and maintain buildings for the airport purposes, except that no county, municipality, school district, or their agencies, shall acquire by condemnation any airport, or property bordering an airport, that has had its development rights purchased under section 11 of P.L.1983, c.264 (C.6:1-95), or any other law, or any property bordering an airport that is within the confines of a New Jersey Department of Transportation approved Master Plan, or an airport safety zone, as defined in section 3 of the "Air Safety and Zoning Act of 1983," P.L.1983, c.260 (C.6:1-82).

Upon such acquisition or use, the governing body of any county and the governing body of any municipality, or either of them, may lease the real estate, so acquired, with or without consideration to the state of New Jersey, or any agency thereof, or may lease it to any person for such consideration and for such term of years as may be agreed upon.

(cf: R.S.40:8-1)

14. Section 19 of P.L.1975, c.291 (C.40:55D-28) is amended to read as follows:

19. [Preparation; contents; modification.] a. The planning board may prepare and, after public hearing, adopt or amend a master plan or component parts thereof, to guide the use of lands within the municipality in a manner which protects public health and safety and promotes the general welfare.

b. The master plan shall generally comprise a report or statement and land use and development proposals, with maps, diagrams and text, presenting, at least the following elements (1) and (2) and, where appropriate, the following elements (3) through ([14] 15):

(1) A statement of objectives, principles, assumptions, policies and standards upon which the constituent proposals for the physical, economic and social development of the municipality are based;

(2) A land use plan element (a) taking into account and stating its relationship to the statement provided for in paragraph (1) hereof, and other master plan elements provided for in paragraphs (3) through ([14] 15) hereof and natural conditions, including, but not necessarily limited to, topography, soil conditions, water supply, drainage, flood plain areas, marshes, and woodlands; (b) showing the existing and proposed location, extent and intensity of development of land to be used in the future for varying types of residential, commercial, industrial, agricultural, recreational, educational and other public and private purposes or combination of purposes; and stating the relationship thereof to the existing and any proposed zone plan and zoning ordinance; and (c) showing the existing and proposed location of any airports and the boundaries of any airport safety zones delineated pursuant to the "Air Safety and Zoning Act of 1983," P.L.1983, c.260 (C.6:1-80 et seq.); and (d) including a statement of the standards of population density and development intensity recommended for the municipality;

(3) A housing plan element pursuant to section 10 of P.L.1985, c.222 (C.52:27D-310), including, but not limited to, residential standards and proposals for the construction and improvement of housing;

(4) A circulation plan element showing the location and types of facilities for all modes of transportation required for the efficient movement of people and goods into, about, and through the municipality, taking into account the functional highway classification system of the Federal Highway Administration and the types, locations, conditions and availability of existing and proposed transportation facilities, including air, water, road and rail;

(5) A utility service plan element analyzing the need for and showing the future general location of water supply and distribution facilities, drainage and flood control facilities, sewerage and waste treatment, solid waste disposal and provision for other related utilities, and including any storm water management plan required pursuant to the provisions of P.L.1981, c.32 (C.40:55D-93 et seq.).

If a municipality prepares a utility service plan element as a condition for adopting a development transfer ordinance pursuant to subsection c. of section 4 of P.L.2004, c.2 (C.40:55D-140), the plan element shall address the provision of utilities in the receiving zone as provided thereunder;

(6) A community facilities plan element showing the existing and proposed location and type of educational or cultural facilities, historic sites, libraries, hospitals, firehouses, police stations and other related facilities, including their relation to the surrounding areas;

(7) A recreation plan element showing a comprehensive system of areas and public sites for recreation;

(8) A conservation plan element providing for the preservation, conservation, and utilization of natural resources, including, to the extent appropriate, energy, open space, water supply, forests, soil, marshes, wetlands, harbors, rivers and other waters, fisheries, endangered or threatened species wildlife and other resources, and which systemically analyzes the impact of each other component and element of the master plan on the present and future preservation, conservation and utilization of those resources;

(9) An economic plan element considering all aspects of economic development and sustained economic vitality, including (a) a comparison of the types of employment expected to be provided by the economic development to be promoted with the characteristics of the labor pool resident in the municipality and nearby areas and (b) an analysis of the stability and diversity of the economic development to be promoted;

(10) A historic preservation plan element: (a) indicating the location and significance of historic sites and historic districts; (b) identifying the standards used to assess worthiness for historic site or district identification; and (c) analyzing the impact of each component and element of the master plan on the preservation of historic sites and districts;

(11) Appendices or separate reports containing the technical foundation for the master plan and its constituent elements;

(12) A recycling plan element which incorporates the State Recycling Plan goals, including provisions for the collection, disposition and recycling of recyclable materials designated in the municipal recycling ordinance, and for the collection, disposition and recycling of recyclable materials within any development proposal for the construction of 50 or more units of single-family residential housing or 25 or more units of multi-family residential housing and any commercial or industrial development proposal for the utilization of 1,000 square feet or more of land;

(13) A farmland preservation plan element, which shall include: an inventory of farm properties and a map illustrating significant areas of agricultural land; a statement showing that municipal

ordinances support and promote agriculture as a business; and a plan for preserving as much farmland as possible in the short term by leveraging monies made available by P.L.1999, c.152 (C.13:8C-1 et al.) through a variety of mechanisms including, but not limited to, utilizing option agreements, installment purchases, and encouraging donations of permanent development easements; **[**and**]**

(14) A development transfer plan element which sets forth the public purposes, the locations of sending and receiving zones and the technical details of a development transfer program based on the provisions of section 5 of P.L.2004, c.2 (C.40:55D-141); and

(15) A redevelopment plan element identifying:

(a) all areas that have been designated in need of redevelopment or rehabilitation in the municipality as well as additional areas that may be so designated in the future;

(b) all areas that have been designated as condemnation areas within areas in need of redevelopment;

(c) the goals and objectives of projected redevelopment activities in those areas during the time period covered by the master plan;

(d) the manner in which those activities further the social, economic, and physical improvement of the municipality; and

(e) the manner in which redevelopment activities are linked to other activities being carried out by the municipality pursuant to the municipal master plan, including improvements to infrastructure, transportation improvements, and the construction of public and community facilities.

c. The master plan and its plan elements may be divided into subplans and subplan elements projected according to periods of time or staging sequences.

d. The master plan shall include a specific policy statement indicating the relationship of the proposed development of the municipality, as developed in the master plan to (1) the master plans of contiguous municipalities, (2) the master plan of the county in which the municipality is located, (3) the State Development and Redevelopment Plan adopted pursuant to the "State Planning Act," sections 1 through 12 of P.L.1985, c.398 (C.52:18A-196 et seq.) and (4) the district solid waste management plan required pursuant to the provisions of the "Solid Waste Management Act," P.L.1970, c.39 (C.13:1E-1 et seq.) of the county in which the municipality is located.

In the case of a municipality situated within the Highlands Region, as defined in section 3 of P.L.2004, c.120 (C.13:20-3), the master plan shall include a specific policy statement indicating the relationship of the proposed development of the municipality, as developed in the master plan, to the Highlands regional master plan adopted pursuant to section 8 of P.L.2004, c.120 (C.13:20-8).

(cf: P.L.2004, c.120, s.60)

15. Section 3 of P.L.1992, c.79 (C.40A:12A-3) is amended to read as follows:

3. As used in this act:

"Bonds" means any bonds, notes, interim certificates, debentures or other obligations issued by a municipality, county, redevelopment entity, or housing authority pursuant to this act.

"Comparable affordable replacement housing" means housing offered to households being displaced as a result of a redevelopment project, that is affordable to that household as defined by the Council on Affordable Housing in the Department of Community Affairs, and that is comparable to the household's dwelling in the redevelopment area with respect to the size and amenities of the dwelling unit, the quality of the neighborhood, and the level of public services and facilities offered by the municipality in which the redevelopment area is located.

"Condemnation area" means an area in need of redevelopment, or portion thereof, that has been determined to meet the requirements of section 22 of P.L. , c. (C.) (pending before the Legislature as this bill).

"Detrimental to the safety, health, or welfare of the community" means objective and substantial evidence that is consistent with or similar to significant building or health code violations or the repeated need for police intervention over an extended period of time.

"Development" means the division of a parcel of land into two or more parcels, the construction, reconstruction, conversion, structural alteration, relocation, or enlargement of any building or other structure, or of any mining, excavation or landfill, and any use or change in the use of any building or other structure, or land or extension of use of land, for which permission may be required pursuant to the "Municipal Land Use Law," P.L.1975, c.291 (C.40:55D-1 et seq.).

"Environmental contamination" means "contamination" as defined in section 23 of P.L.1993, c.139 (C.58:10B-1).

"Governing body" means the body exercising general legislative powers in a county or municipality according to the terms and procedural requirements set forth in the form of government adopted by the county or municipality.

"Housing authority" means a housing authority created or continued pursuant to this act.

"Housing project" means a project, or distinct portion of a project, which is designed and intended to provide decent, safe and sanitary dwellings, apartments or other living accommodations for persons of low and moderate income; such work or undertaking may include buildings, land, equipment, facilities and other real or personal property for necessary, convenient or desirable appurtenances, streets, sewers, water service, parks, site

preparation, gardening, administrative, community, health, recreational, educational, welfare or other purposes. The term "housing project" also may be applied to the planning of the buildings and improvements, the acquisition of property, the demolition of existing structures, the construction, reconstruction, alteration and repair of the improvements and all other work in connection therewith.

"Major amendment" means a change in a redevelopment plan that (1) increases the number of properties that are subject to condemnation through eminent domain; (2) increases the residential density by 20 percent or more; (3) increases the non-residential square footage by 20 percent or more; or (4) increases the area subject to the redevelopment plan.

"Minor amendment" means a change in a redevelopment plan that does not (1) increase the number of properties subject to condemnation through eminent domain; (2) increase the residential density by 20 percent or more; or (3) increase the non-residential square footage by 20 percent or more.

"Oversight document" means "oversight document" as defined in section 4 of P.L.2006, c.65 (C.58:10B-24.4).

"Persons of low and moderate income" means persons or families who are, in the case of State assisted projects or programs, so defined by the Council on Affordable Housing in the Department of Community Affairs, or in the case of federally assisted projects or programs, defined as of "low and very low income" by the United States Department of Housing and Urban Development.

"Public body" means the State or any county, municipality, school district, authority or other political subdivision of the State.

"Public housing" means any housing for persons of low and moderate income owned by a municipality, county, the State or the federal government, or any agency or instrumentality thereof.

"Publicly assisted housing" means privately owned housing which receives public assistance or subsidy, which may be grants or loans for construction, reconstruction, conservation, or rehabilitation of the housing, or receives operational or maintenance subsidies either directly or through rental subsidies to tenants, from a federal, State or local government agency or instrumentality.

"Real property" means all lands, including improvements and fixtures thereon, and property of any nature appurtenant thereto or used in connection therewith, and every estate, interest and right, legal or equitable, therein, including terms for years and liens by way of judgment, mortgage or otherwise, and indebtedness secured by such liens.

