

SENATE, No. 559

STATE OF NEW JERSEY 213th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2008 SESSION

Sponsored by:

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District 3 (Salem, Cumberland and Gloucester)

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SYNOPSIS

Revises procedures for the use of eminent domain in municipal redevelopment programs.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel



(Sponsorship Updated As Of: 4/8/2008)

1 AN ACT concerning redevelopment and eminent domain, amending
2 various parts of the statutory law, and supplementing P.L.1992,
3 c.79 (C.40A:12A-1 et seq.).
4

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

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

9 a. Since 1949, municipalities have been authorized by the
10 Legislature to undertake programs of redevelopment, rehabilitation,
11 and incentives to promote the expansion and improvement of
12 commercial, industrial, residential and civic facilities in blighted
13 areas.

14 b. Since 1949, municipalities have used these programs to
15 arrest and reverse conditions of deterioration in housing and
16 commercial and industrial facilities, and to promote sound planning,
17 revitalize their tax bases, and improve the public safety, health, and
18 welfare of their communities. In exercising their responsibilities
19 and implementing such programs municipalities have, in certain
20 circumstances, exercised the power to acquire property by eminent
21 domain in order to transfer such property to a private interest to
22 undertake a project in accordance with an approved redevelopment
23 plan; and, at times, the use of the power of eminent domain has
24 been necessary to assure the success of such redevelopment
25 programs.

26 c. Since 1949, the laws authorizing such redevelopment
27 programs have been amended from time to time and were last re-
28 codified in 1992 into one law designed to make the legal
29 mechanisms for exercising such responsibilities and powers in
30 undertaking redevelopment improvements more efficient to use.

31 d. The increase in redevelopment activity throughout the State,
32 including the use of eminent domain, together with the 2005 United
33 States Supreme Court decision in Kelo v. City of New London,
34 Connecticut, have given rise to public concern surrounding certain
35 municipal redevelopment activities. These public concerns have
36 resulted in a comprehensive legislative review of redevelopment
37 programs and the process undertaken by municipalities for
38 authorizing such redevelopment programs.

39 e. The Legislature's comprehensive review has included a
40 series of public meetings and the receipt of testimony and
41 correspondence from various stakeholders in redevelopment
42 programs, including, but not limited to, municipal officials,
43 property owners, developers, real estate professionals, civil
44 libertarians, academics, and members of the general public.

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

Matter underlined thus is new matter.

1 f. Following this comprehensive review, the Legislature
2 declares that redevelopment remains a valid and important public
3 purpose and public use; that the implementation of redevelopment
4 programs continues to be a vital tool for municipal officials that
5 must be maintained to allow such officials to continue to meet their
6 governmental responsibilities to arrest and reverse deleterious
7 property conditions within their municipal borders; and that the
8 power of eminent domain remains necessary in certain cases to
9 effectively implement such redevelopment responsibilities and
10 powers.

11 g. Following this comprehensive review, the Legislature also
12 declares that changes to the existing law are necessary: to ensure
13 that affected property owners and the general public are provided
14 adequate notice of a municipality's interest in developing a
15 redevelopment program; to revise the definition of blight so that it
16 is more specific, more objective, and incorporates terms that have
17 well-established or historical meanings, are capable of third party
18 review, or limit the possibility of very broad and expansive
19 interpretation; to afford stakeholders the opportunity to be heard
20 during the process undertaken to develop redevelopment programs;
21 to add transparency to the exercise of a legitimate governmental
22 function; to create certainty that redevelopment programs are
23 authorized and undertaken in a deliberative and open process; to
24 ensure that the social and economic impacts of redevelopment are
25 adequately addressed, including affordable housing and comparable
26 replacement housing for households displaced by redevelopment; to
27 provide that such programs, once properly adopted, are
28 implemented in a fair and certain manner, including a public
29 process, where appropriate, for the selection of redevelopers
30 seeking the assistance of municipal officials in constructing a
31 redevelopment project on municipally owned or acquired property;
32 to ensure that the use of eminent domain for redevelopment is an
33 absolute last resort, used only after other options have been fully
34 explored and deemed insufficient to reasonably achieve the goals of
35 the redevelopment plan; to provide a just measure of compensation
36 to property owners who are subject to eminent domain; and to
37 afford protection and finality to such redevelopment programs
38 properly created under these heightened standards for enactment.
39 These changes will restore public confidence in local
40 redevelopment programs by assuring that interested parties are
41 provided access into a fair, open, and deliberative process.

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

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

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

4
5 2. Section 3 of P.L.1992, c.79 (C.40A:12A-3) is amended to
6 read as follows:

7 3. As used in this act:

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

11 “Comparable affordable replacement housing” means housing
12 offered to households being displaced as a result of a
13 redevelopment project, that is affordable to that household as
14 defined by the Council on Affordable Housing in the Department of
15 Community Affairs, and that is comparable to the household’s
16 dwelling in the redevelopment area with respect to the size and
17 amenities of the dwelling unit, the quality of the neighborhood, and
18 the level of public services and facilities offered by the municipality
19 in which the redevelopment area is located.

20 “Contamination” means any discharged hazardous substance as
21 defined pursuant to section 3 of P.L.1976, c.141 (C.58:10-23.11b),
22 hazardous waste as defined pursuant to section 1 of P.L.1976, c.99
23 (C.13:1E-38), or pollutant as defined pursuant to section 3 of
24 P.L.1977, c.74 (C.58:10A-3).

25 “Detrimental to the safety, health, or welfare of the community”
26 means objective evidence of detriment, consisting of or similar to:
27 substantial building or health code violations; a repeated need for
28 police intervention over an extended period of time; or a lack of
29 structural integrity. For commercial properties, the objective
30 evidence of detriment also may include a lack of proper utilization
31 of the land or structures resulting in conditions that are stagnant and
32 not fully productive.

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

41 “Governing body” means the body exercising general legislative
42 powers in a county or municipality according to the terms and
43 procedural requirements set forth in the form of government
44 adopted by the county or municipality.

45 “Housing authority” means a housing authority created or
46 continued pursuant to this act.

1 “Housing project” means a project, or distinct portion of a
2 project, which is designed and intended to provide decent, safe and
3 sanitary dwellings, apartments or other living accommodations for
4 persons of low and moderate income; such work or undertaking
5 may include buildings, land, equipment, facilities and other real or
6 personal property for necessary, convenient or desirable
7 appurtenances, streets, sewers, water service, parks, site
8 preparation, gardening, administrative, community, health,
9 recreational, educational, welfare or other purposes. The term
10 “housing project” also may be applied to the planning of the
11 buildings and improvements, the acquisition of property, the
12 demolition of existing structures, the construction, reconstruction,
13 alteration and repair of the improvements and all other work in
14 connection therewith.

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

21 “Public body” means the State or any county, municipality,
22 school district, authority or other political subdivision of the State.

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

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

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

38 “Redeveloper” means any person, firm, corporation or public
39 body that shall enter into or propose to enter into a contract with a
40 municipality or other redevelopment entity for the redevelopment or
41 rehabilitation of an area in need of redevelopment, or an area in
42 need of rehabilitation, or any part thereof, under the provisions of
43 this act, or for any construction or other work forming part of a
44 redevelopment or rehabilitation project.

45 “Redevelopment” means clearance, replanning, development and
46 redevelopment; the conservation and rehabilitation of any structure
47 or improvement, the construction and provision for construction of

1 residential, commercial, industrial, public or other structures and
2 the grant or dedication of spaces as may be appropriate or necessary
3 in the interest of the general welfare for streets, parks, playgrounds,
4 or other public purposes, including recreational and other facilities
5 incidental or appurtenant thereto, in accordance with a
6 redevelopment plan.

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

14 “Redevelopment area” or “area in need of redevelopment” means
15 **[an] a contiguous** area determined to be in need of redevelopment
16 pursuant to sections 5 and 6 of P.L.1992, c.79 (C.40A:12A-5 and
17 40A:12A-6) or determined heretofore to be a “blighted area”
18 pursuant to P.L.1949, c.187 (C.40:55-21.1 et seq.) repealed by this
19 act, both determinations as made pursuant to the authority of Article
20 VIII, Section III, paragraph 1 of the Constitution. **[A**
21 redevelopment area may include lands, buildings, or improvements
22 which of themselves are not detrimental to the public health, safety
23 or welfare, but the inclusion of which is found necessary, with or
24 without change in their condition, for the effective redevelopment
25 of the area of which they are a part.]

