

LexisNexis (TM) New Jersey Annotated Statutes

*** This section is current through New Jersey 216th Legislature ***
*** First Annual Session, 2014 c. 10 and J.R. 1 ***

TITLE 40A. MUNICIPALITIES AND COUNTIES
CHAPTER 20. LONG TERM TAX EXEMPTION LAW

GO TO THE NEW JERSEY ANNOTATED STATUTES ARCHIVE DIRECTORY

N.J. Stat. § 40A:20-1 (2014)

§ 40A:20-1. Short title

This act shall be known and may be cited as the "Long Term Tax Exemption Law."

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N.J. Stat. § 40A:20-2 (2014)

§ 40A:20-2. Findings, declarations

The Legislature finds that in the past a number of laws have been enacted to provide for the clearance, replanning, development, and redevelopment of blighted areas pursuant to *Article VIII, Section III, paragraph 1 of the New Jersey Constitution*. These laws had as their public purpose the restoration of deteriorated or neglected properties to a use resulting in the elimination of the blighted condition, and sought to encourage private capital and participation by private enterprise to contribute toward this purpose through the use of special financial arrangements, including the granting of property tax exemptions with respect to land and the buildings, structures, infrastructure and other valuable additions to and amelioration of land, provided that the construction or rehabilitation of buildings, structures, infrastructure and other valuable additions to and amelioration of land constitute improvements to blighted conditions. The Legislature finds that these laws, separately enacted, contain redundant and unnecessary provisions, or provisions which have outlived their usefulness, and that it is necessary to revise, consolidate and clarify the law in this area in order to preserve and improve the usefulness of the law in promoting the original public purpose.

The Legislature declares that the provisions of this act are one means of accomplishing the redevelopment and rehabilitation purposes of the "Local Redevelopment and Housing Law," P.L. 1992, c. 79 (*C. 40A:12A-1 et al.*) through the use of private entities and financial arrangements pertaining thereto, and that this act should be construed in conjunction with that act.

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N.J. Stat. § 40A:20-3 (2014)

§ 40A:20-3. Definitions

As used in P.L. 1991, c. 431 (*C. 40A:20-1 et seq.*):

a. "Gross revenue" means annual gross revenue or gross shelter rent or annual gross rents, as appropriate, and other income, for each urban renewal entity designated pursuant to P.L. 1991, c. 431 (*C. 40A:20-1 et seq.*). The financial agreement shall establish the method of computing gross revenue for the entity, and the method of determining insurance, operating and maintenance expenses paid by a tenant which are ordinarily paid by a landlord, which shall be included in the gross revenue; provided, however, that any federal funds received, whether directly or in the form of rental subsidies paid to tenants, by a nonprofit corporation that is the sponsor of a qualified subsidized housing project, shall not be included in the gross revenue of the project for purposes of computing the annual services charge for municipal services supplied to the project; and provided further that any gain realized by the urban renewal entity on the sale of any unit in fee simple, whether or not taxable under federal or State law, shall not be included in computing gross revenue.

b. "Limited-dividend entity" means an urban renewal entity incorporated pursuant to Title 14A of the New Jersey Statutes, or established pursuant to Title 42 of the Revised Statutes, for which the profits and the entity are limited as follows. The allowable net profits of the entity shall be determined by applying the allowable profit rate to each total project unit cost, if the project is undertaken in units, or the total project cost, if the project is not undertaken in units, and all capital costs, determined in accordance with generally accepted accounting principles, of any other entity whose revenue is included in the computation of excess profits, for the period commencing on the date on which the construction of the unit or project is completed, and terminating at the close of the fiscal year of the entity preceding the date on which the computation is made, where:

"Allowable profit rate" means the greater of 12% or the percentage per annum arrived at by adding 1 1/4% to the annual interest percentage rate payable on the entity's initial permanent mortgage financing. If the initial permanent mortgage is insured or guaranteed by a governmental agency, the mortgage insurance premium or similar charge, if payable on a per annum basis, shall be considered as interest for this purpose. If there is no permanent mortgage financing the allowable profit rate shall be the greater of 12% or the percentage per annum arrived at by adding 1 1/4% per annum to the interest rate per annum which the municipality determines to be the prevailing rate on mortgage financing on comparable improvements in the county.