"Redeveloper" means any person, firm, corporation or public body that shall enter into or propose to enter into a contract with a municipality or other redevelopment entity for the redevelopment or rehabilitation of an area in need of redevelopment, or an area in

need of rehabilitation, or any part thereof, under the provisions of this act, or for any construction or other work forming part of a redevelopment or rehabilitation project.

"Redevelopment" means clearance, replanning, development and redevelopment; the conservation and rehabilitation of any structure or improvement, the construction and provision for construction of residential, commercial, industrial, public or other structures and the grant or dedication of spaces as may be appropriate or necessary in the interest of the general welfare for streets, parks, playgrounds, or other public purposes, including recreational and other facilities incidental or appurtenant thereto, in accordance with a redevelopment plan.

"Redevelopment agency" means a redevelopment agency created pursuant to subsection a. of section 11 of P.L.1992, c.79 (C.40A:12A-11) or established heretofore pursuant to the "Redevelopment Agencies Law," P.L.1949, c.306 (C.40:55C-1 et seq.), repealed by this act, which has been permitted in accordance with the provisions of this act to continue to exercise its redevelopment functions and powers.

"Redevelopment area" or "area in need of redevelopment" means an area determined to be in need of redevelopment pursuant to sections 5 and 6 of P.L.1992, c.79 (C.40A:12A-5 and 40A:12A-6) or determined heretofore to be a "blighted area" pursuant to P.L.1949, c.187 (C.40:55-21.1 et seq.) repealed by this act, both determinations as made pursuant to the authority of Article VIII, Section III, paragraph 1 of the Constitution. **[**A redevelopment area may include lands, buildings, or improvements which of themselves are not detrimental to the public health, safety or welfare, but the inclusion of which is found necessary, with or without change in their condition, for the effective redevelopment of the area of which they are a part.**]**

"Redevelopment entity" means a municipality or an entity authorized by the governing body of a municipality pursuant to subsection c. of section 4 of P.L.1992, c.79 (C.40A:12A-4) to implement redevelopment plans and carry out redevelopment projects in an area in need of redevelopment, or in an area in need of rehabilitation, or in both.

"Redevelopment plan" means a plan adopted by the governing body of a municipality for the redevelopment or rehabilitation of all or any part of a redevelopment area, or an area in need of rehabilitation, which plan shall be sufficiently complete to indicate its relationship to definite municipal objectives as to appropriate land uses, public transportation and utilities, recreational and municipal facilities, and other public improvements; and to indicate proposed land uses and building requirements in the redevelopment area or area in need of rehabilitation, or both.

"Redevelopment project" means any work or undertaking pursuant to a redevelopment plan; such undertaking may include any buildings, land, including demolition, clearance or removal of buildings from land, equipment, facilities, or other real or personal properties which are necessary, convenient, or desirable appurtenances, such as but not limited to streets, sewers, utilities, parks, site preparation, landscaping, and administrative, community, health, recreational, educational, and welfare facilities.

"Rehabilitation" means an undertaking, by means of extensive repair, reconstruction or renovation of existing structures, with or without the introduction of new construction or the enlargement of existing structures, in any area that has been determined to be in need of rehabilitation or redevelopment, to eliminate substandard structural or housing conditions and arrest the deterioration of that area.

"Rehabilitation area" or "area in need of rehabilitation" means any area determined to be in need of rehabilitation pursuant to section 14 of P.L.1992, c.79 (C.40A:12A-14).

(cf: P.L.1992, c.79, s.3)

16. Section 4 of P.L.1992, c.79 (C.40A:12A-4) is amended to read as follows:

4. In exercising the redevelopment and rehabilitation functions provided for in this act:

a. A municipal governing body shall have the power to:

(1) Cause a preliminary investigation to be made pursuant to subsection a. of section 6 of P.L.1992, c.79 (C.40A:12A-6) as to whether an area is in need of redevelopment;

(2) Determine pursuant to subsection b. of section 6 of P.L.1992, c.79 (C.40A:12A-6) that an area is in need of redevelopment;

(3) Adopt a redevelopment plan pursuant to section 7 of P.L.1992, c.79 (C.40A:12A-7);

(4) Determine pursuant to section 14 of P.L.1992, c.79 (C.40A:12A-14) that an area is in need of rehabilitation;

(5) Cause a preliminary investigation to be made pursuant to section 21 of P.L. , c. (C.) (pending before the Legislature as this bill) as to whether an area meets the criteria to be a condemnation area;

(6) Determine, pursuant to section 21 of P.L. , c. (C.) (pending before the Legislature as this bill), whether an area is a condemnation area.

b. A municipal planning board shall have the power to:

(1) Conduct, when authorized by the municipal governing body, a preliminary investigation and hearing and make a recommendation pursuant to subsection b. of section 6 of P.L.1992, c.79 (C.40A:12A-6) as to whether an area is in need of

redevelopment and, pursuant to section 21 of P.L. , c. (C.), as to whether an area is a condemnation area;

(2) Make recommendations concerning a redevelopment plan pursuant to subsection e. of section 7 of P.L.1992, c.79 (C.40A:12A-7), or prepare a redevelopment plan pursuant to subsection f. of that section.

(3) Make recommendations concerning the determination of an area in need of rehabilitation pursuant to section 14 of P.L.1992, c.79 (C.40A:12A-14).

c. The municipality shall be responsible for implementing redevelopment plans and carrying out redevelopment projects pursuant to section 8 of P.L.1992, c.79 (C.40A:12A-8). The municipality may execute these responsibilities directly, or in addition thereto or in lieu thereof, [through] may designate by ordinance either a municipal redevelopment agency, or a municipal housing authority authorized to exercise redevelopment powers pursuant to section 21 of P.L.1992, c.79 (C.40A:12A-21), but there shall be only one redevelopment entity responsible for each redevelopment project. A county improvement authority authorized to undertake redevelopment projects pursuant to the "county improvement authorities law," P.L.1960, c.183 (C.40:37A-44 et seq.) may also act as a redevelopment entity pursuant to this act. The redevelopment entity, so authorized, may contract with any other public body, in accordance with the provisions of section 8 of P.L.1992, c.79 (C.40A:12A-8), for the carrying out of a redevelopment project or any part thereof under its jurisdiction. Notwithstanding the above, the governing body of the municipality may, by ordinance, change or rescind the designation of the redevelopment [entity responsible for implementing] agency or housing authority designated to implement a redevelopment plan and [carrying] carry out a redevelopment project and may have the municipality assume this responsibility [itself, but]; provided, however, that only the redevelopment entity authorized to undertake a particular redevelopment project shall remain authorized to complete it, unless the redevelopment entity and redeveloper agree otherwise, or unless no obligations have been entered into by the redevelopment entity with parties other than the municipality. This shall not diminish the power of the municipality to dissolve a redevelopment entity pursuant to section 24 of P.L.1992, c.79 (C.40A:12A-24), and section 20 of the "Local Authorities Fiscal Control Law," P.L.1983, c.313 (C.40A:5A-20). For each redevelopment project, the New Jersey Redevelopment Authority, established pursuant to section 4 of P.L.1996, c.62 (C.55:19-23), shall have the authority to act as the lead redevelopment entity in order to expedite the project.

d. A municipal governing body, a municipal planning board, or a redevelopment entity may exercise any power and carry out any

responsibility under P.L.1992, c.79 (40A:12A-1 et seq.), notwithstanding that the municipality's master plan does not contain a redevelopment plan element as set forth in paragraph (15) of subsection b. of section 19 of P.L.1975, c.291 (C.40:55D-28) (pending before the Legislature as section 13 of this bill).
(cf: P.L.1992, c.79, s.4)

17. Section 5 of P.L.1992, c.79 (C.40A:12A-5) is amended to read as follows:

5. A delineated area may be determined to be in need of redevelopment if, after investigation, notice and hearing as provided in section 6 of P.L.1992, c.79 (C.40A:12A-6), the governing body of the municipality by resolution concludes that within the delineated area any of the following conditions is found:

a. The generality of buildings are substandard, unsafe, unsanitary, dilapidated, or obsolescent, or possess any of such characteristics, or are so lacking in light, air, or space, as to be conducive to unwholesome living or working conditions.

b. The discontinuance of the use of buildings previously used for commercial, manufacturing, or industrial purposes; the abandonment of such buildings; or the same being allowed to fall into so great a state of disrepair as to be untenantable.

c. Land that is owned by the municipality, the county, a local housing authority, redevelopment agency or redevelopment entity, or unimproved vacant land that has remained so for a period of **[**ten**]** five years prior to adoption of the resolution, and that by reason of its location, remoteness, lack of means of access to developed sections or portions of the municipality, or topography, or nature of the soil, is not likely to be developed through the instrumentality of private capital.

d. Areas with buildings or improvements which, by reason of dilapidation, obsolescence, overcrowding, faulty arrangement or design, lack of ventilation, light and sanitary facilities, excessive land coverage, deleterious land use or obsolete layout, or any combination of these or other factors, **[**are detrimental to**]** do not serve the safety, health, morals, or welfare of the community.

e. A growing lack or total lack of proper utilization of areas caused by the condition of the title, diverse ownership of the real property therein or other conditions, resulting in a stagnant or not fully productive condition of land potentially useful and valuable for contributing to and serving the public health, safety and welfare.

f. Areas, in excess of five contiguous acres, whereon buildings or improvements have been destroyed, consumed by fire, demolished or altered by the action of storm, fire, cyclone, tornado, earthquake or other casualty in such a way that the aggregate assessed value of the area has been materially depreciated.

g. In any municipality in which an enterprise zone has been designated pursuant to the "New Jersey Urban Enterprise Zones Act," P.L.1983, c.303 (C.52:27H-60 et seq.) the execution of the actions prescribed in that act for the adoption by the municipality and approval by the New Jersey Urban Enterprise Zone Authority of the zone development plan for the area of the enterprise zone shall be considered sufficient for the determination that the area is in need of redevelopment pursuant to sections 5 and 6 of P.L.1992, c.79 (C.40A:12A-5 and 40A:12A-6) for the purpose of granting tax exemptions within the enterprise zone district pursuant to the provisions of P.L.1991, c.431 (C.40A:20-1 et seq.) or the adoption of a tax abatement and exemption ordinance pursuant to the provisions of P.L.1991, c.441 (C.40A:21-1 et seq.). The municipality shall not utilize any other redevelopment powers within the urban enterprise zone unless the municipal governing body and planning board have also taken the actions and fulfilled the requirements prescribed in P.L.1992, c.79 (C.40A:12A-1 et al.) for determining that the area is in need of redevelopment or an area in need of rehabilitation and the municipal governing body has adopted a redevelopment plan ordinance including the area of the enterprise zone.

h. **[**The designation of the delineated area is consistent with smart growth planning principles adopted pursuant to law or regulation.**]** (Deleted by amendment, P.L. , c. .) (pending before the Legislature as this bill)

i. Property, either vacant or developed, that has remained vacant or substantially underutilized for a period of 24 consecutive months due to environmental contamination, and the person responsible for conducting the remediation is not in compliance with an oversight document with the Department of Environmental Protection for that entire property.