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

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

41 “Redevelopment project” means any work or undertaking
42 pursuant to a redevelopment plan; such undertaking may include
43 any buildings, land, including demolition, clearance or removal of
44 buildings from land, equipment, facilities, or other real or personal
45 properties which are necessary, convenient, or desirable
46 appurtenances, such as but not limited to streets, sewers, utilities,

1 parks, site preparation, landscaping, and administrative, community,
2 health, recreational, educational, and welfare facilities.

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

10 “Rehabilitation area” or “area in need of rehabilitation” means
11 any area determined to be in need of rehabilitation pursuant to
12 section 14 of P.L.1992, c.79 (C.40A:12A-14).
13 (cf: P.L.1992, c.79, s.3)

14

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

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

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

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

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

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

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

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

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

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

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

43 c. The municipality shall be responsible for implementing
44 redevelopment plans and carrying out redevelopment projects
45 pursuant to section 8 of P.L.1992, c.79 (C.40A:12A-8). The
46 municipality may execute these responsibilities directly, or in
47 addition thereto or in lieu thereof, **through** may designate by

1 ordinance either a municipal redevelopment agency, or a municipal
2 housing authority authorized to exercise redevelopment powers
3 pursuant to section 21 of P.L.1992, c.79 (C.40A:12A-21), but there
4 shall be only one redevelopment entity responsible for each
5 redevelopment project. A county improvement authority authorized
6 to undertake redevelopment projects pursuant to the “county
7 improvement authorities law,” P.L.1960, c.183 (C.40:37A-44 et
8 seq.) may also act as a redevelopment entity pursuant to this act.
9 The redevelopment entity, so authorized, may contract with any
10 other public body, in accordance with the provisions of section 8 of
11 P.L.1992, c.79 (C.40A:12A-8), for the carrying out of a
12 redevelopment project or any part thereof under its jurisdiction.
13 Notwithstanding the above, the governing body of the municipality
14 may, by ordinance, change or rescind the designation of the
15 redevelopment **【entity responsible for implementing】** agency or
16 housing authority designated to implement a redevelopment plan
17 and **【carrying】** carry out a redevelopment project and may have the
18 municipality assume this responsibility **【itself, but】** ; provided,
19 however, that only the redevelopment entity authorized to undertake
20 a particular redevelopment project shall remain authorized to
21 complete it, unless the redevelopment entity and redeveloper agree
22 otherwise, or unless no obligations have been entered into by the
23 redevelopment entity with parties other than the municipality. This
24 shall not diminish the power of the municipality to dissolve a
25 redevelopment entity pursuant to section 24 of P.L.1992, c.79
26 (C.40A:12A-24), and section 20 of the “Local Authorities Fiscal
27 Control Law,” P.L.1983, c.313 (C.40A:5A-20).

28 d. No municipality shall exercise the power of eminent domain
29 in an area in need of redevelopment for the acquisition of land
30 subject to the protections provided under section 12 of P.L.1983,
31 c.32 (C.4:1C-19).

32 (cf: P.L.1992, c.79, s.4)

33

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

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

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

45 b. The discontinuance of the use of buildings previously used
46 for commercial, manufacturing, or industrial purposes; the

1 abandonment of such buildings; or the same being allowed to fall
2 into so great a state of disrepair as to be untenable.

3 c. (1) Land that is owned by the municipality, the county, a
4 local housing authority, redevelopment agency or redevelopment
5 entity, or

6 (2) unimproved vacant land that has remained so for a period of
7 ten years prior to adoption of the [resolution] ordinance, and that
8 by reason of its location, remoteness, environmental contamination,
9 lack of means of access to developed sections or portions of the
10 municipality, or topography, or nature of the soil,

11 is not likely to be developed through the instrumentality of
12 private capital and is determined to be detrimental to the safety,
13 health, or welfare of the community.

14 d. Areas with buildings or improvements which, by reason of
15 dilapidation, obsolescence, overcrowding, [faulty arrangement or
16 design, lack of ventilation, light and sanitary facilities, excessive
17 land coverage, deleterious land use or obsolete layout,] or any
18 combination of these or [other factors,] similar conditions are
19 determined to be detrimental to the safety, health, [morals,] or
20 welfare of the community.

21 e. A [growing lack or total lack of proper utilization of areas]
22 deterioration in the condition of the property caused by [the
23 condition of the title,] diverse ownership of the real property
24 [therein] or other conditions of title, [resulting in a stagnant or not
25 fully productive condition of land potentially useful and valuable
26 for contributing to and serving the public health, safety and
27 welfare] which, by virtue of these factors are determined to be
28 detrimental to the safety, health, or welfare of the community.

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

34 g. In any municipality in which an enterprise zone has been
35 designated pursuant to the "New Jersey Urban Enterprise Zones
36 Act," P.L.1983, c.303 (C.52:27H-60 et seq.) the execution of the
37 actions prescribed in that act for the adoption by the municipality
38 and approval by the New Jersey Urban Enterprise Zone Authority
39 of the zone development plan for the area of the enterprise zone
40 shall be considered sufficient for the determination that the area is
41 in need of redevelopment pursuant to sections 5 and 6 of P.L.1992,
42 c.79 (C.40A:12A-5 and 40A:12A-6) for the purpose of granting tax
43 exemptions within the enterprise zone district pursuant to the
44 provisions of P.L.1991, c.431 (C.40A:20-1 et seq.) or the adoption
45 of a tax abatement and exemption ordinance pursuant to the
46 provisions of P.L.1991, c.441 (C.40A:21-1 et seq.). The

1 municipality shall not utilize any other redevelopment powers
2 within the urban enterprise zone unless the municipal governing
3 body and planning board have also taken the actions and fulfilled
4 the requirements prescribed in P.L.1992, c.79 (C.40A:12A-1 et al.)
5 for determining that the area is in need of redevelopment or an area
6 in need of rehabilitation and the municipal governing body has
7 adopted a redevelopment plan ordinance including the area of the
8 enterprise zone.

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

13 i. Parcels, either vacant or developed, which have remained
14 vacant or substantially underutilized for a period of 24 consecutive
15 months due to environmental contamination.

16 In addition to parcels included in a delineated area under this
17 section, an area in need of redevelopment may include other parcels
18 containing lands, buildings, or improvements which of themselves
19 are not detrimental to the safety, health, or welfare of the
20 community, but the inclusion of which is found necessary, with or
21 without change in their condition, for the effective redevelopment
22 of the area of which they are a part; provided, however that such
23 parcels, in the aggregate, shall not comprise in excess of 20% of the
24 land mass of such area to be designated as available for private
25 ownership.

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

27

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

30 6. a. (1) No area of a municipality shall be determined a
31 redevelopment area unless the governing body of the municipality
32 shall, by resolution, authorize the planning board to undertake a
33 preliminary investigation to determine whether the proposed area is
34 a redevelopment area according to the criteria set forth in section 5
35 of P.L.1992, c.79 (C.40A:12A-5). A redeveloper shall not conduct
36 or fund any part of the investigation. Such determination shall be
37 made after public notice and public hearing as provided in
38 subsection b. of this section. The governing body of a municipality
39 shall assign the conduct of the investigation and hearing to the
40 planning board of the municipality.

41 (2) In the case of any area of a municipality that is more than 10
42 acres in area, or that contains more than 100 occupied dwelling
43 units or more than 50 operating business premises, the governing
44 body shall hold a public informational meeting prior to adoption of
45 the resolution authorizing the planning board to undertake a
46 preliminary investigation as set forth in this section. Notice of the
47 public informational meeting shall be as in paragraph (3) of

1 subsection b. of this section, except that notice to individual
2 property owners and tenants shall not be required.