c. "Net profit" means the gross revenues of the urban renewal entity less all operating and non-operating expenses of the entity, all determined in accordance with generally accepted accounting principles, but:

(1) there shall be included in expenses: (a) all annual service charges paid pursuant to section 12 of P.L. 1991, c. 431 (*C. 40A:20-12*); (b) all payments to the municipality of excess profits pursuant to section 15 or 16 of P.L. 1991, c. 431 (*C. 40A:20-15* or *40A:20-16*); (c) an annual amount sufficient to amortize the total project cost and all capital costs determined in accordance with generally accepted accounting principles, of any other entity whose revenue is included in the computation of excess profits, over the term of the abatement as set forth in the financial agreement; (d) all reasonable annual operating expenses of the urban renewal entity and any other entity whose revenue is included in the computation of excess profits, including the cost of all management fees, brokerage commissions, insurance premiums, all taxes or service charges paid, legal, accounting, or other professional service fees, utilities, building maintenance

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costs, building and office supplies, and payments into repair or maintenance reserve accounts; (e) all payments of rent including, but not limited to, ground rent by the urban renewal entity; (f) all debt service;

(2) there shall not be included in expenses either depreciation or obsolescence, interest on debt, except interest which is part of debt service, income taxes, or salaries, bonuses or other compensation paid, directly or indirectly to directors, officers and stockholders of the entity, or officers, partners or other persons holding any proprietary ownership interest in the entity.

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

d. "Nonprofit entity" means an urban renewal entity incorporated pursuant to Title 15A of the New Jersey Statutes for which no part of its net profits inures to the benefit of its members.

e. "Project" means any work or undertaking pursuant to a redevelopment plan adopted pursuant to the "Local Redevelopment and Housing Law," P.L. 1992, c. 79 (C. 40A:12A-1 et al.), which has as its purpose the redevelopment of all or any part of a redevelopment area including any industrial, commercial, residential or other use, and 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.

f. "Redevelopment area" means an area determined to be in need of redevelopment and for which a redevelopment plan has been adopted by a municipality pursuant to the "Local Redevelopment and Housing Law," P.L. 1992, c. 79 (C. 40A:12A-1 et al.).

g. "Urban renewal entity" means a limited-dividend entity, the New Jersey Economic Development Authority or a nonprofit entity which enters into a financial agreement pursuant to P.L. 1991, c. 431 (C. 40A:20-1 et seq.) with a municipality to undertake a project pursuant to a redevelopment plan for the redevelopment of all or any part of a redevelopment area, or a project necessary, useful, or convenient for the relocation of residents displaced or to be displaced by the redevelopment of all or any part of one or more redevelopment areas, or a low and moderate income housing project.

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

\$ 500,000 or less -- 10%

\$ 500,000 through \$ 1,000,000 -- \$ 50,000 plus 8% on excess above \$ 500,000

\$ 1,000,001 through \$ 2,000,000 -- \$ 90,000 plus 7% on excess above \$ 1,000,000

\$ 2,000,001 through \$ 3,500,000 -- \$ 160,000 plus 5.6667% on excess above \$ 2,000,000

\$ 3,500,001 through \$ 5,500,000 -- \$ 245,000 plus 4.25% on excess above \$ 3,500,000

\$ 5,500,001 through \$ 10,000,000 -- \$ 330,000 plus 3.7778% on excess above \$ 5,500,000

over \$ 10,000,000 -- 5%

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If the project includes units in fee simple, with respect to those units, "total project cost" shall mean the sales price of the individual housing unit which shall be the most recent true consideration paid for a deed to the unit in fee simple in a bona fide arm's length sales transaction, but not less than the assessed valuation of the unit in fee simple assessed at 100 percent of true value.

If the financial agreement so provides, there shall be excluded from the total project cost: (1) actual costs incurred by the entity and certified to the municipality by an independent and qualified architect or engineer which are associated with site remediation and cleanup of environmentally hazardous materials or contaminants in accordance with State or federal law; and (2) any extraordinary costs incurred by the entity and certified to the chief financial officer of the municipality by an independent certified public accountant in order to alleviate blight conditions within the area in need of redevelopment including, but not limited to, the cost of demolishing structures considered by the entity to be an impediment to the proposed redevelopment of the property, costs associated with the relocation or removal of public utility facilities as defined pursuant to section 10 of P.L. 1992, c. 79 (C. 40A:12A-10) considered necessary in order to implement the redevelopment plan, costs associated with the relocation of residents or businesses displaced or to be displaced by the proposed redevelopment, and the clearing of title to properties within the area in need of redevelopment in order to facilitate redevelopment.