An area in need of redevelopment may include parcels containing lands, buildings, or improvements which do not meet any of the criteria set forth in subsections a. through i. of this section, but the inclusion of which is found necessary, with or without change in their condition, for the effective redevelopment of the area of which they are a part; provided, however that such parcels, in the aggregate, shall not comprise in excess of 20% of the land mass of the designated redevelopment area.

(cf: P.L.2003, c.125, s.3)

18. Section 6 of P.L.1992, c.79 (C.40A:12A-6) is amended to read as follows:

6. a. No area of a municipality shall be determined a redevelopment area unless the governing body of the municipality shall, by resolution, authorize the planning board to undertake a preliminary investigation to determine whether the proposed area is

a redevelopment area according to the criteria set forth in section 5 of P.L.1992, c.79 (C.40A:12A-5). Such determination shall be made after public notice and public hearing as provided in subsection b. of this section. The governing body of a municipality shall assign the conduct of the investigation and hearing to the planning board of the municipality.

b. (1) Before proceeding to a public hearing on the matter, the planning board shall prepare a map showing the boundaries of the proposed redevelopment area and the location of the various parcels of property included therein. There shall be appended to the map a statement setting forth the basis for the investigation.

(2) The planning board shall specify a date for and give notice of a hearing for the purpose of hearing persons who are interested in or would be affected by a determination that the delineated area is a redevelopment area.

(3) (a) The hearing notice shall set forth the general boundaries of the area to be investigated and state that a map has been prepared and can be inspected at the office of the municipal clerk. The notice shall identify the office in which the public may inspect documents relevant to the determination that an area is in need of redevelopment. The notice shall be written in simple, clear, understandable, and easily readable language. The notice shall include the following statement in bold typeface:

THE GOVERNING BODY OF _____ IS CONSIDERING DESIGNATING PART OF THE MUNICIPALITY AS A "REDEVELOPMENT AREA." THIS MAY ALLOW CERTAIN PRIVATE PROPERTIES LOCATED WITHIN THE REDEVELOPMENT AREA TO BE TAKEN BY CONDEMNATION. NO PRIVATE PROPERTY WILL BE TAKEN BY CONDEMNATION UNLESS IT IS LOCATED IN AN AREA WITHIN THE REDEVELOPMENT AREA THAT IS ALSO DESIGNATED AS A "CONDEMNATION AREA" AND THE OWNER IS PROVIDED WITH SPECIFIC NOTICE.

(b) A copy of the notice shall be published in a newspaper of general circulation in the municipality once each week for two consecutive weeks, and the last publication shall be not less than ten days prior to the date set for the hearing. If the municipality has an Internet web site, the notice shall be posted thereon. A copy of the notice also shall be posted in such other places within or proximate to the proposed redevelopment area as may be available and appropriate. A copy of the notice shall be mailed at least ten days prior to the date set for the hearing to the last owner, if any, of each parcel of property within the area according to the assessment records of the municipality. A notice shall also be sent to all

persons at their last known address, if any, whose names are noted on the assessment records as claimants of an interest in any such parcel. The assessor of the municipality shall make a notation upon the records when requested to do so by any person claiming to have an interest in any parcel of property in the municipality. The notice shall be published and mailed by the municipal clerk, or by such clerk or official as the planning board shall otherwise designate. Failure to mail any such notice shall **[**not invalidate the investigation or determination thereon**]** be governed by the provisions of section 23 of P.L. , c. (C.) (pending before the Legislature as this bill).

(c) Prior to the hearing, a copy of all documents relevant to the determination that an area is in need of redevelopment shall be available for public inspection during regular business hours at a location set forth in the notice, and if the municipality has an Internet web site, they shall be posted thereon.

(4) At the hearing, which may be adjourned from time to time, the planning board shall hear all persons who are interested in or would be affected by a determination that the delineated area is a redevelopment area. All objections to such a determination and evidence in support of those objections, given orally or in writing, shall be received and considered and made part of the public record.

(5) After completing its hearing on this matter, the planning board shall recommend that the delineated area, or any part thereof, be determined, or not be determined, by the municipal governing body to be a redevelopment area. After receiving the recommendation of the planning board, the municipal governing body may adopt **[**a resolution**]** an ordinance determining that the delineated area, or any part thereof, is a redevelopment area. Upon the **[**adoption of a resolution**]** first reading of the ordinance, the clerk of the municipality shall, forthwith, transmit a copy of the **[**resolution**]** ordinance to the Commissioner of Community Affairs for review. If the area in need of redevelopment is not situated in an area in which development or redevelopment is to be encouraged pursuant to any State law or regulation promulgated pursuant thereto, the **[**determination**]** ordinance shall not **[**take effect**]** be finally adopted without first receiving the review and the approval of the commissioner. If the commissioner does not issue an approval or disapproval within 30 calendar days of transmittal by the clerk, the determination shall be deemed to be approved and the ordinance may be finally adopted. If the area in need of redevelopment is situated in an area in which development or redevelopment is to be encouraged pursuant to any State law or regulation promulgated pursuant thereto, then the determination shall take effect after the clerk has transmitted a copy of the **[**resolution**]** ordinance to the commissioner. The determination, if

supported by substantial evidence and, if required, approved by the commissioner, shall be binding and conclusive upon all persons affected by the determination. Notice of the determination shall be served, within 10 days after the determination, upon each person who filed a written objection thereto and stated, in or upon the written submission, an address to which notice of determination may be sent.

(6) If written objections were filed in connection with the hearing, the municipality shall, for 45 days next following its determination to which the objections were filed, take no further action to acquire any property by condemnation within a condemnation area within the redevelopment area.

(7) If a person who filed a written objection to a determination by the municipality pursuant to this subsection shall, within 45 days after the adoption by the municipality of the determination to which the person objected, apply to the Superior Court, the court may grant further review of the determination by procedure in lieu of prerogative writ; and in any such action the court may make any incidental order that it deems proper.

c. An area determined to be in need of redevelopment pursuant to this section shall be deemed to be a "blighted area" for all of the purposes of Article VIII, Section III, paragraph 1 of the Constitution except for the purpose of acquiring property through the exercise of the power of eminent domain. If an area is determined to be a redevelopment area and a redevelopment plan is adopted for that area in accordance with the provisions of this act, the municipality is authorized to utilize all those powers provided in section 8 of P.L.1992, c.79 (C.40A:12A-8), except that the power of condemnation shall be exercised only in an area declared to be a condemnation area pursuant to section 21 of P.L. , c. (C.) (pending before the Legislature as this bill).

d. Designation of an area as a redevelopment area shall lapse five years following: (1) the final adoption of the ordinance making the determination if the municipality has not adopted a redevelopment plan for that redevelopment area and made substantial progress on implementing the plan, or (2) the final adoption of the original redevelopment plan if no projects have been commenced pursuant to the redevelopment plan, or one or more project have been commence but substantial progress is not being made towards implementing the plan.

(cf: P.L.2003, c.125, s.4)

19. Section 7 of P.L.1992, c.79 (C.40A:12A-7) is amended to read as follows:

7. a. Following the determination of an area in need of redevelopment pursuant to section 6 of P.L.1992, c.79 (C.40A:12A-6) or a determination of an area in need of rehabilitation pursuant to

section 14 of P.L.1992, c.79 (C.40A:12A-14), the municipality may undertake the preparation of a redevelopment plan for all or some part of the area determined to be in need of redevelopment or rehabilitation, directly in accordance with subsection e. of this section, or, by resolution, may direct the municipal planning board to develop such plan in accordance with subsection f. of this section. No redevelopment project shall be undertaken or carried out except in accordance with a redevelopment plan **[**adopted by ordinance of the municipal governing body, upon its finding that the**]** relating to a specifically delineated project area that is located in an area in need of redevelopment or in an area in need of rehabilitation, or in both, according to criteria set forth in section 5 or section 14 of P.L.1992, c.79 (C.40A:12A-5 or 40A:12A-14), as appropriate.

[The**]** A redevelopment plan shall include an outline for the planning, development, redevelopment, or rehabilitation of the project area sufficient to indicate:

(1) **[**Its**]** The relationship of the plan to **[**definite**]** local objectives as set forth in the municipal master plan or other official documents with respect to **[**appropriate**]** land uses, density of population, **[**and improved**]** improvements or changes to traffic circulation, pedestrian circulation and public transportation, public utilities, recreational and community facilities and other public improvements.

(2) Proposed land uses and building requirements in the project area, including the character, intensity and scale of proposed redevelopment activities, and the design and planning standards and guidelines to govern those activities.

(3) **[**Adequate provision for**]** A relocation study adequate to identify available units suitable to the temporary and permanent relocation, as necessary, of residents and businesses in the project area, as required by the "Relocation Assistance Act," P.L.1971, c.362 (C.20:4-1 et seq.), and any other applicable law, including, for residents, an estimate of the extent to which **[**decent, safe and sanitary dwelling units affordable to displaced residents**]** comparable, affordable replacement housing will be available **[**to them**]** in the existing local housing market, an assessment of the disparity between the availability of comparable, affordable replacement housing and the needs of the residents in the project area, an estimate of the amount and type of replacement housing that will have to be provided within or without the redevelopment area in order to meet the relocation needs of residents in the project area, and a plan setting forth the manner and timetable in which that housing, if needed, will be provided.

(4) (a) An identification, by block and lot and street address, if any, of **[**any**]** every property within the redevelopment area

[which]. The redevelopment plan shall indicate whether a property is proposed to be acquired [in accordance with the redevelopment plan] and whether that property will be subject to demolition or infill.

(b) With regard to properties located within a condemnation area, the redevelopment plan shall identify, by block and lot and street address, every property included within the condemnation area. The redevelopment plan, or amendment thereto, shall indicate each property's relationship to the objectives of the redevelopment plan that cannot be realistically achieved without the acquisition of that property, any alternatives that were considered to the proposed acquisition, and the reasons that such alternatives would not provide for realistic achievement of the objectives of the redevelopment plan, if adopted.

(5) Any significant relationship of the redevelopment plan to (a) the master plans of contiguous municipalities, (b) the master plan of the county in which the municipality is located, and (c) the State Development and Redevelopment Plan adopted pursuant to the "State Planning Act," P.L.1985, c.398 (C.52:18A-196 et al.).

(6) The social and economic impact of the redevelopment area, including its effect on those parts of the municipality adjacent to the redevelopment area, and on the low and moderate income residents of the area, further including estimates of the number of temporary and permanent jobs that will be available to the low and moderate income residents of the area.

(7) An explanation of how any development controls contained in the redevelopment plan are consistent with smart growth planning principles adopted pursuant to law or regulation.

(8) An estimate of the number of dwelling units for low and moderate income households that may be required as a result of implementing the redevelopment plan in order to meet the municipality's obligations under the "Fair Housing Act," P.L.1985, c.222 (C.52:27D-301 et al.) and the municipality's plan for meeting these obligations within or outside the redevelopment area.