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

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

12 (3) (a) The hearing notice shall set forth the general boundaries
13 of the area to be investigated and state that a map has been prepared
14 and can be inspected at the office of the municipal clerk. The
15 notice shall be written in a simple, clear, understandable, and easily
16 readable way. The notice shall state that the governing body is
17 considering designating the area as a redevelopment area, formerly
18 referred to as a "blighted area," and that a consequence of this
19 designation is that the governing body would have the authority to
20 condemn property located within the area pursuant to the
21 procedures in the "Eminent Domain Act of 1971," P.L.1971, c.361
22 (C.20:3-1 et seq.). A copy of the notice shall be published in a
23 newspaper of general circulation in the municipality once each
24 week for two consecutive weeks, and the last publication shall be
25 not less than ten days prior to the date set for the hearing. If the
26 municipality has an Internet web site, the notice shall be posted
27 thereon. A copy of the notice shall also be posted in such other
28 places within or proximate to the proposed redevelopment area as
29 may be available and appropriate. A copy of the notice shall be
30 **[mailed] sent by certified [or] and regular mail by the municipal**
31 **clerk** at least **[ten] 14** days prior to the date set for the hearing to
32 the last owner, if any, of each parcel of property, and to any legal
33 tenant of a residential rental dwelling unit within the area according
34 to the assessment records of the municipality. The municipal clerk
35 shall make a diligent effort to ascertain the names and addresses of
36 legal tenants of rental dwelling units by contacting the legal owner
37 of the rental property or a management company identified by such
38 owner, but if unable to do so shall have a copy of the notice posted
39 on properties known to be rental dwelling units. A notice shall also
40 be sent by the municipal clerk to all persons at their last known
41 address, if any, whose names are noted on the assessment records as
42 claimants of an interest in any such parcel. The assessor of the
43 municipality shall make a notation upon the records when requested
44 to do so by any person claiming to have an interest in any parcel of
45 property in the municipality. The notice shall be published and
46 mailed by the municipal clerk[, or by such clerk or official as the
47 planning board shall otherwise designate]. Failure to mail any such

1 notice shall not invalidate the investigation or determination
2 thereon.

3 (b) Prior to the hearing, a copy of all documents relevant to the
4 determination that an area is in need of redevelopment shall be
5 available for public inspection, and if the municipality has an
6 Internet web site, they shall be posted thereon.

7 (4) At the hearing, which may be adjourned from time to time,
8 the planning board shall hear all persons who are interested in or
9 would be affected by a determination that the delineated area is a
10 redevelopment area. All testimony provided at the hearing shall be
11 under oath or affirmation. The hearing shall be recorded and
12 transcription of the full content of the hearing shall be made
13 available to the public. All objections to such a determination and
14 evidence in support of those objections, given orally or in writing,
15 shall be received and considered and made part of the public record.
16 The procedures governing the presentation of testimony at the
17 hearing shall be sufficient to create a full record and, at a minimum,
18 shall require that all persons who would be affected by a
19 determination that the delineated area is a redevelopment area shall
20 be allowed to bring witnesses to provide evidence relevant to the
21 determination that the area is in need of redevelopment, and shall be
22 allowed to submit written questions which shall be posed by the
23 planning board to the witness or witnesses to whom they are
24 directed if the planning board deems the question relevant.

25 (5) (a) After completing its hearing on this matter, the planning
26 board shall recommend that the delineated area, or any part thereof,
27 be determined, or not be determined, by the municipal governing
28 body to be a redevelopment area. Prior to making any
29 determination that an area is in need of redevelopment, the planning
30 board shall review, in light of the conditions of the area and the
31 purposes of the redevelopment, whether designation of the area as
32 an area in need of rehabilitation, or some other strategy of
33 rehabilitation, preservation, or neighborhood improvement, may
34 represent a more appropriate means of addressing the conditions of
35 the area and the purposes of the redevelopment. The report of the
36 planning board shall set forth explicitly the reasons for its
37 determination that such other strategies are less appropriate, and
38 that the area should be designated in need of redevelopment. The
39 report shall also include an inventory of the environmental,
40 historical, and cultural assets in the delineated area.

41 (b) After receiving the recommendation of the planning board,
42 the municipal governing body may adopt **[a resolution]** an
43 ordinance determining that the delineated area, or any part thereof,
44 is a redevelopment area. **[Upon the]** Prior to final adoption of **[a**
45 **resolution]** the ordinance, the clerk of the municipality shall,
46 forthwith, transmit a copy of the **[resolution]** ordinance to the
47 Commissioner of Community Affairs for review. If the area in need

1 of redevelopment is not situated in an area in which development or
2 redevelopment is to be encouraged pursuant to any State law or
3 regulation promulgated pursuant thereto, the **[determination]**
4 ordinance shall not **[take effect]** be finally adopted without first
5 receiving the review and the approval of the commissioner. If the
6 commissioner does not issue an approval or disapproval within 30
7 calendar days of transmittal by the clerk, the determination shall be
8 deemed to be approved and the ordinance may be finally adopted.
9 If the area in need of redevelopment is situated in an area in which
10 development or redevelopment is to be encouraged pursuant to any
11 State law or regulation promulgated pursuant thereto, then the
12 determination shall take effect after the clerk has transmitted a copy
13 of the **[resolution]** ordinance to the commissioner. The
14 determination that the delineated area is a redevelopment area, [if
15 supported by substantial evidence] and, if required, **[approved]**
16 approval by the commissioner, shall be binding and conclusive
17 upon all persons affected by the determination that the delineated
18 area is a redevelopment area. [Notice of the determination shall be
19 served, within 10 days after the determination, upon each person
20 who filed a written objection thereto and stated, in or upon the
21 written submission, an address to which notice of determination
22 may be sent.] If the determination that the delineated area is a
23 redevelopment area is challenged in court, the municipality shall be
24 required to show, by a preponderance of the evidence, that the
25 delineated area fulfills the criteria set forth in section 5 of P.L.1992,
26 c.79 (C.40A:12A-5).

27 (6) **[If written objections were filed in connection with the**
28 **hearing, the municipality shall, for 45 days next following its**
29 **determination to which the objections were filed, take no further**
30 **action to acquire any property by condemnation within the**
31 **redevelopment area.]** (Deleted by amendment, P.L. , c.)
32 (pending before the Legislature as this bill)

33 (7) **[If a person who filed a written objection to a determination**
34 **by the municipality pursuant to this subsection shall, within 45 days**
35 **after the adoption by the municipality of the determination to which**
36 **the person objected, apply to the Superior Court, the court may**
37 **grant further review of the determination by procedure in lieu of**
38 **prerogative writ; and in any such action the court may make any**
39 **incidental order that it deems proper.]** (Deleted by amendment,
40 P.L. , c.) (pending before the Legislature as this bill)

41 (8) Notice of final adoption of an ordinance making a
42 determination shall be served, within 10 days after the final
43 adoption of the ordinance making such determination, upon each
44 person who received notice of the public hearing in accordance with
45 paragraph (3) of subsection b. of this section in the same manner as
46 provided therein. The notice shall inform the recipient of the right

1 to appeal the designation and shall provide the recipient with the
2 relevant deadlines for filing an appeal. Additionally, notice of final
3 adoption of an ordinance making a determination shall be published
4 in the official newspaper of the municipality, together with the date
5 of the first publication of such notice and also a statement that any
6 action or proceeding of any kind or nature in any court questioning
7 the validity of the adoption of the ordinance or the determination
8 contained therein, shall be commenced within 60 days after the first
9 publication of such notice.

10 (9) The municipality shall not finally adopt an ordinance
11 adopting a redevelopment plan in accordance with section 7 of
12 P.L.1992, c.79 (C.40A:12A-7) until 60 days have passed since the
13 ordinance making a determination under this section has been
14 finally adopted.

15 c. An area determined to be in need of redevelopment pursuant
16 to this section shall be deemed to be a “blighted area” for the
17 purposes of Article VIII, Section III, paragraph 1 of the
18 Constitution. If an area is determined to be a redevelopment area
19 and a redevelopment plan is adopted for that area in accordance
20 with the provisions of this act, the municipality is authorized to
21 utilize all those powers provided in section 8 of P.L.1992, c.79
22 (C.40A:12A-8).

23 d. The determination of an area in need of redevelopment
24 determined on or after the effective date of P.L. , c. (C.)
25 (pending before the Legislature as this bill), shall expire 10 years
26 following the final adoption of an ordinance making the
27 determination or 10 years following the final adoption of the
28 redevelopment plan, whichever occurs later. A determination may
29 be extended for a period, not to exceed 15 years following the final
30 adoption of the ordinance making the initial determination, through
31 the adoption of an ordinance affirming that the conditions
32 supporting the determination are still present or that substantial
33 progress has been made on the implementation of the
34 redevelopment plan.