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

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

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

l. "Qualified subsidized housing project" means a low and moderate income housing project owned by a nonprofit corporation organized under the provisions of Title 15A of the New Jersey Statutes for the purpose of developing, constructing and operating rental housing for senior citizens under section 202 of Pub.L. 86-372 (12 U.S.C. § 1701q) or rental housing for persons with disabilities under section 811 of Pub.L. 101-625 (42 U.S.C. § 8013), or under any other federal program that the Commissioner of Community Affairs by rule may determine to be of a similar nature and purpose.

m. "Debt service" means the amount required to make annual payments of principal and interest or the equivalent thereof on any construction mortgage, permanent mortgage or other financing including returns on institutional equity financing and market rate related party debt for a project for a period equal to the term of the tax exemption granted by a financial agreement.

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N.J. Stat. § 40A:20-4 (2014)

§ 40A:20-4. Municipal agreements for projects under a redevelopment plan

The governing body of a municipality which has adopted a redevelopment plan pursuant to the "Local Redevelopment and Housing Law," P.L.1992, c.79 (*C.40A:12A-11* et al. [*C.40A:12A-1* et al.]) may enter into a financial agreement with an urban renewal entity for the undertaking of a project set forth in a redevelopment plan adopted by the governing body pursuant to the "Local Redevelopment and Housing Law," P.L.1992, c.79 (*C.40A:12A-1* et al.) or a project necessary, useful, or convenient for the relocation of residents displaced or to be displaced by the redevelopment of all or any part of one or more redevelopment areas, or a low and moderate income housing project. The financial agreement shall include, but not be limited to, those provisions set forth in sections 8, 9, 10 and 11 of P.L.1991, c.431 (*C.40A:20-8* through *40A:20-11*), and shall be subject to review and approval as required by section 8 of P.L.1991, c.431 (*C.40A:20-8*) prior to execution. The municipality which enters into the agreement shall retain all necessary authority and control for the redevelopment of the redevelopment area set forth in the plan, and the undertaking of a project by an urban renewal entity pursuant to that plan and P.L.1991, c.431 (*C.40A:20-1* et seq.) shall be deemed a delegation of the powers of the municipality to undertake the project, which delegation shall be limited by the terms of the agreement and the provisions of P.L.1991, c.431 (*C.40A:20-1* et seq.).

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

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N.J. Stat. § 40A:20-5 (2014)

§ 40A:20-5. Urban renewal entities, qualification; provisions

Any duly formed corporation, partnership, limited partnership, limited partnership association, or other unincorporated entity may qualify as an urban renewal entity under P.L. 1991, c. 431 (*C. 40A:20-1 et seq.*), if its certificate of incorporation, or other similar certificate or statement as may be required by law, shall contain the following provisions:

- a. The name of the entity shall include the words "Urban Renewal."
- b. The purpose for which it is formed shall be to operate under P.L. 1991, c. 431 (*C. 40A:20-1 et seq.*) and to initiate and conduct projects for the redevelopment of a redevelopment area pursuant to a redevelopment plan, or projects necessary, useful, or convenient for the relocation of residents displaced or to be displaced by the redevelopment of all or part of one or more redevelopment areas, or low and moderate income housing projects, and, when authorized by financial agreement with the municipality, to acquire, plan, develop, construct, alter, maintain or operate housing, senior citizen housing, business, industrial, commercial, administrative, community, health, recreational, educational or welfare projects, or any combination of two or more of these types of improvement in a single project, under such conditions as to use, ownership, management and control as regulated pursuant to P.L.1991, c.431 (*C.40A:20-1 et seq.*).
- c. A provision that so long as the entity is obligated under financial agreement with a municipality made pursuant to P.L. 1991, c. 431 (*C. 40A:20-1 et seq.*), it shall engage in no business other than the ownership, operation and management of the project.
- d. A declaration that the entity has been organized to serve a public purpose, that its operations shall be directed toward: (1) the redevelopment of redevelopment areas, the facilitation of the relocation of residents displaced or to be displaced by redevelopment, or the conduct of low and moderate income housing projects; (2) the acquisition, management and operation of a project, redevelopment relocation housing project, or low and moderate income housing project under P.L. 1991, c. 431 (*C. 40A:20-1 et seq.*); and (3) that it shall be subject to regulation by the municipality in which its project is situated, and to a limitation or prohibition, as appropriate, on profits or dividends for so long as it remains the owner of a project subject to P.L.1991, c.431 (*C.40A:20-1 et seq.*).
- e. A provision that the entity shall not voluntarily transfer more than 10% of the ownership of the project or any portion thereof undertaken by it under P.L.1991, c.431 (*C.40A:20-1 et seq.*), until it has first removed both itself and the project from all restrictions of P.L. 1991, c. 431 (*C. 40A:20-1 et seq.*) in the manner required by P.L. 1991, c. 431 (*C. 40A:20-1 et seq.*) and, if the project includes housing units, has obtained the consent of the Commissioner of Community Affairs to such transfer; with the exception of transfer to another urban renewal entity, as approved by the municipality in which the project is situated, which other urban renewal entity shall assume all contractual obligations of the transferor entity under the financial agreement with the municipality. The entity shall file annually with the municipal governing body a disclosure of the persons having an ownership interest in the project, and of the extent of the ownership interest of each. Nothing herein shall prohibit any transfer of the ownership interest in the urban renewal entity itself provided that the transfer, if greater than 10 percent, is disclosed to the municipal governing body in the annual disclosure statement or in correspondence sent to the municipality in advance of the annual disclosure statement referred to above.

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f. A provision stating that the entity is subject to the provisions of section 18 of P.L. 1991, c. 431 (C. 40A:20-18) respecting the powers of the municipality to alleviate financial difficulties of the urban renewal entity or to perform actions on behalf of the entity upon a determination of financial emergency.

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

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

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

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N.J. Stat. § 40A:20-5.1 (2014)

§ 40A:20-5.1. Urban renewal entity; qualification

The provisions of section 5 of P.L.1991, c. 431 (*C. 40A:20-5*) to the contrary notwithstanding, a nonprofit corporation organized for the purpose of developing, constructing and operating a qualified subsidized housing project may qualify as an urban renewal entity under P.L.1991, c. 431 (*C. 40A:20-1 et seq.*) if its certificate of incorporation is in conformity with the requirements of the federal agency subsidizing the project.

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N.J. Stat. § 40A:20-6 (2014)

§ 40A:20-6. Necessary powers of urban renewal entities

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

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

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N.J. Stat. § 40A:20-7 (2014)

§ 40A:20-7. Additional powers of urban renewal entities

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

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

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

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

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N.J. Stat. § 40A:20-8 (2014)

§ 40A:20-8. Application required, form, contents

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

a. A general statement of the nature of the proposed project, that the undertaking conforms to all applicable municipal ordinances, and that the project accords with the redevelopment plan and master plan of the municipality, or, in the case of a redevelopment relocation housing project, provides for the relocation of residents displaced or to be displaced from a redevelopment area, or, in the case of a low and moderate income housing project, the housing units are restricted to occupation by low and moderate income households.

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

c. A statement prepared by a qualified architect or engineer of the estimated cost of the proposed project in the detail required, including the estimated cost of each unit to be undertaken.

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

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

f. A proposed financial agreement conforming to the provisions of section 9 of this act.

The application shall be addressed and submitted to the mayor or other chief executive officer of the municipality. The mayor or other chief executive officer shall, within 60 days of his receipt of the application thereafter, submit the application with his recommendations to the municipal governing body. The governing body shall by resolution approve or disapprove the application, but in the event of disapproval, changes may be suggested to secure approval. An application may be revised and resubmitted.