(9) Provision for the replacement of any housing constructed for low and moderate income households under the provisions of any State or federal housing subsidy program which is to be removed as a result of the redevelopment plan; provided that any such replacement units shall not be counted toward the municipal obligation under paragraph (8) of this subsection if the housing which is removed had previously counted toward an obligation. Any rental housing constructed under this paragraph shall remain affordable to low and moderate income households for a period of no less than 45 years, or such other period as established under State or federal financing programs. In addition, displaced residents of housing units provided under any State or federal housing subsidy program or the "Fair Housing Act," P.L.1985,

c.222 (C.52:27D-301 et al.) shall have first priority for those replacement units provided.

(10) Preservation or conservation strategies and goals for the assets contained in the inventory of environmental, historical, and cultural assets in the delineated project area.

(11) A statement setting forth the municipal planning board's ability, if any, to grant relief to applicants from elements of the redevelopment plan when reviewing and approving development applications, including, but not limited to, variances, exceptions, and waivers as defined in the "Municipal Land Use Law," P.L.1975, c.291 (C.40:55D-1 et seq.).

b. **[**A**]** In addition to that housing provided pursuant to paragraph (8) of subsection a. of this section, a redevelopment plan may include the provision of affordable housing in accordance with the "Fair Housing Act," P.L.1985, c.222 (C.52:27D-301 et al.) and the housing element of the municipal master plan.

c. The redevelopment plan shall describe its relationship to pertinent municipal development regulations as defined in the "Municipal Land Use Law," P.L.1975, c.291 (C.40:55D-1 et seq.). The redevelopment plan shall supersede applicable provisions of the development regulations of the municipality or constitute an overlay zoning district within the redevelopment area. When the redevelopment plan supersedes any provision of the development regulations, the ordinance adopting the redevelopment plan shall contain an explicit amendment to the zoning district map included in the zoning ordinance. The zoning district map as amended shall indicate the redevelopment area to which the redevelopment plan applies. Notwithstanding the provisions of the "Municipal Land Use Law," P.L.1975, c.291 (C.40:55D-1 et seq.) or of other law, no notice beyond that required for adoption of ordinances by the municipality shall be required for the hearing on or adoption of the redevelopment plan or subsequent amendments thereof.

d. All provisions of the redevelopment plan shall be either substantially consistent with the municipal master plan or designed to effectuate the master plan; but the municipal governing body may adopt a redevelopment plan which is inconsistent with or not designed to effectuate the master plan by affirmative vote of a majority of its full authorized membership with the reasons for so acting set forth in the redevelopment plan.

e. **[**Prior to the adoption of a redevelopment plan, or revision or amendment thereto, the**]** If a municipality prepares a redevelopment plan directly, the municipal governing body shall refer the proposed redevelopment plan to the municipal planning board for review. Such referral may be by resolution. The municipal planning board shall transmit to the governing body, within 45 days after referral, a report containing its recommendation concerning the redevelopment plan. This report shall include an identification of any provisions in

the proposed redevelopment plan which are inconsistent with the master plan and recommendations concerning these inconsistencies and any other matters as the board deems appropriate. The governing body, when considering the adoption of a redevelopment plan or revision or amendment thereof, shall review the report of the planning board and may approve or disapprove or change any recommendation by a vote of a majority of its full authorized membership and shall record in its minutes the reasons for not following the recommendations. Failure of the planning board to transmit its report within the required 45 days shall relieve the governing body from the requirements of this subsection with regard to the pertinent proposed redevelopment plan **[**or revision or amendment thereof**]**. Nothing in this subsection shall diminish the applicability of the provisions of subsection d. of this section with respect to any redevelopment plan or revision or major amendment thereof.

f. The governing body of a municipality may direct the planning board to prepare a redevelopment plan **[**or an amendment or revision to a redevelopment plan**]** for a designated redevelopment area. After completing the redevelopment plan, the planning board shall transmit the proposed plan to the governing body for its adoption. The governing body, when considering the proposed plan, may amend or revise any portion of the proposed redevelopment plan by an affirmative vote of the majority of its full authorized membership and shall record in its minutes the reasons for each amendment or revision. When a redevelopment plan **[**or amendment to a redevelopment plan**]** is referred to the governing body by the planning board under this subsection, the governing body shall be relieved of the referral requirements of subsection e. of this section.

g. (1) The redevelopment plan shall be adopted by ordinance of the municipal governing body.

(2) Prior to final adoption of the ordinance, the municipal governing body shall conduct a public hearing on the ordinance and all interested persons shall be allowed to speak.

(3) Notice of the public hearing shall state the date, time, and location of the public hearing, shall identify where the proposed redevelopment plan is available for examination and shall identify, by block and lot and street address, if any, the parcels that may be included in a condemnation area and subject to eminent domain under the proposed redevelopment plan.

(4) (a) The full text of the redevelopment plan to be considered by the governing body along with any maps or other exhibits thereto, shall be made available to the public in the municipal building and shall be posted on the municipality's Internet web site, if any, at the time such notice to such hearing is to be provided.

(b) Copies of the proposed redevelopment plan shall be available for purchase by any interested party. A copy of the notice of the public hearing shall be published in a newspaper of general circulation in the municipality once each week for two consecutive weeks, and the last publication shall be not less than 10 days prior to the date set for the hearing, and shall be posted on the municipality's Internet web site, if any, and in a reasonable number of public places within or proximate to the proposed redevelopment area as may be available and appropriate. A copy of the notice shall be mailed by the municipal clerk, by regular mail, at least 10 days prior to the date set for the hearing to the last owner, if any, of each parcel of property within the area according to the assessment records of the municipality and to any legal tenant or lessee. The municipal clerk shall make a diligent effort to ascertain the names and addresses of legal tenants and lessees by contacting the legal owner of the rental property or a management company identified by such owner, but if unable to do so shall have a copy of the notice posted on properties known to contain rental units.

(c) For property owners whose properties do not exhibit conditions of blight and are proposed to be acquired under the redevelopment plan, the notice shall specify the reason why acquiring the property is necessary for the redevelopment of the area.

(d) A notice shall also be sent by the municipal clerk to all persons at their last known address, if any, whose names are noted on the assessment records as claimants of an interest in any such parcel. The assessor of the municipality shall make a notation upon the records when requested to do so by any person claiming to have an interest in any parcel of property in the municipality.

(e) The notice shall be published and mailed by the municipal clerk. Failure to mail any such notice shall be governed by the provisions of section 23 of P.L. , c. (C.) (pending before the Legislature as this bill).

(f) At such public hearing, the municipal governing body shall hear all persons who are interested in or would be affected by the provisions of the redevelopment plan, although the governing body may, by vote of its majority, restrict or limit the amount of time afforded each such person to speak. A record of the public hearing shall be kept by the municipal clerk. Upon the close of the public hearing, the municipal governing body may vote to finally adopt the ordinance.

h. Notice of final adoption of an ordinance adopting a redevelopment plan shall be mailed, within 10 days after the final adoption of the ordinance making such determination, upon each person who received notice of the public hearing in accordance with paragraph (b) of subsection g. of this section, in the same manner as provided therein. Additionally, notice of final adoption of an

ordinance making a determination shall be published in the official newspaper of the municipality, together with the date of the first publication of such notice and also a statement that any action or proceeding of any kind or nature in any court questioning the validity of the adoption of the ordinance or the determination contained therein, shall be commenced within 45 days after the first publication of such notice.

i. The municipality may not finally authorize and execute an agreement with a redeveloper until 60 days next following the final adoption of the ordinance adopting a redevelopment plan pursuant to this section unless the redeveloper is the owner of the property for the project that is the subject of the redevelopment agreement.

j. Amendments to redevelopment plans shall be prepared and adopted as follows:

(1) A minor amendment shall be adopted by ordinance to comply with the procedural provisions of subsections g. and h. of this section.

(2) A major amendment shall be adopted in the same manner as provided for a redevelopment plan.

(3) A question over the determination of an amendment as minor or major may be filed with the New Jersey Superior Court for a declaratory judgment determining that the amendment is minor or major.

(cf: P.L.1992, c.79, s.7)

20. Section 8 of P.L.1992, c.79 (C.40A:12A-8) is amended to read as follows:

8. Upon the adoption of a redevelopment plan pursuant to section 7 of P.L.1992, c.79 (C.40A:12A-7), the municipality or redevelopment entity designated by the governing body may proceed with the clearance, replanning, development and redevelopment of the area designated in that plan. In order to carry out and effectuate the purposes of this act and the terms of the redevelopment plan, the municipality or designated redevelopment entity may:

a. Undertake redevelopment projects, and for this purpose issue bonds in accordance with the provisions of section 29 of P.L.1992, c.79 (C.40A:12A-29).

b. Acquire property pursuant to subsection i. of section 22 of P.L.1992, c.79 (C.40A:12A-22).

c. Acquire, by condemnation, any land or building which is in a condemnation area pursuant to section 21 of P.L. , c. (C.) (pending before the Legislature as this bill) and necessary for the redevelopment project, pursuant to the provisions of the "Eminent Domain Act of 1971," P.L.1971, c.361 (C.20:3-1 et seq.), as modified by the requirements of section 24 of P.L. , c. (C.) (pending before the Legislature as this bill).

d. Clear any area owned or acquired and install, construct or reconstruct streets, facilities, utilities, and site improvements essential to the preparation of sites for use in accordance with the redevelopment plan.

e. Prepare or arrange by contract for the provision of professional services and the preparation of plans by registered architects, licensed professional engineers or planners, or other consultants for the carrying out of redevelopment projects.

f. Arrange or contract with public agencies or redevelopers for the planning, replanning, construction, or undertaking of any project or redevelopment work, or any part thereof; negotiate and collect revenue from a redeveloper to defray the costs of the redevelopment entity, including where applicable the costs incurred in conjunction with bonds, notes or other obligations issued by the redevelopment entity, and to secure payment of such revenue; as part of any such arrangement or contract, provide for extension of credit, or making of loans, to redevelopers to finance any project or redevelopment work, or upon a finding that the project or redevelopment work would not be undertaken but for the provision of financial assistance, or would not be undertaken in its intended scope without the provision of financial assistance, provide as part of an arrangement or contract for capital grants to redevelopers; and arrange or contract with public agencies or redevelopers for the opening, grading or closing of streets, roads, roadways, alleys, or other places or for the furnishing of facilities or for the acquisition by such agency of property options or property rights or for the furnishing of property or services in connection with a redevelopment area.

g. Lease or convey property or improvements to any other party pursuant to this section, without public bidding and at such prices and upon such terms as it deems reasonable, provided that the lease or conveyance is made in conjunction with a redevelopment plan, notwithstanding the provisions of any law, rule, or regulation to the contrary.