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

36
37 6. Section 7 of P.L.1992, c.79 (C.40A:12A-7) is amended to
38 read as follows:

39 7. a. Following the determination of an area in need of
40 redevelopment pursuant to section 6 of P.L.1992, c.79 (C.40A:12A-
41 6) or a determination of an area in need of rehabilitation pursuant to
42 section 14 of P.L.1992, c.79 (C.40A:12A-14), the municipality may
43 undertake the preparation of a redevelopment plan for all or some
44 part of the area determined to be in need of redevelopment or
45 rehabilitation, directly in accordance with subsection e. of this
46 section, or, by resolution, may direct the municipal planning board
47 to develop such plan in accordance with subsection f. of this

1 section. No redevelopment project shall be undertaken or carried
2 out except in accordance with a redevelopment plan [adopted by
3 ordinance of the municipal governing body, upon its finding that
4 the] relating to a specifically delineated project area that is located
5 in an area in need of redevelopment or in an area in need of
6 rehabilitation, or in both, according to criteria set forth in section 5
7 or section 14 of P.L.1992, c.79 (C.40A:12A-5 or 40A:12A-14), as
8 appropriate.

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

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

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

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

38 (4) An identification, by block and lot and street address, if any,
39 of any property within the redevelopment area which is proposed to
40 be acquired in accordance with the redevelopment plan, including
41 an identification for each parcel of the objectives of the
42 redevelopment plan which cannot be realistically achieved without
43 the taking of such property, a consideration of alternatives to the
44 proposed taking, and the reasons that such alternatives do not
45 provide for realistic achievement of the objectives of the
46 redevelopment plan.

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

6 (6) The social and economic impact of the redevelopment area,
7 including its effect on those parts of the municipality adjacent to the
8 redevelopment area, and on the low and moderate income residents
9 of the area.

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

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

19 (9) Provision for the replacement of any housing constructed for
20 low and moderate income households under the provisions of any
21 State or federal housing subsidy program which is to be removed as
22 a result of the redevelopment plan; provided that any such
23 replacement units shall not be counted toward the municipal
24 obligation under paragraph (8) of this subsection if the housing
25 which is removed had previously counted toward an obligation.
26 The Commissioner of Community Affairs shall establish by rule the
27 duration of housing affordability controls governing any rental
28 housing constructed under this subsection. In addition, displaced
29 residents of housing units provided under any State or federal
30 housing subsidy program or the "Fair Housing Act," P.L.1985,
31 c.222 (C.52:27D-301 et al.) shall have first priority for those
32 replacement units provided.

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

36 (11) A statement setting forth the municipal planning board's
37 ability, if any, to grant relief to applicants from elements of the
38 redevelopment plan when reviewing and approving development
39 applications.

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

45 c. The redevelopment plan shall describe its relationship to
46 pertinent municipal development regulations as defined in the
47 "Municipal Land Use Law," P.L.1975, c.291 (C.40:55D-1 et seq.).

1 The redevelopment plan shall supersede applicable provisions of the
2 development regulations of the municipality or constitute an
3 overlay zoning district within the redevelopment area. When the
4 redevelopment plan supersedes any provision of the development
5 regulations, the ordinance adopting the redevelopment plan shall
6 contain an explicit amendment to the zoning district map included
7 in the zoning ordinance. The zoning district map as amended shall
8 indicate the redevelopment area to which the redevelopment plan
9 applies. **【Notwithstanding the provisions of the “Municipal Land**
10 **Use Law,” P.L.1975, c.291 (C.40:55D-1 et seq.) or of other law, no**
11 **notice beyond that required for adoption of ordinances by the**
12 **municipality shall be required for the hearing on or adoption of the**
13 **redevelopment plan or subsequent amendments thereof.】**

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

21 e. **【Prior to the adoption of a redevelopment plan, or revision**
22 **or amendment thereto, the】** If a municipality prepares a
23 redevelopment plan directly, the municipal governing body shall
24 refer the proposed redevelopment plan to the municipal planning
25 board for review. Such referral may be by resolution. The
26 municipal planning board shall transmit to the governing body,
27 within 45 days after referral, a report containing its
28 recommendation concerning the redevelopment plan. This report
29 shall include an identification of any provisions in the proposed
30 redevelopment plan which are inconsistent with the master plan and
31 recommendations concerning these inconsistencies and any other
32 matters as the board deems appropriate. The governing body, when
33 considering the adoption of a redevelopment plan or revision or
34 amendment thereof, shall review the report of the planning board
35 and may approve or disapprove or change any recommendation by a
36 vote of a majority of its full authorized membership and shall
37 record in its minutes the reasons for not following the
38 recommendations. Failure of the planning board to transmit its
39 report within the required 45 days shall relieve the governing body
40 from the requirements of this subsection with regard to the pertinent
41 proposed redevelopment plan **【or revision or amendment thereof】**.
42 Nothing in this subsection shall diminish the applicability of the
43 provisions of subsection d. of this section with respect to any
44 redevelopment plan or revision or amendment thereof.

45 f. The governing body of a municipality may direct the planning
46 board to prepare a redevelopment plan **【or an amendment or**
47 **revision to a redevelopment plan】** for a designated redevelopment

1 area. After completing the redevelopment plan, the planning board
2 shall transmit the proposed plan to the governing body for its
3 adoption. The governing body, when considering the proposed
4 plan, may amend or revise any portion of the proposed
5 redevelopment plan by an affirmative vote of the majority of its full
6 authorized membership and shall record in its minutes the reasons
7 for each amendment or revision. When a redevelopment plan [or
8 amendment to a redevelopment plan] is referred to the governing
9 body by the planning board under this subsection, the governing
10 body shall be relieved of the referral requirements of subsection e.
11 of this section.

12 g. Within 60 days after the governing body or planning board
13 begins preparation of the redevelopment plan, the governing body
14 or planning board shall conduct a public hearing on the goals and
15 content of the redevelopment plan. Notice of the public hearing
16 shall state the date, time, and location of the public hearing and
17 identify the borders of the area for which a plan is being developed.
18 A copy of the notice of the public hearing shall be published in a
19 newspaper of general circulation in the municipality once each
20 week for two consecutive weeks, and the last publication shall be
21 not less than 10 days prior to the date set for the hearing, and shall
22 be posted on the municipality's Internet web site, if any, and in such
23 other public places within or proximate to the proposed
24 redevelopment area as may be available and appropriate. A copy of
25 the notice shall be mailed by the municipal clerk at least 10 days
26 prior to the date set for the hearing to the last owner, if any, of each
27 parcel of property and any legal tenant of a residential rental
28 dwelling unit, within the area according to the assessment records
29 of the municipality. The municipal clerk shall make a diligent
30 effort to ascertain the names and addresses of legal tenants of rental
31 dwelling units by contacting the legal owner of the rental property
32 or a management company identified by such owner, but if unable
33 to do so shall have a copy of the notice posted on properties known
34 to be rental dwelling units. At such public hearing, the municipal
35 governing body shall hear all persons who are interested in or
36 would be affected by the redevelopment plan, although the planning
37 board or governing body may, by vote of its majority, restrict or
38 limit the amount of time afforded each such person to speak. A
39 record of the public hearing shall be kept by the municipal clerk.

40 h. Amendments to redevelopment plans shall be prepared and
41 adopted in the same manner provided for a redevelopment plan.

42 i. The redevelopment plan shall be adopted by ordinance of the
43 municipal governing body. Prior to final adoption of the ordinance,
44 the municipal governing body shall conduct a public hearing on the
45 ordinance and all interested persons shall be allowed to speak.
46 Notice of the public hearing shall state the date, time, and location
47 of the public hearing, shall identify where the proposed