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N.J. Stat. § 40A:20-9 (2014)

§ 40A:20-9. Financial agreement for approved projects, form and contents of contract

Every approved project shall be evidenced by a financial agreement between the municipality and the urban renewal entity. The agreement shall be prepared by the entity and submitted as a separate part of its application for project approval. The agreement shall not take effect until approved by ordinance of the municipality. Any amendments or modifications of the agreement made thereafter shall be by mutual consent of the municipality and the urban renewal entity, and shall be subject to approval by ordinance of the municipal governing body upon recommendation of the mayor or other chief executive officer of the municipality prior to taking effect. The financial agreement shall be in the form of a contract requiring full performance within 30 years from the date of completion of the project, and shall include the following:

- a. That the profits of or dividends payable by the urban renewal entity shall be limited according to terms appropriate for the type of entity in conformance with the provisions of P.L. 1991, c. 431 (C. 40A:20-1 et seq.).
- b. That all improvements and land, to the extent authorized pursuant to section 12 of P.L. 1991, c. 431 (C. 40A:20-12), in the project to be constructed or acquired by the urban renewal entity shall be exempt from taxation as provided in P.L. 1991, c. 431 (C. 40A:20-1 et seq.).
- c. That the urban renewal entity shall make payments for municipal services as provided in P.L. 1991, c. 431 (C. 40A:20-1 et seq.).
- d. That the urban renewal entity shall submit annually, within 90 days after the close of its fiscal year, its auditor's reports to the mayor and governing body of the municipality and to the Director of the Division of Local Government Services in the Department of Community Affairs.
- e. That the urban renewal entity shall, upon request, permit inspection of property, equipment, buildings and other facilities of the entity, and also permit examination and audit of its books, contracts, records, documents and papers by authorized representatives of the municipality or the State.
- f. That in the event of any dispute between the parties matters in controversy shall be resolved by arbitration in the manner provided in the financial agreement.
- g. That operation under the financial agreement shall be terminable by the urban renewal entity in the manner provided by P.L. 1991, c. 431 (C. 40A:20-1 et seq.).
- h. That the urban renewal entity shall at all times prior to the expiration or other termination of the financial agreement remain bound by the provisions of P.L. 1991, c. 431 (C. 40A:20-1 et seq.).

The financial agreement shall contain detailed representations and covenants by the urban renewal entity as to the manner in which it proposes to use, manage or operate the project. The financial agreement shall further set forth the method for computing gross revenue for the urban renewal entity, the method of determining insurance, operating and maintenance expenses paid by a tenant which are ordinarily paid by a landlord, the plans for financing the project, including the estimated total project cost, the amortization rate on the total project cost, the source of funds, the interest rates to be paid on the construction financing, the source and amount of paid-in capital, the terms of mortgage amortization or payment of principal on any mortgage, a good faith projection of initial sales prices of any condominium units

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and expenses to be incurred in promoting and consummating such sales, and the rental schedules and lease terms to be used in the project. Any financial agreement may allow the municipality to levy an annual administrative fee, not to exceed two percent of the annual service charge.

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N.J. Stat. § 40A:20-10 (2014)

§ 40A:20-10. Provisions for transfer or sale

The financial agreement may provide:

a. That the municipality will consent to a sale of the project by the urban renewal entity to another urban renewal entity organized under P.L. 1991, c. 431 (*C. 40A:20-1 et seq.*), their successors, assigns, all owning no other project at the time of the transfer and that, upon assumption by the transferee urban renewal entity of the transferor's obligations under the financial agreement, the tax exemption of the improvements thereto and, to the extent authorized pursuant to section 12 of P.L. 1991, c. 431 (*C. 40A:20-12*), land shall continue and inure to the transferee urban renewal entity, its respective successors or assigns.

b. That the municipality will consent to a sale of the project to purchasers of units in the condominium if the project or any portion thereof has been devoted to condominium ownership, and to their successors, assigns, all owning (in the case of housing) no other condominium unit of a project at the time of the transfer, and that, upon assumption by the condominium unit purchaser of the transferor's obligations under the financial agreement, the tax exemption of the project buildings and improvements and, to the extent authorized pursuant to section 12 of P.L. 1991, c. 431 (*C. 40A:20-12*), land shall continue and inure to the unit purchaser, his respective successors or assigns.

c. That the municipality will consent to a sale of the project to purchasers of units in fee simple, if the project or any portion thereof has been devoted to fee simple ownership, and to their successors, assigns, all owning (in the case of housing) no other fee simple unit of a project at the time of the transfer, and that, upon assumption by the fee simple unit purchaser of the transferor's obligations under the financial agreement, the tax exemption of the project buildings and improvements and, to the extent authorized pursuant to section 12 of P.L. 1991, c. 431 (*C. 40A:20-12*), land shall continue and inure to the fee simple unit purchaser, his respective successors or assigns. The provisions of this subsection shall not be construed to authorize the sale of a project between an urban renewal entity and a for-profit developer.

d. Any financial agreement which provides for consent pursuant to subsection a., b. or c. of this section may allow the municipality to levy an administrative fee, not to exceed two percent of the annual service charge, for the processing of any such request for the continuation of a tax exemption.