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

i. Arrange or contract with a public agency for the relocation, pursuant to the "Relocation Assistance Law of 1967," P.L.1967, c.79 (C.52:31B-1 et seq.) and the "Relocation Assistance Act," P.L.1971, c.362 (C.20:4-1 et seq.), of residents, industry or commerce displaced from a redevelopment area.

j. Make, consistent with the redevelopment plan: (1) plans for carrying out a program of voluntary repair and rehabilitation of buildings and improvements; and (2) plans for the enforcement of laws, codes, and regulations relating to the use and occupancy of buildings and improvements, and to the compulsory repair,

rehabilitation, demolition, or removal of buildings and improvements.

k. Request that the planning board recommend and governing body designate particular areas as being in need of redevelopment or rehabilitation in accordance with the provisions of this act and make recommendations for the redevelopment or rehabilitation of such areas.

l. Study the recommendations of the planning board or governing body for redevelopment of the area.

m. Publish and disseminate information concerning any redevelopment area, plan or project.

n. Do all things necessary or convenient to carry out its powers.

o. Request expedited permit application reviews and approval, in accordance with P.L.2004, c.89 (C.52:27D-10.2 et al.), for projects in a redevelopment area, and utilize the New Jersey Redevelopment Authority for these purposes.

(cf: P.L.1992, c.79, s.8)

21. (New section) a. (1) No area within a redevelopment area of a municipality shall be determined a condemnation area unless the governing body of the municipality shall, by ordinance, authorize the planning board to undertake a preliminary investigation to determine whether the proposed area is a condemnation area according to the criteria set forth in section 22 of P.L. , c. (C.). The notice required under R.S.40:49-2 for final passage of the ordinance shall clearly state that final passage of the ordinance will begin the process through which private property may be taken by condemnation.

(2) The determination shall be made after public notice and public hearing as provided in subsection b. of this section, which notice and hearing may occur in conjunction with, but not prior to, the notice and hearing for determination of whether the area is in need of redevelopment.

(3) The governing body of a municipality shall assign the conduct of the investigation and hearing required by this subsection to the planning board of the municipality.

b. (1) Before proceeding to a public hearing on the matter, the planning board shall prepare a map showing the boundaries of the proposed condemnation area and the location, by block, lot, and street address, of the various parcels of property included therein. There shall be appended to the map a report setting forth the factual and legal basis for the investigation.

(2) The planning board shall specify a date for, and give notice of, a public hearing for the purpose of hearing persons who are interested in, or would be affected by, a determination that the delineated area is a condemnation area.

(3) (a) The public hearing notice shall be written in simple, clear, understandable, and easily readable language. It shall set forth the general boundaries of the area to be investigated and state that a map and report have been prepared and can be inspected during regular business hours at a location identified in the notice. The hearing notice also shall include the following statement in bold typeface:

THE GOVERNING BODY OF _____ IS CONSIDERING DESIGNATING PART OF THE MUNICIPALITY AS A "CONDEMNATION AREA." THIS WOULD ALLOW PRIVATE PROPERTIES LOCATED WITHIN THE CONDEMNATION AREA TO BE TAKEN BY CONDEMNATION. NO PRIVATE PROPERTY WILL BE TAKEN BY CONDEMNATION UNLESS THE OWNER IS PROVIDED WITH SPECIFIC NOTICE.

The hearing notice shall further recommend that anyone with an interest in any property within that area retain legal counsel and that any indigent property owner contact the Office of the Public Advocate for legal assistance.

(b) A copy of the public hearing notice shall be published in a newspaper of general circulation in the municipality once each week for two consecutive weeks, and the last publication shall be not less than 10 days prior to the date set for the public hearing. If the municipality has an Internet web site, the notice shall be posted thereon. A copy of the notice also shall be posted within or proximate to each property within the proposed condemnation area. A copy of the notice shall be mailed at least 15 days prior to the date of the public hearing to the last owner, if any, of each parcel of property within the proposed condemnation area as shown on the most recent assessment records of the municipality, and to any legal tenant or lessee of any of those properties. The municipal clerk or other clerk or official designated by the planning board shall make a diligent effort to ascertain the names and addresses of the legal tenants and lessees by contacting the legal owner of the rental property, or a management company identified by such owner. If the municipal clerk or other clerk or official designated by the planning board is still unable to ascertain the names and addresses of the legal tenants and lessees, then those notices shall be mailed, by regular mail only, addressed to "occupant," and a copy of the notice shall be posted on properties known to contain rental units. A notice also shall be sent to all persons at their last known address, if any, whose names are noted on the assessment records as claimants of an interest in any such parcel. The assessor of the municipality shall make a notation upon the records when requested to do so by any person claiming to have an interest in any parcel of

property in the municipality. The notice required by this paragraph shall be published, posted, and mailed by the municipal clerk, or by such clerk or official as the planning board shall otherwise designate. Mailing shall be by regular mail and by certified mail, return receipt requested. Failure to mail any such notice shall be governed by the provisions of section 23 of P.L. , c. (C.) (pending before the Legislature as this bill).

(c) Prior to the public hearing, a copy of all documents relevant to the determination that an area is a condemnation area shall be available for public inspection during regular business hours at a location identified in the notice, and if the municipality has an Internet web site, they shall be posted thereon.

(4) At the public hearing, which may be adjourned from time to time, the planning board shall hear all persons who are interested in, or would be affected by, a determination that the delineated area is a condemnation area. All objections to such a determination and evidence in support of those objections, given orally or in writing, shall be received and considered, and made part of the public record.

(5) (a) After completing its hearing on this matter, the planning board shall recommend that the delineated area, or any part thereof, be determined, or not be determined, by the municipal governing body to be a condemnation area.

(b) After receiving the recommendation of the planning board, the municipal governing body may adopt an ordinance determining that the delineated area, or any part thereof, is a condemnation area. Prior to final adoption of the ordinance the clerk of the municipality shall forthwith transmit a copy of the ordinance to the Commissioner of Community Affairs and to the Office of the Public Advocate for informational purposes only. No parcel shall be included in the condemnation area that was not recommended for inclusion by the planning board.

(6) (a) Notice of final adoption of an ordinance making a determination that an area is a condemnation area shall be served, within 10 days after the final adoption of the ordinance making the determination, upon each person who received notice of the public hearing in accordance with paragraph (3) of subsection b. of this section in the same manner as provided therein. Additionally, notice of final adoption of an ordinance making a determination of a condemnation area shall be published in the official newspaper of the municipality, together with the date of the first publication of such notice and also a statement that any action or proceeding of any kind or nature in any court questioning the validity of the adoption of the ordinance or the determination contained therein, shall be commenced within 60 days after the first publication of such notice.

(b) In any action or proceeding before the court questioning the validity of the determination of a property to be within a condemnation area, the municipality, redevelopment entity, or redeveloper shall have the affirmative burden of proving, by substantial evidence, that at least one of the conditions listed in subsection a. of section 22 of P.L. , c. (C.) (pending before the Legislature as this bill) exists on the property.

(7) Upon finding that any property is not necessary for the completion of a redevelopment project, the municipal governing body shall adopt a resolution to omit that property from the redevelopment plan and shall not have to take further action to amend the plan.

22. (New section) a. A redevelopment area, or delineated area or areas therein, may be determined to be a condemnation area if, after investigation, notice, and public hearing as provided in section 21 of P.L. , c. (C.), the governing body of the municipality, by ordinance, adopts the recommendations of the planning board concluding that with respect to every lot within the delineated area, at least one of the following conditions is found:

(1) At least one or more buildings or structures on an improved lot are substandard, unsafe, unsanitary, dilapidated, or obsolescent, or are so lacking in light, air, or space, as to be conducive to unwholesome living or working conditions.

(2) The discontinuance of the use of buildings previously used for commercial, manufacturing, or industrial purposes; the abandonment of such buildings; or the same being allowed to fall into so great a state of disrepair as to be untenantable.

(3) Unimproved vacant private land that has remained so for a period of at least 10 years prior to the investigation by the planning board, and that by reason of its location, remoteness, lack of means of access to developed sections or portions of the municipality, or topography or nature of the soil, (1) is not likely to be developed through the instrumentality of private capital, and (2) is determined to be detrimental to the safety, health, or welfare of the community.

(4) Buildings or improvements that exhibit dilapidation, obsolescence, overcrowding, faulty arrangement or design, or any combination of these factors, and are determined to be detrimental to the safety, health, or welfare of the community.

(5) A lack of proper utilization of a lot or a group of lots which is caused by the condition of the title, diverse ownership of the real property therein or other conditions, and is determined to be detrimental to the safety, health, or welfare of the community.

(6) Lots, or group of lots, in excess of five contiguous acres, whereon buildings or improvements have been destroyed, consumed by fire, demolished or altered by the action of storm, fire, cyclone, tornado, earthquake, or other casualty in such a way that the

aggregate assessed value of the area has been materially depreciated.

(7) Property, either vacant or developed, that is vacant or substantially underutilized due to environmental contamination, unless the entire property is the subject of an oversight document with the Department of Environmental Protection for the remediation of the property.

b. Notwithstanding subsection a. of this section, a condemnation area may include parcels containing lands, buildings, or improvements which do not meet the criteria of a condemnation area under this section but the inclusion of which is found necessary, with or without change in their condition, for the effective redevelopment of the area of which they are a part; provided, however that such parcels, in the aggregate, shall not comprise in excess of 10% of the land mass of the designated condemnation area or one parcel, whichever is greater, and shall not include parcels described in paragraph (7) of subsection a. of this section or lands subject to the protections provided under section 12 of P.L.1983, c.32 (C.4:1C-19). An additional hearing by the planning board shall be required for the inclusion of these non-blighted parcels within the condemnation area, with notice provided to the owners and interested parties as provided in section 21 of P.L. , c. (C.) (pending before the Legislature as this bill).

23. (New section) If a court finds that any notice required to be sent by mail under the "Local Redevelopment and Housing Law," P.L.1992, c.79 (C.40A:12A-1 et seq.), was defective, the court may order all or certain redevelopment activities to be suspended until the defective notices have been remedied and the interests of the parties accommodated to the court's satisfaction.

24. (New section) a. When a redevelopment entity seeks to acquire property in a condemnation area, the written offer of just compensation required under section 6 of P.L.1971, c.361 (C.20:3-6) shall include the amount of the approved appraisal, the amounts required pursuant to section 26 of P.L.1971, c.361 (C.20:3-26), plus:

(1) reimbursement for reasonable costs to verify the appraisal;

(2) reasonable legal costs of the prospective condemnee to review the basis for condemnation;

(3) lost rents for period of time between declaration of the condemnation area and date of taking date of possession by the redevelopment entity;

(4) the amount of relocation assistance that the prospective condemnee would be entitled; and

(5) with regard to a prospective condemnee who has an approved application for development under the "Municipal Land Use Law,"

P.L.1975, c.291 (C.40:55D-1 et seq.), restitution damages and expectancy damages related to the approved development, unless the condemnor can demonstrate that the prospective condemnee is unable or unwilling to complete the development.

b. When the amount of the approved appraisal is less than the amount of one or more bona fide mortgages, which were valid liens encumbering the property for not less than 180 days prior to the initiation of negotiations for the acquisition of such property, the amount of the written offer shall be no less than the payoff amount for those mortgage liens, calculated in accordance with the provision in section 5 of P.L.1971, c.362 (C.20:4-5).

c. Notwithstanding the requirements of section 30 of P.L.1971, c.361 (C.20:3-30), the approved appraisal for the property shall reflect its highest value as of any of the following dates occurring before approval of the appraisal:

(1) The date of possession, when the property being condemned is taken by the condemnor in whole or in part; (2) the date of the filing of the notice of taking; (3) the date on which action is taken by the condemnor which substantially affects the use and enjoyment of the property by the condemnee; (4) the date on which the property is determined to be in an area in need of redevelopment by the governing body; or (5) the date on which the property is determined to be in a condemnation area by the governing body.

d. If an offer is not accepted and the award of the condemnation commissioners is increased on appeal pursuant to section 13 of P.L.1971, c.361 (C.20:3-13), then the condemnor also shall pay the condemnee's reasonable legal fees expended by the condemnee to appeal the commissioners' award.

e. No property shall be subject to condemnation unless it has been identified for acquisition in the redevelopment plan or any amendment thereto, pursuant to paragraph (4), subsection a. of section 7 of P.L.1992, c.79 (C.40A:12A-7).

f. When a non-blighted property is included in a condemnation area, the property shall not be condemned unless the condemnor is able to certify in its condemnation complaint that it has exhausted all avenues to acquire the property, that acquisition of the property cannot be negotiated despite its best efforts, and that the property is necessary to the viability of the redevelopment project.