1 redevelopment plan is available for examination and shall identify,
2 by block and lot and street address, if any, the parcels that may be
3 subject to eminent domain under the proposed redevelopment plan.
4 The full text of the redevelopment plan to be considered by the
5 governing body along with any maps or other exhibits thereto, shall
6 be made available to the public in the municipal building and shall
7 be posted on the municipality's Internet web site, if any, at the time
8 such notice to such hearing is to be provided. Copies of the
9 proposed redevelopment plan shall be available for purchase by any
10 interested party. A copy of the notice of the public hearing shall be
11 published in a newspaper of general circulation in the municipality
12 once each week for two consecutive weeks, and the last publication
13 shall be not less than 10 days prior to the date set for the hearing,
14 and shall be posted on the municipality's Internet web site and in
15 such other public places within or proximate to the proposed
16 redevelopment area as may be available and appropriate. A copy of
17 the notice shall be mailed by the municipal clerk at least 10 days
18 prior to the date set for the hearing to the last owner, if any, of each
19 parcel of property and any legal tenant of a residential rental
20 dwelling unit, within the area according to the assessment records
21 of the municipality. The municipal clerk shall make a diligent
22 effort to ascertain the names and addresses of legal tenants of
23 residential rental dwelling units by contacting the legal owner of the
24 rental property or a management company identified by such owner,
25 but if unable to do so shall have a copy of the notice posted on
26 properties known to contain residential rental dwelling units. For
27 property owners whose properties do not exhibit conditions of
28 blight and are proposed to be acquired under the redevelopment
29 plan, the notice shall specify the reason why acquiring the property
30 is necessary for the redevelopment of the area. A notice shall also
31 be sent by the municipal clerk to all persons at their last known
32 address, if any, whose names are noted on the assessment records as
33 claimants of an interest in any such parcel. The assessor of the
34 municipality shall make a notation upon the records when requested
35 to do so by any person claiming to have an interest in any parcel of
36 property in the municipality. The notice shall be published and
37 mailed by the municipal clerk. Failure to mail any such notice shall
38 not invalidate the redevelopment plan. At such public hearing, the
39 municipal governing body shall hear all persons who are interested
40 in or would be affected by the provisions of the redevelopment
41 plan, although the governing body may, by vote of its majority,
42 restrict or limit the amount of time afforded each such person to
43 speak. A record of the public hearing shall be kept by the
44 municipal clerk. Upon the close of the public hearing, the
45 municipal governing body may vote to finally adopt the ordinance.
46 j. Notice of final adoption of an ordinance adopting a
47 redevelopment plan shall be served, within 10 days after the final

1 adoption of the ordinance making such determination, upon each
2 person who received notice of the public hearing in accordance with
3 subsection h. of this section in the same manner as provided therein.
4 Additionally, notice of final adoption of an ordinance making a
5 determination shall be published in the official newspaper of the
6 municipality, together with the date of the first publication of such
7 notice and also a statement that any action or proceeding of any
8 kind or nature in any court questioning the validity of the adoption
9 of the ordinance or the determination contained therein, shall be
10 commenced within 45 days after the first publication of such notice.

11 k. The municipality may not finally authorize and execute an
12 agreement with a redeveloper until 60 days next following the final
13 adoption of the ordinance adopting a redevelopment plan pursuant
14 to this section.

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

16

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

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

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

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

32 c. Acquire, by condemnation, any land or building which is
33 necessary for the redevelopment project, pursuant to the provisions
34 of the "Eminent Domain Act of 1971," P.L.1971, c.361 (C.20:3-1 et
35 seq.); provided, however, that for properties to be acquired under
36 the terms of an agreement entered into after the effective date of
37 P.L. , c. (C.) (pending before the Legislature as this bill),
38 the valuation of such properties shall take into account the uses
39 permitted for such property under the redevelopment plan and shall
40 be based on the date the municipality files the declaration of taking
41 or the date of adoption of the redevelopment plan, whichever yields
42 the higher valuation. For residential properties, if neither of these
43 two valuations is equal to or more than the "replacement value" of
44 the home, then the valuation of such properties must be at least the
45 "replacement value" of the home, which shall be defined as the
46 approximate value of a home of similar size and quality under
47 comparable conditions, within the municipality and within a

1 reasonable distance of the property being condemned. Tenants who
2 are otherwise eligible for rental assistance pursuant to section 1 of
3 P.L.2004, c.140 (C.52:27D-287.1) and who are displaced by a
4 redevelopment project undertaken because of the use of eminent
5 domain authorized pursuant to the "Local Redevelopment and
6 Housing Law," P.L.1992, c.79 (C.40A:12A-1 et seq.), shall be
7 entitled to receive rental assistance, on a priority basis, under the
8 rental assistance program for low income individuals or households
9 established pursuant to P.L.2004, c.140 (C.52:27D-287.1 et seq.).
10 The redeveloper of the project in connection with which eminent
11 domain has been employed shall be responsible for reimbursing the
12 State for the cost of the rental assistance for a period not to exceed
13 four years from the commencement of occupancy of the new unit,
14 and shall, prior to any displacement, deposit with the Commissioner
15 of Community Affairs the amount estimated by the commissioner to
16 be necessary for this purpose. The Commissioner of Community
17 Affairs shall adopt the necessary rules and regulations to govern the
18 calculation of the reimbursement by redevelopers pursuant to this
19 subsection and the administration of the priority list for the
20 rehousing of tenants displaced from redevelopment areas.

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

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

29 f. Arrange or contract with public agencies or redevelopers for
30 the planning, replanning, construction, or undertaking of any
31 project or redevelopment work, or any part thereof, provided that
32 the selection of the redeveloper has taken place subject to the
33 provisions of section 11 of P.L. , c. (C.) (pending before the
34 Legislature as this bill), if applicable; negotiate and collect revenue
35 from a redeveloper to defray the costs of the redevelopment entity,
36 including where applicable the costs incurred in conjunction with
37 bonds, notes or other obligations issued by the redevelopment
38 entity, and to secure payment of such revenue; as part of any such
39 arrangement or contract, provide for extension of credit, or making
40 of loans, to redevelopers to finance any project or redevelopment
41 work, or upon a finding that the project or redevelopment work
42 would not be undertaken but for the provision of financial
43 assistance, or would not be undertaken in its intended scope without
44 the provision of financial assistance, provide as part of an
45 arrangement or contract for capital grants to redevelopers; and
46 arrange or contract with public agencies or redevelopers for the
47 opening, grading or closing of streets, roads, roadways, alleys, or

1 other places or for the furnishing of facilities or for the acquisition
2 by such agency of property options or property rights or for the
3 furnishing of property or services in connection with a
4 redevelopment area.

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

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

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

19 j. Make, consistent with the redevelopment plan: (1) plans for
20 carrying out a program of voluntary repair and rehabilitation of
21 buildings and improvements; and (2) plans for the enforcement of
22 laws, codes, and regulations relating to the use and occupancy of
23 buildings and improvements, and to the compulsory repair,
24 rehabilitation, demolition, or removal of buildings and
25 improvements.

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

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

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

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

36 o. (1) Authorize and execute a written agreement designating a
37 redeveloper or redevelopers to undertake a project or projects in
38 accordance with the redevelopment plan. The agreement may
39 contain a provision requiring the redeveloper to reimburse the
40 municipality for costs associated with the preliminary investigation
41 to determine whether the proposed area is a redevelopment area as
42 set forth in section 6 of P.L.1992, c.79 (C.40A:12A-6).

43 (2) If a project or projects will involve the conveyance of land
44 owned by the municipality or any project, 20% or more of which
45 will be constructed upon land subject to acquisition by the
46 municipality pursuant to the redevelopment plan, such designation
47 shall be based upon the results of a competitive process undertaken

1 in accordance with section 11 of P.L. , c. (C.) (pending
2 before the Legislature as this bill).
3 (cf: P.L.1992, c.79, s.8)
4

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

7 14. a. A delineated area may be determined to be in need of
8 rehabilitation if the governing body of the municipality determines
9 by resolution that a program of rehabilitation, as defined in section
10 3 of P.L.1992, c.79 (C.40A:12A-3), may be expected to prevent
11 further deterioration and promote the overall development of the
12 community and that there exist in that area conditions such that:

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

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

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

28 (4) areas with buildings or improvements evidencing
29 dilapidation, obsolescence, overcrowding, faulty arrangement or
30 design, lack of ventilation, light and sanitary facilities, excessive
31 land coverage, deleterious land use or obsolete layout, or any
32 combination of these or other factors; or

33 (5) a growing lack or total lack of proper utilization of areas
34 resulting in a stagnant or not fully productive condition of land
35 potentially useful and valuable for contributing to and serving the
36 public health, safety, and welfare.

37 The resolution determining that the area is in need of
38 rehabilitation shall be based upon a written report documenting the
39 conditions that provide the basis for the determination that the area
40 is in need of rehabilitation. Where warranted by consideration of
41 the overall conditions and requirements of the community, a finding
42 of need for rehabilitation may extend to the entire area of a
43 municipality. Prior to adoption of the resolution, the governing
44 body shall submit **[it]** the proposed resolution together with the
45 report that provides the basis for the determination to the municipal
46 planning board for its review. Within 45 days of its receipt of the

1 proposed resolution, the municipal planning board shall submit its
2 recommendations regarding the proposed resolution, including any
3 modifications which it may recommend, to the governing body for
4 its consideration. Thereafter, or after the expiration of the 45 days
5 if the municipal planning board does not submit recommendations,
6 the governing body may adopt the resolution, with or without
7 modification. The resolution shall not become effective without the
8 approval of the commissioner pursuant to section 6 of P.L.1992,
9 c.79 (C.40A:12A-6), if otherwise required pursuant to that section.