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N.J. Stat. § 40A:20-11 (2014)

§ 40A:20-11. Municipal determinations as to tax exemptions and service charges

A financial agreement approved pursuant to this act shall include findings by the municipality, approved by the municipal governing body, setting forth appropriate tax exemption provisions and an appropriate annual service charge schedule which shall be based upon the provisions of section 12 of this act and the municipality's determinations as to:

- a. The relative benefits of the project to the redevelopment of the redevelopment area when compared to the costs, if any, associated with the tax exemption;
- b. An assessment of the importance of the tax exemption to be granted in obtaining the development of the project and in influencing the locational decisions of probable occupants of the project or units of the project.

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N.J. Stat. § 40A:20-12 (2014)

§ 40A:20-12. Tax exemption, duration; annual service charges

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.

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

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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.

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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.

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N.J. Stat. § 40A:20-12.1 (2014)

§ 40A:20-12.1. Nonapplicability of certain annual service charges

The provisions of section 12 of P.L.1991, c. 431 (*C. 40A:20-12*) requiring staged increases in annual service charges over the term of the financial agreement and establishing a minimum annual service charge shall not apply to qualified subsidized housing projects.

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N.J. Stat. § 40A:20-13 (2014)

§ 40A:20-13. Termination of tax exemption

The tax exemption provided in this act shall apply only so long as the urban renewal entity and its project remain subject to the provisions of this act, but in no event more than 35 years from the date of the execution of the financial agreement. A tax exemption authorized in connection with a nonprofit limited dividend cooperative housing project under a financial agreement entered into pursuant to the "Limited-Dividend Nonprofit Housing Corporations or Associations Law," P.L.1949, c. 184 (*C. 55:16-1 et seq.*) may be extended to coincide with existing first mortgage financing. The terms of any such extension shall be set forth in an amended financial agreement between the urban renewal entity and the municipality. An urban renewal entity may at any time after the expiration of one year from the completion date of the project, notify the governing body of the municipality that, as of a certain date designated in the notice, it relinquishes its status under this act, and if the project includes housing units, that the urban renewal entity has obtained the consent of the Commissioner of Community Affairs to such a relinquishment. As of that date, the tax exemption, the service charges, and the profit and dividend restrictions shall terminate. The date of termination of tax exemption, whether by relinquishment by the entity or by terms of the financial agreement, shall be deemed the close of the fiscal year of the entity. Within 90 days of that date, the urban renewal entity shall pay to the municipality the amount of reserve, if any maintained pursuant to section 15 or 16 of this act, as well as the excess net profits, if any, payable as of that date.

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N.J. Stat. § 40A:20-13.1 (2014)

§ 40A:20-13.1. Tax exemption

The provisions of sections 12 and 13 of P.L.1991, c. 431 (*C. 40A:20-12* and *C. 40A:20-13*) to the contrary notwithstanding, a qualified subsidized housing project may be exempted from taxation for such period of time as the federal agency subsidizing the project may require as a condition of the subsidy. The exemption from taxation may be extended for an additional period of time as may be required in order to secure a continuation of federal subsidies after the expiration of the initial subsidy period.

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N.J. Stat. § 40A:20-14 (2014)

§ 40A:20-14. Conveyed condominium units, tax exemption, conditions

If the financial agreement permits the conveyance of condominium units pursuant to subsection b. of section 10 of this act, the provisions of this section shall apply.