25. Section 14 of P.L.1992, c.79 (C.40A:12A-14) is amended to read as follows:

14. a. A delineated area may be determined to be in need of rehabilitation if the governing body of the municipality determines by resolution that <u>a program of rehabilitation, as defined in section 3 of P.L.1992, c.79 (C.40A:12A-3), may be expected to prevent further deterioration and promote the overall development of the community and that</u> there exist in that area conditions such that<u>:</u>

(1) a significant portion of structures therein are in a deteriorated or substandard condition and there is a continuing pattern of vacancy, abandonment or underutilization of properties in the area, **[**with**]** which may be reflected in a persistent arrearage of property tax payments thereon; **[**or**]**

(2) **[**more than half**]** a significant amount of the housing stock **[**in the delineated area is at least 50 years old, or a majority of the water and sewer**]** or infrastructure in the delineated area, or both, is **[**at least 50 years old and is**]** in need of repair or substantial maintenance; **[**and**]**

(3) **[**a program of rehabilitation, as defined in section 3 of P.L.1992, c.79 (C.40A:12A-3), may be expected to prevent further deterioration and promote the overall development of the community**]** (Deleted by amendment, P.L. , c. .) (pending before the Legislature as this bill);

(4) a significant portion of the area contains buildings or improvements evidencing dilapidation, obsolescence, overcrowding, faulty arrangement or design, lack of ventilation, light and sanitary facilities, excessive land coverage, deleterious land use or obsolete layout, or any combination of these factors; or

(5) there exists a growing lack or total lack of proper utilization of portions of the area resulting in a stagnant or not fully productive condition of land which is potentially useful and valuable for contributing to and serving the public health, safety, and welfare.

The resolution determining that the area is in need of rehabilitation shall be based upon a written report documenting the conditions that provide the basis for the determination that the area is in need of rehabilitation. Where warranted by consideration of the overall conditions and requirements of the community, a finding of need for rehabilitation may extend to the entire area of a municipality. Prior to adoption of the resolution, the governing body shall submit **[**it**]** the proposed resolution together with the report that provides the basis for the determination to the municipal planning board for its review. Within 45 days of its receipt of the proposed resolution, the municipal planning board shall submit its recommendations regarding the proposed resolution, including any modifications which it may recommend, to the governing body for its consideration. Thereafter, or after the expiration of the 45 days if the municipal planning board does not submit recommendations, the governing body may adopt the resolution, with or without modification. The resolution shall not become effective without the approval of the commissioner pursuant to section 6 of P.L.1992, c.79 (C.40A:12A-6), if otherwise required pursuant to that section.

b. A delineated area shall be deemed to have been determined to be an area in need of rehabilitation in accordance with the provisions of this act if it has heretofore been determined to be an

area in need of rehabilitation pursuant to P.L.1975, c.104 (C.54:4-3.72 et seq.), P.L.1977, c.12 (C.54:4-3.95 et seq.) or P.L.1979, c.233 (C.54:4-3.121 et seq.).
(cf: P.L.2003, c.125, s.5)

26. Section 15 of P.L.1992, c.79 (C40A:12A-15) is amended to read as follows:

15. In accordance with the provisions of a redevelopment plan adopted pursuant to section 7 of P.L.1992, c.79 (C.40A:12A-7), a municipality or redevelopment entity may proceed with clearance, replanning, conservation, development, redevelopment and rehabilitation of an area in need of rehabilitation. **[**With respect to a redevelopment project in**]** In an area in need of rehabilitation, the municipality or redevelopment entity, upon the adoption of a redevelopment plan for the area, may perform any of the actions set forth in section 8 of P.L.1992, c.79 (C.40A:12A-8), except that **[**with respect to such a project**]** the municipality shall not have the power to use eminent domain to take or acquire private property by condemnation in furtherance of a redevelopment plan**[**,**]** unless **[**: a. the area is within an area determined to be in need of redevelopment pursuant to this act; or b.**]** exercise of that power is authorized under any other law of this State or the property is located in a condemnation area.
(cf: P.L.1992, c.79, s.15)

27. (New section) a. A municipality, either for itself or on behalf of a redevelopment entity or redeveloper, may request the compliance status of a property located within the municipality with regard to a Department of Environment Protection oversight document.

b. The Department of Environmental Protection shall provide to the clerk of a municipality requesting information under subsection a. of this section, information as to whether the property in question is in compliance with an oversight document, including whether a notice of violation concerning the failure of the person responsible for the remediation of that property has been issued.

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

12. The rehabilitation or improvements made in the development or redevelopment of a redevelopment area or area appurtenant thereto or for a redevelopment relocation housing project, pursuant to P.L.1991, c.431 (C.40A:20-1 et seq.), shall be exempt from taxation for a limited period as hereinafter provided. When housing is to be constructed, acquired or rehabilitated by an urban renewal entity, the land upon which that housing is situated shall be exempt from taxation for a limited period as hereinafter

provided. The exemption shall be allowed when the clerk of the municipality wherein the property is situated shall certify to the municipal tax assessor that a financial agreement with an urban renewal entity for the development or the redevelopment of the property, or the provision of a redevelopment relocation housing project, or the provision of a low and moderate income housing project has been entered into and is in effect as required by P.L.1991, c.431 (C.40A:20-1 et seq.).

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

Upon the adoption of a financial agreement pursuant to P.L.1991, c.431 (C.40A:20-1 et seq.), a certified copy of the ordinance of the governing body approving the tax exemption and the financial agreement with the urban renewal entity shall forthwith be transmitted to the Director of the Division of Local Government Services. The governing body also shall post information concerning the financial agreement, and the tax exemption granted thereunder, on its official Internet web site, if any, along with similar information concerning other financial agreement in effect in the municipality, in a form as determined appropriate through rule and regulation of the director. A database of financial agreements in effect throughout the State, including details identifying the parties, the effective dates, the amounts of the exemptions granted, and the amount of any services charges also shall be published electronically by the director on the Internet web site of the Department of Community Affairs, to the extent that those data are available.

Whenever an exemption status changes during a tax year, the procedure for the apportionment of the taxes for the year shall be the same as in the case of other changes in tax exemption status during the tax year. Tax exemptions granted pursuant to P.L.2003, c.125 (C.40A:12A-4.1 et al.) represent long term financial agreements between the municipality and the urban renewal entity and as such constitute a single continuing exemption from local property taxation for the duration of the financial agreement. The validity of a financial agreement or any exemption granted pursuant thereto may be challenged only by filing an action in lieu of prerogative writ within 20 days from the publication of a notice of

the adoption of an ordinance by the governing body granting the exemption and approving the financial agreement. Such notice shall be published in a newspaper of general circulation in the municipality and in a newspaper of general circulation in the county if different from the municipal newspaper.

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

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

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

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

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

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

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

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

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

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

If the financial agreement provides for an exemption period of less than 30 years from the completion of the entire project, or less than 35 years from the execution of the financial agreement, the financial agreement shall set forth a schedule of annual service charges for the exemption period which shall be based upon the

minimum service charges and staged adjustments set forth in this section.

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

Each municipality which enters into a financial agreement on or after the effective date of P.L.2003, c.125 (C.40A:12A-4.1 et al.) shall remit 5 percent of the annual service charge to the county upon receipt of that charge in accordance with the provisions of this section.

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

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

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

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

(cf: P.L.2003, c.125, s.11)

29. (New section) a. Whenever a municipality or redevelopment entity wishes to enter into an agreement with a redeveloper and either (1) 20% or more of the redevelopment project or projects will be constructed on land owned by the municipality which will be conveyed to that redeveloper, or (2) 20% or more of they project or projects will be constructed upon land within an area in need of redevelopment that is subject to acquisition by the municipality or redevelopment entity pursuant to the redevelopment plan, then the municipality shall approve, by ordinance, a written agreement designating the redeveloper in accordance with this section.

b. The municipality or redevelopment entity shall prepare or have prepared request for proposal documentation, which shall include: all requirements deemed appropriate and necessary to allow for full and free competition between potential redevelopers; information necessary for potential redevelopers to submit a proposal, including a copy of the redevelopment plan, a general description of the project or projects, and such municipal public records relating to buildings and improvements within the redevelopment area, including, but not limited to, services provided by public utilities, building permit, and assessment records; and a methodology by which the municipality will evaluate and rank proposals received from potential redevelopers.

c. The methodology for selecting a redeveloper shall be based on an evaluation and ranking which may include overall design, technical expertise, demonstrated experience on projects similar to the proposed project, the ability to finance the proposed project, and such other stated criteria as the municipality shall deem relevant.

d. (1) At no time during the proposal solicitation process shall the municipality or redevelopment entity, or any employee or agent thereof, knowingly convey information to the public or any potential redeveloper which could confer an unfair advantage upon that potential redeveloper over any other potential redeveloper. If the municipality or redevelopment entity desires to change proposal documentation, the municipality or redevelopment entity shall notify only those potential redevelopers who received the proposal documentation of any and all changes in writing, and all existing documentation shall be changed appropriately.