10 b. A delineated area shall be deemed to have been determined
11 to be an area in need of rehabilitation in accordance with the
12 provisions of this act if it has heretofore been determined to be an
13 area in need of rehabilitation pursuant to P.L.1975, c.104 (C.54:4-
14 3.72 et seq.), P.L.1977, c.12 (C.54:4-3.95 et seq.) or P.L.1979,
15 c.233 (C.54:4-3.121 et seq.).
16 (cf: P.L.2003, c.125, s.5)

17
18 9. Section 15 of P.L.1992, c.79 (C40A:12A-15) is amended to
19 read as follows:

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

35 (cf: P.L.1992, c.79, s.15)

36
37 10. Section 19 of P.L.1975, c.291 (C.40:55D-28) is amended to
38 read as follows:

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

44 b. The master plan shall generally comprise a report or
45 statement and land use and development proposals, with maps,
46 diagrams and text, presenting, at least the following elements (1)

1 and (2) and, where appropriate, the following elements (3) through
2 (~~14~~ 15):

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

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

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

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

34 (5) A utility service plan element analyzing the need for and
35 showing the future general location of water supply and distribution
36 facilities, drainage and flood control facilities, sewerage and waste
37 treatment, solid waste disposal and provision for other related
38 utilities, and including any storm water management plan required
39 pursuant to the provisions of P.L.1981, c.32 (C.40:55D-93 et seq.).
40 If a municipality prepares a utility service plan element as a
41 condition for adopting a development transfer ordinance pursuant to
42 subsection c. of section 4 of P.L.2004, c.2 (C.40:55D-140), the plan
43 element shall address the provision of utilities in the receiving zone
44 as provided thereunder;

45 (6) A community facilities plan element showing the existing
46 and proposed location and type of educational or cultural facilities,
47 historic sites, libraries, hospitals, firehouses, police stations and

- 1 other related facilities, including their relation to the surrounding
2 areas;
- 3 (7) A recreation plan element showing a comprehensive system
4 of areas and public sites for recreation;
- 5 (8) A conservation plan element providing for the preservation,
6 conservation, and utilization of natural resources, including, to the
7 extent appropriate, energy, open space, water supply, forests, soil,
8 marshes, wetlands, harbors, rivers and other waters, fisheries,
9 endangered or threatened species wildlife and other resources, and
10 which systemically analyzes the impact of each other component
11 and element of the master plan on the present and future
12 preservation, conservation and utilization of those resources;
- 13 (9) An economic plan element considering all aspects of
14 economic development and sustained economic vitality, including
15 (a) a comparison of the types of employment expected to be
16 provided by the economic development to be promoted with the
17 characteristics of the labor pool resident in the municipality and
18 nearby areas and (b) an analysis of the stability and diversity of the
19 economic development to be promoted;
- 20 (10) A historic preservation plan element: (a) indicating the
21 location and significance of historic sites and historic districts; (b)
22 identifying the standards used to assess worthiness for historic site
23 or district identification; and (c) analyzing the impact of each
24 component and element of the master plan on the preservation of
25 historic sites and districts;
- 26 (11) Appendices or separate reports containing the technical
27 foundation for the master plan and its constituent elements;
- 28 (12) A recycling plan element which incorporates the State
29 Recycling Plan goals, including provisions for the collection,
30 disposition and recycling of recyclable materials designated in the
31 municipal recycling ordinance, and for the collection, disposition
32 and recycling of recyclable materials within any development
33 proposal for the construction of 50 or more units of single-family
34 residential housing or 25 or more units of multi-family residential
35 housing and any commercial or industrial development proposal for
36 the utilization of 1,000 square feet or more of land;
- 37 (13) A farmland preservation plan element, which shall include:
38 an inventory of farm properties and a map illustrating significant
39 areas of agricultural land; a statement showing that municipal
40 ordinances support and promote agriculture as a business; and a
41 plan for preserving as much farmland as possible in the short term
42 by leveraging monies made available by P.L.1999, c.152 (C.13:8C-
43 1 et al.) through a variety of mechanisms including, but not limited
44 to, utilizing option agreements, installment purchases, and
45 encouraging donations of permanent development easements; **[and]**
- 46 (14) A development transfer plan element which sets forth the
47 public purposes, the locations of sending and receiving zones and

1 the technical details of a development transfer program based on the
2 provisions of section 5 of P.L.2004, c.2 (C.40:55D-141); and

3 (15) A redevelopment plan element identifying all areas that
4 have been designated in need of redevelopment or rehabilitation in
5 the municipality as well as additional areas that may be so
6 designated in the future, the goals and objectives of projected
7 redevelopment activities in those areas during the time period
8 covered by the master plan, the manner in which those activities
9 further the social, economic, and physical improvement of the
10 municipality, and the manner in which redevelopment activities are
11 linked to other activities being carried out by the municipality
12 pursuant to the municipal master plan, including improvements to
13 infrastructure, transportation improvements, and the construction of
14 public and community facilities.

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

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

29 In the case of a municipality situated within the Highlands
30 Region, as defined in section 3 of P.L.2004, c.120 (C.13:20-3), the
31 master plan shall include a specific policy statement indicating the
32 relationship of the proposed development of the municipality, as
33 developed in the master plan, to the Highlands regional master plan
34 adopted pursuant to section 8 of P.L.2004, c.120 (C.13:20-8).
35 (cf: P.L.2004, c.120, s.60)

36
37 11. (New section) a. Whenever a redevelopment project or
38 projects involve the conveyance of land owned by the municipality,
39 or any project, 20% or more of which will be constructed upon land
40 subject to acquisition by the municipality or redevelopment entity
41 pursuant to the redevelopment plan, the municipality shall approve,
42 by ordinance, a written agreement designating a redeveloper
43 selected in accordance with this section.

44 b. The municipality or redevelopment entity shall prepare or
45 have prepared request for proposal documentation, which shall
46 include: all requirements deemed appropriate and necessary to
47 allow for full and free competition between potential redevelopers;

1 information necessary for potential redevelopers to submit a
2 proposal, including a copy of the redevelopment plan, a general
3 description of the project or projects, and such municipal public
4 records relating to buildings and improvements within the
5 redevelopment area, including, but not limited to, services provided
6 by public utilities, building permit, and assessment records; and a
7 methodology by which the municipality will evaluate and rank
8 proposals received from potential redevelopers.

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

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

24 e. All proposals shall be required to contain a statement of
25 corporate ownership in accordance with the provisions of section 1
26 of P.L.1977, c.33 (C.52:25-24.2) and specifications concerning
27 equal employment opportunity and affirmative action pursuant to
28 P.L.1975, c.127 (C.10:5-31 et seq.)

29 f. A notice of the availability of request for proposal
30 documentation shall be published in an official newspaper of the
31 municipality at least 30 days prior to the date established for the
32 submission of proposals. Such notice shall provide the name,
33 address, and phone number of the person who can provide
34 additional information and a proposal document to an interested
35 party. The municipality or redevelopment entity shall promptly
36 reply to any request by an interested party by providing a copy of
37 the request for proposals. The municipality or redevelopment entity
38 may charge a fee for the proposal documentation that shall not
39 exceed \$50 or the cost of reproducing the documentation,
40 whichever is greater.

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

46 h. The municipality or redevelopment entity shall review and
47 evaluate all proposals only in accordance with the methodology

1 described in the request for proposals. The review shall be
2 conducted in a manner that avoids disclosure of the contents of any
3 proposal prior to the selection of a redeveloper. The municipality
4 or redevelopment entity may conduct discussions with a potential
5 redeveloper submitting a proposal for the purpose of clarifying the
6 information submitted in the proposal. The municipality or
7 redevelopment entity may at any time revise its proposal document
8 after the review of the submitted proposals if it notifies
9 simultaneously, and in writing, each potential redeveloper that
10 submitted a proposal of the revision and provides a uniform time
11 within which the potential redevelopers may submit a revised
12 proposal for review.

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

26 j. After a redeveloper has been selected and a satisfactory
27 agreement has been negotiated, but prior to the execution of the
28 agreement by the governing body or redevelopment entity, the
29 municipality or redevelopment entity shall prepare a report
30 concerning the proposal selection process. The report shall list the
31 names of all potential redevelopers who submitted a proposal and
32 shall summarize the proposals of each potential redeveloper. The
33 report shall (1) rank the potential redevelopers in order of
34 evaluation; (2) summarize, in general terms, any unsuccessful
35 negotiations with potential redevelopers that submitted proposals
36 which were ranked higher than the proposal of the selected
37 redeveloper; (3) recommend the selected redeveloper; and (4)
38 summarize the project to be undertaken and the relevant terms of
39 the proposed agreement. The report shall be made available to the
40 public at least 48 hours prior to the introduction of an ordinance
41 authorizing an agreement with the redeveloper.