When the urban renewal entity files a master deed pursuant to P.L.1969, c. 257 (*C. 46:8B-1 et seq.*) creating a condominium, whether residential, commercial, or industrial, as to all or a portion of a project which has been approved for tax exemption under the financial agreement, each unit of the condominium, whether owned by the urban renewal entity or a successor unit purchaser, shall continue to be subject to the provisions of the financial agreement, and the tax exemption previously approved under the financial agreement with respect to property converted to condominium ownership shall be unaffected by the recording of the master deed or any subsequent deed conveying the condominium unit and its appurtenant interest in common elements. In the case of residential condominium units, the municipal governing body may, by resolution, require either the lapse of the tax exemption for any period during which the owner of a unit does not personally reside therein and the unit is occupied by somebody else or an increase in the annual service charge paid in lieu of taxes by a condominium unit owner who does not reside within the unit by a specified percentage over that otherwise applicable. A tax exemption shall continue as to the condominium unit and its appurtenant undivided interest in the common elements subject to all of the following:

a. For the purpose of determining the annual service charge pursuant to section 12 of P.L.1991, c. 431 (*C. 40A:20-12*), when used with respect to a condominium project, "annual gross revenue" means the amount equal to the annual aggregate constant payments to principal and interest, assuming a purchase money mortgage encumbering the condominium unit to have been in an original amount equal to the initial value of the unit with its appurtenant interest in the common elements as stated in the master deed, if unsold by the urban renewal entity, or, if the unit is held by a unit purchaser, from time to time, the most recent true consideration paid for a deed to the condominium unit in a bona fide arm's length sale transaction, but not less than the initial assessed valuation of the condominium unit assessed at 100% of true value, plus the total amount of common expenses charged to the unit pursuant to the bylaws of the condominium association. The constant payments to principal and interest shall be calculated by assuming a loan amount as stated above at the prevailing lawful interest rate for mortgage financing or comparable properties within the municipality as of the date of the recording of the unit deed, for a term equal to the full term of the exemption from taxation stipulated in the financial agreement.

b. There is expressly excluded from calculation of gross revenue and from net profit as set forth in subsections a. and c. of section 3 of P.L.1991, c. 431 (*C. 40A:20-3*) for the purpose of determining compliance with sections 15 or 16 of P.L.1991, c. 431 (*C. 40A:20-15* or *40A:20-16*), any gain realized by the urban renewal entity on the sale of any condominium unit, whether or not taxable under federal or State law.

c. The conveyance of a condominium unit which is authorized under the financial agreement to a bona fide unit purchaser grantee shall not require consent or approval of the municipality, and the grantee shall acquire title to the unit subject to the requirement for payment of the annual service charge and other provisions of the financial agreement expressly applicable to condominium unit purchasers, and the exemption from taxation as to the condominium unit shall continue unaffected by the transfer, subject, in an instance of housing, to the provisions of any municipal resolution adopted pursuant to this section.

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

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N.J. Stat. § 40A:20-15 (2014)

§ 40A:20-15. Excess profits of a limited dividend entity

An urban renewal entity which is a limited dividend entity under P.L. 1991, c. 431 (*C. 40A:20-1 et seq.*) shall be subject, during the period of the financial agreement and tax exemption under P.L. 1991, c. 431 (*C. 40A:20-1 et seq.*), to a limitation of its profits and in addition, in the case of a corporation, of the dividends payable by it. Whenever the net profits of the entity for the period, taken as one accounting period, commencing on the date on which the construction of the first unit of the project is completed, or on which the project is completed if the project is not undertaken in units, and terminating at the end of the last full fiscal year, shall exceed the allowable net profits for the period, the entity shall, within 120 days of the close of that fiscal year, pay the excess net profits to the municipality as an additional service charge. The entity may maintain during the term of the financial agreement a reserve against vacancies, unpaid rentals and contingencies in an amount established in the financial agreement not to exceed 10% of the gross revenues of the entity for the last full fiscal year, and may retain such part of those excess net profits as is necessary to eliminate a deficiency in that reserve. Upon the termination of the financial agreement, the amount of reserve, if any, shall be paid to the municipality.

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

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

For the purposes of this section, the calculation of an entity's "excess net profits" shall include those project costs directly attributable to site remediation and cleanup expenses and any other costs excluded in the financial agreement as provided for in subsection h. of section 3 of P.L. 1991, c. 431 (*C. 40A:20-3*), even though those costs may have been deducted from the project cost for the purpose of calculating the in lieu of tax payment.