(2) Any person who violates the provisions of this subsection shall be guilty of a crime of the fourth degree.

e. All proposals shall be required to contain a statement of corporate ownership in accordance with the provisions of section 1 of P.L.1977, c.33 (C.52:25-24.2) and specifications concerning equal employment opportunity, affirmative action pursuant to P.L.1975, c.127 (C.10:5-31 et seq.), and the requirement that the work to be performed under the contract shall ensure that employment and other economic opportunities generated by the redevelopment project shall, to the greatest extent feasible, be directed to businesses that are located, and persons who reside, within the area determined to be in need of redevelopment or rehabilitation.

f. A notice of the availability of request for proposal documentation shall be published in an official newspaper of the municipality at least 30 days prior to the date established for the submission of proposals. Such notice shall provide the name, address, and phone number of the person who can provide additional information and a proposal document to an interested party. The municipality or redevelopment entity shall promptly

reply to any request by an interested party by providing a copy of the request for proposals. The municipality or redevelopment entity may charge a fee for the proposal documentation that shall not exceed $50 or the cost of reproducing the documentation, whichever is greater.

g. Each interested potential redeveloper shall submit a proposal which shall include all the information required by the request for proposals. Failure to meet the requirements of the request for proposals may result in the municipality or redevelopment entity disqualifying the potential redeveloper from further consideration.

h. The municipality or redevelopment entity shall review and evaluate all proposals only in accordance with the methodology described in the request for proposals. The review shall be conducted in a manner that avoids disclosure of the contents of any proposal prior to the selection of a redeveloper. The municipality or redevelopment entity may conduct discussions with a potential redeveloper submitting a proposal for the purpose of clarifying the information submitted in the proposal. The municipality or redevelopment entity may at any time revise its proposal document after the review of the submitted proposals if it notifies simultaneously, and in writing, each potential redeveloper that submitted a proposal of the revision and provides a uniform time within which the potential redevelopers may submit a revised proposal for review.

i. The municipality or redevelopment entity shall select the proposal that received the highest evaluation and shall negotiate an agreement with the potential redeveloper that submitted the selected proposal. If the municipality or redevelopment entity is unable to negotiate a satisfactory agreement with the potential redeveloper that submitted the selected proposal, it may select the proposal that received the second highest evaluation from among those submitted and proceed to negotiate a satisfactory contract with the potential redeveloper that submitted the proposal. The process shall continue until a redeveloper is selected or the process is abandoned by the municipality or redevelopment entity. The decision to abandon the proposal process shall be by a resolution adopted by the governing body of the municipality or redevelopment entity.

j. After a redeveloper has been selected and a satisfactory agreement has been negotiated, but prior to the execution of the agreement by the governing body or redevelopment entity, the municipality or redevelopment entity shall prepare a report concerning the proposal selection process. The report shall list the names of all potential redevelopers who submitted a proposal and shall summarize the proposals of each potential redeveloper. The report shall contain objective, material reasons, such as, but not limited to, design, cost of materials, and square footage, as to why each potential redeveloper who was not selected, was rejected. The

report shall (1) rank the potential redevelopers in order of evaluation; (2) summarize, in general terms, any unsuccessful negotiations with potential redevelopers that submitted proposals which were ranked higher than the proposal of the selected redeveloper; (3) recommend the selected redeveloper; and (4) summarize the project to be undertaken and the relevant terms of the proposed agreement. The municipal clerk shall make the report available to the members of the governing body of the municipality, the members of the redevelopment entity, if not the municipality, and to the public at least 48 hours prior to the introduction of an ordinance authorizing an agreement with the redeveloper.

k. The governing body of the municipality or redevelopment entity shall have the right to reject all proposals for any reason, but such reason must be given and the municipality shall not authorize another request for proposals concerning the same project or projects for a period of 30 days after the date of rejection or abandonment by the governing body.

l. Nothing in this section shall limit the authority of a municipality to convey property within a redevelopment area for nominal consideration to any of the entities designated in section 21 of the "Local Lands and Buildings Law," P.L.1971, c.199 (C.40A:12-21) for any of the uses set forth therein, and to enter into redevelopment agreements with such entities for such uses without complying with the provisions of this section.

30. (New section) If any agreement between a redevelopment entity and a redeveloper shall provide for the use or potential use of eminent domain by the redevelopment entity, such agreement shall contain:

a. a block and lot identification of all parcels within a condemnation area which may be subject to eminent domain at the request of the redeveloper;

b. a schedule of acquisition by the redeveloper;

c. a provision stating that the ability of the redeveloper to request acquisition by eminent domain shall lapse within five years of the effective date of the agreement, which provision only may be further extended by an ordinance adopted by the governing body after notice to any property owner whose rights will be directly affected by such an extension.

31. (New section) Every resident and small business operator displaced as a result of a redevelopment project shall have a limited right of first refusal to purchase or lease a dwelling unit or business space subsequently constructed within the redevelopment project as set forth in this section:

a. At such time residents are provided notice pursuant to a workable relocation assistance program required by subsection (a)

of section 5 of P.L.1967, c.79 (C.52:31B-5) and regulations of the Department of Community Affairs, they shall be provided with the opportunity to have their names entered into a registry of residents seeking the opportunity to purchase or lease a dwelling unit in the redevelopment project or a registry of business operators seeking the opportunity to purchase or lease business space in the redevelopment project. The registry shall be maintained by the municipal relocation officer designated under the workable relocation assistance plan, a copy of which shall be forwarded to, and also maintained by, the Department of Community Affairs.

b. At such time that any residential development containing more than 10 dwelling units, or any nonresidential or mixed use development containing more than 18,000 square feet of floor area, shall be constructed in any redevelopment area as a redevelopment project, the developer shall notify each individual on the registries, by registered mail and by e-mail to their last known mailing or e-mail address, as may be available, of their opportunity to purchase or lease a dwelling unit or business space, as applicable. It shall be the sole responsibility of each individual to maintain a current mailing address with the registry, and the developer shall be under no obligation to provide notice except as set forth in this subsection.

c. From the date of mailing of the notice, the individuals on the registry shall have 10 business days before the units or business space in the development are offered to the general public, in order to enter into a contract of purchase or a lease for a unit or business space in the development. The contract or lease shall be on the same terms and at the same price as those on which the unit or business space is initially offered to the general public.

32. (New section) a. A Land Use Court is hereby established as a court of limited jurisdiction pursuant to Article VI, Section 1, paragraph 1 of the New Jersey Constitution for the purpose of deciding land related matters in an expedited manner that are transferred to it from the Superior Court in accordance with the Rules of the Supreme Court.

b. It shall be the goal of the Land Use Court to hear matters within 90 days of the transferal of a matter to the Land Use Court, unless otherwise agreed by the parties to the controversy.

33. (New section) The Land Use Court shall be a court of record and shall have a seal.

34. (New section) The Land Use Court shall have jurisdiction in matters transferred to it for expedited proceedings according to the Rules of the Supreme Court with respect to:

a. any matter concerning the declaration of an area in need of redevelopment or a condemnation area under P.L.1992, c.79

(C.40A:12A-1 et seq.);

b. any matter concerning eminent domain under P.L.1971, c.361 (C.20:3-1 et seq.);

c. any matter concerning appeals from decisions of the Department of Environmental Protection or any other agency that issues environmental permits;

d. any land use decision of a county or municipal government, authority or other instrumentality thereof or a department of State government or agency or instrumentality thereof including, but not limited to, any land use approval which is required as a prerequisite for the issuance of a construction permit pursuant to section 12 of P.L.1975, c.217 (C.52:27D-130), any dispute regarding the adoption or implementation of a county or municipal master plan or development regulation or the State Development and Redevelopment Plan, and such other land use disputes as provided by the Rules of the Supreme Court; and

e. actions cognizable in the Superior Court which raise issues as to which judicial expertise in matters involving eminent domain and land use is desirable, which are not within the jurisdiction of the Chancery division of the Superior Court, and which have been transferred to the Land Use Court pursuant to the Rules of the Supreme Court;

f. matters involving fair housing disputes pursuant to the "Fair Housing Act," P.L.1985, c.222 (C.52:27D-301 et al);

g. any other matters as may be provided by statute; and

h. the exercise of any powers that may be necessary to effectuate its decisions, judgments and orders.

35. (New section) a. The Land Use Court, in all causes within its jurisdiction, and subject to law, may grant legal and equitable relief so that all matters in controversy between the parties may be completely determined.

b. The right to trial by jury shall exist in the Land Use Court.

c. Judgments of the Land Use Court may be appealed to the Appellate Division of the Superior Court pursuant to Rules of the Supreme Court.

36. (New section) a. The Rules of the Supreme Court may provide that filing fees associated with a proceeding be transferred to the Land Use Court along with the transfer of the matter to the Land Use Court.

b. Additional fees and the reduction or waiver of fees for particular classes of cases shall be established by the Rules of the Supreme Court.

c. No proceeding shall be heard by the Land Use Court unless the fees are paid or waived.

d. All fees shall be payable to the clerk of the Land Use Court

for the use of the State, and shall not be refundable except as specifically provided by the Rules of the Supreme Court.

e. Practice and procedure in the Land Use Court shall be as provided by the Rules of the Supreme Court.

f. Decisions of the Land Use Court shall be published in the manner directed by the Supreme Court.

37. (New section) a. The Land Use Court shall maintain permanent locations in Trenton and Newark and may hold sessions at other locations throughout the State.

b. The State shall provide courtrooms, chambers and offices for the Land Use Court at the required permanent locations in Trenton and Newark and shall arrange for courtrooms, chambers and offices or other appropriate facilities at other locations throughout the State.

38. (New section) a. The Governor shall nominate and appoint, with the advice and consent of the Senate, the judges of the Land Use Court.

b. All appointments to such judgeships shall be made in such manner that the appointees shall be, as nearly as possible, in equal numbers, members of different political parties so as to constitute the Land Use Court bipartisan in character.

The words "political parties" mean such political parties as shall have cast the largest and next to the largest number of votes, respectively, for members of the General Assembly at the last preceding general election held for the election of all the members of the General Assembly prior to the making of any such appointments.

39. (New section) a. The Land Use Court shall consist of not less than one or more than 12 judges, each of whom shall exercise the powers of the court, subject to the Rules of the Supreme Court. The number of judges shall be determined by the Chief Justice based on the foreseeable workload of the court. The Chief Justice annually shall review the workload of the court and determine the adequate judicial staffing level.

b. The judges of the Land Use Court shall have been admitted to the practice of law in the State for at least 10 years prior to appointment and shall be chosen for their special qualifications, knowledge, and experience in matters of land use. The judges so appointed may be retired judges from the Superior Court.

40. (New section) a. The judges of the Land Use Court shall hold their offices for initial terms of seven years and until their successors are appointed and qualified, and upon reappointment shall hold their offices during good behavior; provided, however,

that the initial term and subsequent terms may be reduced by the Chief Justice for reasons of economy and efficiency, or other good cause.

b. The judges of the Land Use Court may retire upon attaining the age of 70 years, upon the same terms and conditions as judges of the Superior Court, and shall have the same pension rights and other benefits as judges of the Superior Court.

41. (New section) a. Each judge of the Land Use Court shall receive annual compensation and other benefits equal to those of a judge of the Superior Court and which shall not be diminished during the term of appointment.

b. The judges of the Land Use Court shall not engage in the practice of law or other gainful pursuit or shall they hold other office or position of profit under this State, any other State or the United States.

42. (New section) a. The judges of the Land Use Court shall be subject to impeachment, and upon impeachment shall not exercise judicial office until acquitted. The judges of the Land Use Court shall also be subject to removal from office by the Supreme Court for the causes and in the manner as is provided by law for the removal of judges of the Superior Court.

b. Whenever the Supreme Court certifies to the Governor that a judge of the Land Use Court appears to be substantially unable to perform the duties of office, the Governor shall appoint a commission of three persons to inquire into the circumstances. Upon the recommendation of the commission, the Governor may retire the judge from office, on pension, as may be provided by law.

43. (New section) The Chief Justice shall assign one of the judges of the Land Use Court to be the presiding judge of the Land Use Court. The presiding judge shall, subject to the supervision of the Chief Justice and the Administrative Director of the Courts, be responsible for the administration of the Land Use Court.