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

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

8
9 12. (New section) If any agreement between a redevelopment
10 entity and a redeveloper shall provide for the use or potential use of
11 eminent domain by the redevelopment entity, such agreement shall
12 contain:

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

15 b. a schedule of acquisition by the redeveloper; and

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

22 d. A requirement, on the part of the redeveloper, to notify any
23 property owner who receives a written offer from the
24 redevelopment entity pursuant to section 6 of P.L.1971, c.361
25 (C.20:3-6) of the total compensation provided for in each contract
26 of sale between the redeveloper and any property owner in the
27 redevelopment area. This notice, which shall be in writing, shall be
28 provided at the time that the written offer is presented by the
29 redevelopment entity.

30 All mandatory schedules and time limitations within these
31 provisions may be subject to tolling for any contingencies set forth
32 in the agreement.

33
34 13. (New section) Every resident displaced as a result of a
35 redevelopment project shall have a limited right of first refusal to
36 purchase or lease a dwelling unit subsequently constructed within
37 the redevelopment project as set forth in this section:

38 a. At such time residents are provided notice pursuant to the
39 Workable Relocation Assistance Plan pursuant to law or regulation
40 adopted pursuant thereto, they shall be provided with the
41 opportunity to have their names entered into a registry of residents
42 seeking the opportunity to purchase or lease a dwelling unit in the
43 redevelopment project. The registry shall be maintained by the
44 municipal relocation officer designated under the Workable
45 Relocation Assistance Plan.

46 b. At such time that any residential development containing
47 more than 10 dwelling units shall be constructed in any

1 redevelopment area as a redevelopment project, the developer shall
2 notify each individual on the registry, by registered mail and by e-
3 mail to their last known mailing or e-mail address, as may be
4 available, of their opportunity to purchase or lease a dwelling unit.
5 It shall be the sole responsibility of the individual to maintain a
6 current mailing address with the registry, and the developer shall be
7 under no obligation to provide notice except as set forth in this
8 subsection.

9 c. From the date of mailing of the notice, the individuals on the
10 registry shall have 20 business days before the units in such
11 development are offered to the general public in order to enter into
12 a contract of purchase or a lease for a unit in the development. Such
13 contract or lease shall be on the same terms and at the same price as
14 those on which the unit is initially offered to the general public.

15

16 14. (New section) a. For all areas determined to be in need of
17 redevelopment, the municipality shall submit to the Department of
18 Community Affairs a map outlining the physical boundaries of the
19 redevelopment area, the preliminary investigation report, and a
20 copy of the ordinance making the determination. This information
21 shall be transmitted within 60 days of the effective date of this act
22 for areas determined to be in need of redevelopment on or prior to
23 the effective date of this act, or within 10 days after the area is
24 determined to be in need of redevelopment after the effective date
25 of this act. The municipality shall also disclose to the Department
26 of Community Affairs, with updates as required by the department,
27 an accounting of the cost of all municipal investments made in the
28 redevelopment area subsequent to the final adoption of an ordinance
29 determining the area as in need of redevelopment, including, but not
30 limited to, the granting of tax abatements, the issuance of density
31 bonuses, and the value of municipal infrastructure provided in the
32 implementation of the plan. In addition, the municipality shall
33 disclose any other public infrastructure to be provided in the
34 redevelopment area using public funds.

35 b. For all condemnations of properties that occur pursuant to
36 subsection c. of section 8 of P.L.1992, c.79 (C.40A:12A-8), the
37 municipality shall submit to the Department of Community Affairs
38 record of the condemnation and the compensation provided to the
39 property owner within 10 days of the taking.

40 c. Each year the Department of Community Affairs shall issue
41 a report that lists the location of all areas currently determined to be
42 in need of redevelopment in New Jersey; basic data for each area
43 about its size, population, the status of the redevelopment plan
44 implementation, the length of time the area has been designated as
45 an area in need of redevelopment, an accounting of the cost of all
46 municipal investments and an enumeration of other investments
47 made in the area using public funds subsequent to the final adoption

1 of an ordinance determining the area as in need of redevelopment,
2 as set forth in subsection a. of this section, the number of times
3 eminent domain has been used in each redevelopment area, and data
4 on compensation received by property owners, when available.
5 This report shall be made available to the general public upon
6 request and on the Department of Community Affairs Internet web
7 site.

8
9 15. Section 6 of P.L.1971, c.361 (C.20:3-6) is amended to read
10 as follows:

11 6. Whenever any condemnor shall have determined to acquire
12 property pursuant to law, including public property already devoted
13 to public purpose, but cannot acquire title thereto or possession
14 thereof by agreement with a prospective condemnee, whether by
15 reason of disagreement concerning the compensation to be paid or
16 for any other cause, the condemnation of such property and the
17 compensation to be paid therefor, and to whom payable, and all
18 matters incidental thereto and arising therefrom shall be governed,
19 ascertained and paid by and in the manner provided by this act;
20 provided, however, that no action to condemn shall be instituted
21 unless the condemnor is unable to acquire such title or possession
22 through bona fide negotiations with the prospective condemnee,
23 which negotiations shall include an offer in writing by the
24 condemnor to the prospective condemnee holding the title of record
25 to the property being condemned, setting forth the property and
26 interest therein to be acquired, the compensation offered to be paid
27 and **[a reasonable disclosure of the manner in which the amount of**
28 **such offered compensation has been calculated]** a copy of the
29 appraisal upon which the offer has been based and which was
30 approved by the condemnor, and such other matters as may be
31 required by the rules. Prior to such offer the taking agency shall
32 appraise said property and the owner shall be given an opportunity
33 to accompany the appraiser during inspection of the property **[.**
34 **Such offer]** and provide information, data or otherwise raise issues
35 of concern to the owner relating to the valuation of the property and
36 damages to the remainder arising from the proposed acquisition.
37 The written offer made by a condemnor to a prospective condemnee
38 holding record title to the property shall be served by certified mail
39 by a private courier or in person along with a copy of the approved
40 appraisal. In no event shall such offer be less than the taking
41 agency's approved appraisal of the fair market value of such
42 property. **[A rejection of said offer or failure to accept the same**
43 **within the period fixed in written offer, which shall in no case be**
44 **less than 14 days from the mailing of the offer, shall]** The
45 prospective condemnee shall be afforded 45 calendar days from
46 receipt of the written offer to review the offer and the approved
47 appraisal upon which the offer was based, to seek clarification

1 thereof as well as any other relevant information, to allow an
2 opportunity to negotiate the compensation to be paid, and to request
3 an opportunity to discuss the offer and the basis thereof with a
4 representative of the condemnor in person. Prior to the expiration
5 of this 45-day period, the prospective condemnee may request, in
6 writing, an extension of this 45-day period for a period not
7 exceeding an additional 25 days, for a total of 70 calendar days,
8 which shall not be denied except for good cause shown by the
9 condemnor. During this period, as it may be extended, the
10 prospective condemnee may seek additional relevant information
11 regarding the offer or regarding the project. Within the time period,
12 as may be extended, the condemnor shall provide reasonable and
13 timely responses to requests for information and for explanations
14 and shall afford an opportunity for the condemnee to meet in person
15 on at least one occasion with a representative of the condemnor to
16 discuss the offer and the basis thereof. The prospective condemnee
17 may also obtain its own appraisal and share it with the prospective
18 condemnor and seek a review thereof by the prospective
19 condemnor. If the prospective condemnee rejects the written offer
20 of the condemnor or otherwise does not affirmatively respond to the
21 offer, the condemnor may then send in writing by certified mail,
22 private courier, or in person, a letter setting forth an intent to
23 commence condemnation proceedings in the Superior Court. Such
24 letter, upon receipt, shall conclude bona fide negotiations between
25 the prospective condemnor and condemnee. A disagreement over
26 the amount of the offer, how the offer was calculated, or the method
27 or manner in which the property was appraised shall not constitute
28 grounds to continue negotiations or prevent the condemnor from
29 successfully acquiring the property through the commencement of a
30 condemnation proceeding and the appointment of condemnation
31 commissioners. Nothing in this section shall be construed as
32 requiring a condemnor to increase the amount of an offer during the
33 review and negotiation period. A condemnor may file a complaint
34 for condemnation in the manner provided by the Rules of Court
35 anytime after expiration of the initial review and negotiation period,
36 including any extension thereof, all as provided for in this section,
37 without the consent of the prospective condemnee, provided the
38 condemnor is otherwise empowered to exercise the power of
39 eminent domain and the condemnor has complied with the
40 provisions of this section. Proof of the delivery of a written offer
41 and a copy of the approved appraisal and the delivery of a letter of
42 intent at the expiration of the negotiation period as set forth above,
43 shall be deemed to be conclusive proof of the inability of the
44 condemnor to acquire the property or possession thereof through
45 negotiations. When the holder of the title is unknown, resides out
46 of the State, or for other good cause, the court, upon application as
47 a notice of motion as provided by the Rules of Court, may dispense

1 with the necessity of such negotiations. Neither the offer, the
2 amount thereof, nor the refusal thereof by the prospective
3 condemnee shall be evidential in the determination of
4 compensation.