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N.J. Stat. § 40A:20-16 (2014)

§ 40A:20-16. Net profits of a nonprofit entity

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

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

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

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N.J. Stat. § 40A:20-16.1 (2014)

§ 40A:20-16.1. Payment of net profits to municipality; condition

The provisions of section 16 of P.L.1991, c. 431 (*C. 40A:20-16*) to the contrary notwithstanding, a nonprofit corporation that is the sponsor of a qualified subsidized housing project shall not be required to pay over to the municipality its net profits, if any, for any year in which it is subject to federal requirements concerning residual receipts.

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N.J. Stat. § 40A:20-17 (2014)

§ 40A:20-17. Sale of land to an urban renewal entity

The municipality or any redevelopment entity, authority or other instrumentality thereof, is authorized, by resolution, to make any land owned by it available for use for a project by an urban renewal entity, by private sale, at such prices and upon such terms and conditions as shall be agreed upon by the municipal governing body, redevelopment entity, authority or instrumentality and the urban renewal entity.

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N.J. Stat. § 40A:20-18 (2014)

§ 40A:20-18. Housing project in financial difficulty, financial plan

a. If the Local Finance Board has reason to believe that an urban renewal entity which owns a housing project is faced with financial difficulty, the chairman of the Local Finance Board shall summon an appropriate official of the entity to a hearing before the board. The board may require the production of papers, documents, witnesses or information, and may make or cause to be made an audit or investigation of the circumstances with respect to which the hearing was called.

b. If the chairman of the Local Finance Board shall determine that, as a result of mismanagement, mortgage foreclosure, or other fiscal, legal or managerial conduct, a financial emergency exists which requires the municipality to protect the health, safety or welfare of the residents of the housing project, the Local Finance Board shall order the implementation of a financial plan which will ensure the protection of the residents of the housing project. The order shall be deemed conclusive and final, and upon receipt of the order all persons shall be estopped from contesting the order or the provisions thereof, and the urban renewal entity affected thereby shall take action to comply with the order.

c. A financial plan ordered pursuant to this section may stipulate the legal, fiscal, operational or managerial actions to be taken by the entity to correct the circumstances, and may require that the appropriate officer or agency of the Department of Community Affairs shall perform those actions on behalf of the entity or otherwise arrange for performance of those actions. The financial plan may require within the limitations imposed by this act, modifications of the financial agreement entered into with the urban renewal entity by the municipality, notwithstanding the lack of consent by the urban renewal entity to those modifications, if the modifications are approved by the municipal governing body.

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N.J. Stat. § 40A:20-19 (2014)

§ 40A:20-19. Construction of act in place of repealed statutory entities

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

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N.J. Stat. § 40A:20-20 (2014)

§ 40A:20-20. Rules

The Commissioner of Community Affairs and the Local Finance Board shall have the authority to adopt such administrative rules as may be necessary to implement this act.

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N.J. Stat. § 40A:20-21 (2014)

§ 40A:20-21. Severability

The provisions of P.L. 2003, c. 125 (*C. 40A:12A-4.1 et al.*) shall be deemed to be severable, and if any phrase, clause, sentence, word or provision of P.L. 2003, c. 125 (*C. 40A:12A-4.1 et al.*) is declared to be unconstitutional, invalid or inoperative in whole or in part, or the applicability thereof to any person is held invalid, by a court of competent jurisdiction, the remainder of this act shall not thereby be deemed to be unconstitutional, invalid or inoperative and, to the extent it is not declared unconstitutional, invalid or inoperative, shall be effectuated and enforced.

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N.J. Stat. § 40A:20-22 (2014)

§ 40A:20-22. Tax exemptions approved pursuant to C.40A:20-1 et seq. ratified and validated

The terms and conditions of any tax exemption approved pursuant to P.L. 1991, c. 431 (C. 40A:20-1 et seq.) or its predecessor statutes, as the case may be, including any financial agreement, separate agreement or amendment implementing that exemption, are hereby ratified and validated. This ratification and validation shall include, without limitation, the structure and methods used to calculate excess profits and annual service charges, including the limitation of revenue, expenses and total project costs, to those of the urban renewal entity, regardless of any other entity, whether affiliated or unaffiliated, with the urban renewal entity.