44. (New section) The presiding judge shall submit a report to the Chief Justice of the Supreme Court annually. The report shall be published as part of the Annual Report of the Administrative Director of the Courts. The report shall contain information and statistics for the previous fiscal year concerning the operation of the Land Use Court. The report may also contain recommendations by the presiding judge regarding the clarification or revision of legislation, rules, and regulations relating to eminent domain, land use, or the practice and procedure in the Land Use Court.

45. (New section) The Chief Justice may assign judges of the

Land Use Court to the Superior Court or to any other court as the need appears, and any judge so assigned shall exercise all of the powers of a judge of that court. A judge of the Land Use Court who is terminated for reasons of economy and efficiency, or for other good cause, shall not be entitled to be reassigned in accordance with this section.

46. (New section) The Supreme Court shall appoint to serve at its pleasure a Clerk and a Deputy Clerk of the Land Use Court, neither of whom shall be subject to the provisions of Title 11A, Civil Service, of the New Jersey Statutes.

47. Section 5 of P.L.1996, c.62 (C.55:19-24) is amended to read as follows:

5. The authority shall have the following powers:

a. to sue and be sued;

b. to have a seal and alter the same at the authority's pleasure;

c. to enter into contracts upon such terms and conditions as the authority shall determine to be reasonable, including, but not limited to, reimbursement for the planning, designing, financing, construction, reconstruction, improvement, equipping, furnishing, operation and maintenance of the project and to pay or compromise any claims arising therefrom;

d. to make and alter bylaws for its organization and internal management and, subject to agreements with noteholders or bondholders, to make rules and regulations with respect to its projects, operations, properties and facilities;

e. to invest any funds held in reserve or sinking funds, or any moneys not required for immediate use and disbursement, at the discretion of the authority, in obligations of this State or of the United States, or obligations the principal and interest of which are guaranteed by this State or the United States;

f. to sell, lease, assign, transfer, convey, exchange, mortgage, or otherwise dispose of or encumber any project, and in the case of the sale of any project, to accept a purchase money mortgage in connection therewith; and to lease, repurchase or otherwise acquire and hold any project which the corporation has theretofore sold, leased or otherwise conveyed, transferred or disposed of;

g. to acquire or contract to acquire from any individual, partnership, trust, association or corporation, or any public agency, by grant, purchase or otherwise, real or personal property or any interest therein; to own, hold, clear, improve, rehabilitate and develop, and to sell, assign, exchange, transfer, convey, lease, mortgage or otherwise dispose of or encumber the same;

h. to acquire in the name of the authority by purchase or otherwise, on such terms and conditions and such manner as it may

deem proper any lands or interests therein or other property which it may determine is reasonably necessary for any project;

i. to acquire, construct, reconstruct, rehabilitate, improve, alter or repair or provide for construction, reconstruction, rehabilitation, improvement, alteration or repair of any project;

j. to arrange or contract with a municipality for the planning, replanning, opening, grading or closing of streets, roads, roadways, alleys or other places, or for the furnishing of facilities or for the acquisition by a municipality of property or property rights or for the furnishing of property or services, in connection with a project;

k. to grant options to purchase any project or to renew any leases entered into by it in connection with any of its projects, on such terms and conditions as it may deem advisable;

l. to prepare or cause to be prepared plans, specifications, designs and estimates of costs for the construction, reconstruction, rehabilitation, improvement, alteration or repair of any project, and from time to time to modify such plans, specifications, designs or estimates;

m. to manage any project, whether then owned or leased by the authority, and to enter into agreements with any individual, partnership, trust, association or corporation, or with any public agency, for the purpose of causing any project to be managed;

n. to hold any property owned or acquired by the authority in the name of the authority;

o. to provide advisory, consultative, training and educational services, technical assistance and advice to any individual, partnership, trust, association or corporation, or to any public agency, in order to carry out the purposes of P.L.1996, c.62 (C.55:19-20 et al.);

p. to issue, purchase, pledge and sell stock in projects of the authority and to purchase, sell or pledge the shares, or other obligations or securities of any subsidiary corporation, on such terms and conditions as the authority or subsidiary corporation may deem advisable;

q. subject to the provisions of any contract with noteholders, to consent to the modification, with respect to rate of interest, time of payment or any installment of principal or interest, security, or any other terms, of any loan, mortgage, commitment, contract or agreement of any kind to which the authority is a party;

r. in connection with any property on which it has made a mortgage loan, to foreclose on the property or commence any action to protect or enforce any right conferred upon it by any law, mortgage, contract or other agreement, and to bid for or purchase the property at any foreclosure or at any other sale, or acquire or take possession of the property; and in such event the authority may complete, administer, pay the principal of and interest on any obligations incurred in connection with the property, dispose of and

otherwise deal with the property, in such manner as may be necessary or desirable to protect the interests of the authority therein;

s. to acquire, purchase, manage and operate, hold and dispose of real and personal property or interests therein, take assignments of rentals and leases and make and enter into all contracts, leases, agreements and arrangements necessary or incidental to the performance of its duties;

t. to purchase, acquire and take assignments of notes, mortgages and other forms of security and evidences of indebtedness;

u. to extend credit or make loans to any person for the planning, designing, acquiring, constructing, reconstructing, improving, equipping and furnishing of a project, which credits or loans may be secured by loan and security agreements, mortgages, leases and any other instruments, upon such terms and conditions as the authority shall deem reasonable, including provision for the establishment and maintenance of reserve and insurance funds, and to require the inclusion in any mortgage, lease, contract, loan and security agreement or other instrument, such provisions for the construction, use, operation and maintenance and financing of a project as the authority may deem necessary or desirable;

v. to borrow money, secure credit against the assets of the authority on a temporary, short-term, interim or long-term basis and to issue bonds of the authority and to provide for the rights of the holders thereof, as provided in P.L.1996, c.62 (C.55:19-20 et al.);

w. to make short-term loans or advances to developers for construction in anticipation of the issuance of permanent loans;

x. to exercise sole authority for investment, reinvestment or expenditure of its revenues, fund balances and appropriations consistent with the purposes of P.L.1996, c.62 (C.55:19-20 et al.) on projects and investments utilizing revenues from the sale of revenue bonds, which projects shall be subject to the approval of the State Treasurer, and the Treasurer's actions shall be based solely on his fiduciary role to ensure that all applicable federal and State tax laws are adhered to regarding the investment of bond funds;

y. notwithstanding any law to the contrary, and upon resolution of the municipal governing body, to act as the redevelopment agency of any municipality in which there is not established a redevelopment agency pursuant to subsection a. of section 11 of P.L.1992, c.79 (C.40A:12A-11) and which is not precluded from establishing such an agency;

z. in connection with any application for assistance under P.L.1996, c.62 (C.55:19-20 et al.) or commitments therefor, to require and collect such fees and charges as the authority shall determine to be reasonable;

aa. to establish, levy and collect, in connection with any civic project or utilities project managed or operated by the authority,

whether then owned or leased by the authority, user fees and facility charges;

bb. to procure insurance against any loss in connection with its property and other assets and operations, in such amounts and from such insurers as it deems desirable;

cc. to employ consulting engineers, architects, attorneys, real estate counselors, appraisers, and such other consultants and employees as may be required in the judgment of the authority to carry out the purposes of the act, and to fix and pay their compensation from funds available to the authority therefor, all without regard to the provisions of Title 11A, Civil Service, of the New Jersey Statutes;

dd. to contract for, and to accept, any gifts or grants or loans of funds or property or financial or other aid in any form from the federal government or any agency or instrumentality thereof, or from the State or a municipality or any agency or instrumentality thereof, or from any other source, and, subject to the provisions of P.L.1996, c.62 (C.55:19-20 et al.) and any other applicable law, to comply with the terms and conditions thereof;

ee. to create subsidiary corporations as provided in section 8 of P.L.1996, c.62 (C.55:19-27);

ff. to assist municipalities, counties, public or private county and municipal development agencies, district management corporations created pursuant to section 4 of P.L.1972, c.134 (C.40:56-68), community action boards established pursuant to section 4 of P.L.1991, c.51 (C.52:27D-398), or sponsors of neighborhood empowerment organizations, in formulating and implementing community redevelopment plans, which shall include, but not be limited to, neighborhood restoration, residential development, and industrial and commercial development;

gg. to fund, or assist in funding, community redevelopment projects by municipalities, counties, public or private county and municipal development agencies, district management corporations created pursuant to section 4 of P.L.1972, c.134 (C.40:56-68), community action boards established pursuant to section 4 of P.L.1991, c.51 (C.52:27D-398), or sponsors of neighborhood empowerment organizations, which shall include, but not be limited to, direct loan assistance, including loan guarantees, procuring capital from private developers and lending institutions, and facilitating access to State, federal, and private sources of loans or grants, including, but not limited to, the New Jersey Economic Development Authority and the Casino Redevelopment Authority;

hh. to assist in providing access to support services, including technical assistance and job training programs, for projects developed in connection with comprehensive community redevelopment plans and neighborhood empowerment programs established pursuant to this act;

ii. to provide assistance to urban areas in attracting industrial and commercial projects, in rehabilitating existing industrial and commercial facilities to restore them to productive use through the establishment of marketing programs and incentive programs;

jj. to assist in facilitating the work of the Office of Neighborhood Empowerment established pursuant to this act, which assistance shall include, but not be limited to, providing professional or technical expertise and funding for the establishment and implementation of neighborhood empowerment plans developed pursuant to this act;

kk. to enter into partnerships with private developers, the New Jersey Economic Development Authority or any other public entity, for the purpose of community redevelopment, and establish fees therefor;

ll. to enter into agreements with municipalities or counties regarding projects to be financed through the use of payment in lieu of taxes, as provided for in section 33 of P.L.1996, c.62 (C.55:19-52); **[**and**]**

mm. to do any and all things necessary or convenient to carry out its purposes and exercise the powers given and granted in P.L.1996, c.62 (C.55:19-20 et al.)<u>; and</u>

<u>nn. to have all of the powers and authority of the Smart Growth Ombudsman under P.L.2004, c.89 (C.52:27D-10.2 et al.), that are necessary to facilitate and expedite the review and approval of permits in areas determined to be in need of redevelopment pursuant to sections 5 and 6 of P.L.1992, c.79 (C.40A:12A-5 and 40A:12A-6)</u>.

(cf: P.L.1996, c.62, s.5)

48. This act shall take effect immediately but shall remain inoperative until the first day of the fourth month next following enactment. Any final action taken by a municipality or redevelopment entity with respect to: a determination that an area is in need of redevelopment or in need of rehabilitation; adoption of a redevelopment plan; or designation of a redeveloper, prior to the effective date of this act shall have full force and effect, except that if an appeal of any municipal action has been filed in a court of competent jurisdiction prior to the effective date of this act, the municipal action shall not be considered "final" for purposes of exemption from this act, but any subsequent official action by the municipality or redevelopment entity after the operative date of this act, including amendments to increase the size of the redevelopment area or amendments to the redevelopment plan, shall be subject to its provisions.