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

6

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

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

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

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

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

21 b. Any displaced person eligible for payments under subsection
22 a. of this section who is displaced from a dwelling and who elects to
23 accept the payments authorized by this subsection in lieu of the
24 payments authorized by subsection a. of this section may receive a
25 moving expense allowance, determined according to a schedule
26 established by the taking agency, not to exceed ~~【\$300.00】~~ \$450,
27 provided that on the first day of the 12th month next following
28 enactment of P.L. , c. (C.) (pending before the Legislature
29 as this bill), the moving expense allowance shall be increased not to
30 exceed \$900, and further increased on the first day of the 24th
31 month next following enactment of P.L. , c. (C.) (pending
32 before the Legislature as this bill), not to exceed \$1,350, and a
33 dislocation allowance of ~~【\$200.00】~~ \$300, provided that on the first
34 day of the 12th month next following enactment of
35 P.L. , c. (C.) (pending before the Legislature as this bill), the
36 dislocation allowance shall be \$600, and on the first day of the 24th
37 month next following enactment of P.L. , c. (C.) (pending
38 before the Legislature as this bill), that allowance shall be \$900
39 provided, however, such amounts shall be adjusted annually in
40 accordance with section 19 of P.L. , c. (C.) (pending before
41 the Legislature as this bill).

42 c. Any displaced person eligible for payments under subsection
43 a. of this section who is displaced from his place of business or
44 from his farm operation and who elects to accept the payment
45 authorized by this subsection in lieu of the payment authorized by
46 subsection a. of this section, may receive a fixed payment in an
47 amount equal to the average annual net earnings of the business or

1 farm operation, except that such payment shall not be less than
2 ~~[\$2,500.00]~~ \$3,750, provided that on the first day of the 12th
3 month next following enactment of P.L. , c. (C.) (pending
4 before the Legislature as this bill), the payment shall not be less
5 than \$7,500, and on the first day of the 24th month next following
6 enactment of P.L. , c. (C.) (pending before the Legislature
7 as this bill), the payment shall not be less than \$11,250 nor more
8 than ~~[\$10,000.00]~~ \$15,000, provided on the first day of the 12th
9 month next following enactment of P.L. , c. (C.) (pending
10 before the Legislature as this bill), the payment shall not be more
11 than \$22,500, and on the first day of the 24th month next following
12 enactment of P.L. , c. (C.) (pending before the Legislature
13 as this bill) the payment shall not be more than \$45,000 provided,
14 however, such amounts shall be adjusted annually in accordance
15 with section 19 of P.L. , c. (C.) (pending before the
16 Legislature as this bill). In the case of a business no payment shall
17 be made under this subsection unless the taking agency is satisfied
18 that the business (1) cannot be relocated without a substantial loss
19 of its existing patronage, and (2) is not a part of a commercial
20 enterprise having at least one other establishment not being
21 acquired by the taking agency, which is engaged in the same or
22 similar business. The business owner shall have the right to appeal
23 this decision in court. For purposes of this subsection, the term
24 "average annual net earnings," means 1/2 of any net earnings of the
25 business or farm operation, before Federal, State, and local income
26 taxes, during the 2 taxable years immediately preceding the taxable
27 year in which such business or farm operation moves from the real
28 property acquired or leased for such project, or during such other
29 period as such agency determines to be more equitable for
30 establishing such earnings, and includes any compensation paid by
31 the business or farm operation to the owner, his spouse, or his
32 dependents during such period.

33 (cf: P.L.1971, c.362, s.4)

34

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

37 5. a. In addition to payments otherwise authorized by this act,
38 P.L.1971, c.362 (C.20:4-1 et seq.), the taking agency shall make an
39 additional payment not in excess of ~~[\$15,000.00]~~ \$22,500,
40 provided that on the first day of the 12th month next following
41 enactment of P.L. , c. (C.) (pending before the Legislature
42 as this bill), the additional payment shall not be in excess of
43 \$45,000, and on the first day of the 24th month next following
44 enactment of P.L. , c. (C.) (pending before the Legislature
45 as this bill) the additional payment shall not be in excess of \$67,500
46 to any displaced person who is displaced from a dwelling actually
47 owned and occupied by such displaced person for not less than 180

1 days prior to the initiation of negotiations for the acquisition of the
2 property; provided, however, such amounts shall be adjusted
3 annually in accordance with section 19 of P.L. _____, c. _____
4 (pending before the Legislature as this bill). Such additional
5 payment shall include the following elements:

6 (1) The amount, if any, which when added to the acquisition cost
7 of the dwelling acquired, equals the reasonable cost of a comparable
8 replacement dwelling which is a decent, safe, and sanitary dwelling
9 adequate to accommodate such displaced person, reasonably
10 accessible to public services and places of employment and
11 available on the private market. All determinations required to
12 carry out this subparagraph shall be determined by regulations
13 issued pursuant to section 10 of **[this act]** P.L.1971, c.362 (C.20:4-
14 10).

15 (2) The amount, if any, which will compensate such displaced
16 person for any increased interest costs which such person is
17 required to pay for financing the acquisition of any such
18 comparable replacement dwelling. Such amount shall be paid only
19 if the dwelling acquired was encumbered by a bona fide mortgage
20 which was a valid lien on such dwelling for not less than 180 days
21 prior to the initiation of negotiations for the acquisition of such
22 dwelling. Such amount shall be equal to the excess in the
23 aggregate interest and other debt service costs of that amount of the
24 principal of the mortgage on the replacement dwelling which is
25 equal to the unpaid balance of the mortgage on the acquired
26 dwelling, over the remainder term of the mortgage on the acquired
27 dwelling, reduced to discounted present value. The discount rate
28 shall be determined by regulations issued pursuant to section 10 of
29 **[this act]** P.L.1971, c.362 (C.20:4-10).

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

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

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

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

1 on the date on which he moves from the acquired dwelling,
2 whichever is the later date.
3 (cf: P.L.1971, c.362, s.5)
4

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

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

14 a. the amount necessary to enable such displaced person to lease
15 or rent for a period not to exceed 4 years, a decent, safe, and
16 sanitary dwelling of standards adequate to accommodate such
17 person in areas not generally less desirable in regard to public
18 utilities and public and commercial facilities, and reasonably
19 accessible to his place of employment, but not to exceed
20 [\$4,000.00] \$6,000, provided that on the first day of the 12th
21 month next following enactment of P.L. , c. (C.) (pending
22 before the Legislature as this bill), the amount shall be increased
23 not to exceed \$12,000, and further increased on the first day of the
24 24th month next following enactment of P.L. , c. (C.)
25 (pending before the Legislature as this bill), not to exceed \$18,000;
26 or

27 b. the amount necessary to enable such person to make a
28 downpayment (including incidental expenses described in section 5
29 a. (3)) on the purchase of a decent, safe, and sanitary dwelling of
30 standards adequate to accommodate such persons in areas not
31 generally less desirable in regard to public utilities and public and
32 commercial facilities, but not to exceed [\$4,000.00] \$6,000,
33 provided that on the first day of the 12th month next following
34 enactment of P.L. , c. (C.) (pending before the Legislature
35 as this bill), the amount shall be increased not to exceed \$12,000,
36 and further increased on the first day of the 24th month next
37 following enactment of P.L. , c. (C.) (pending before the
38 Legislature as this bill), not to exceed \$18,000. Of that amount the
39 first [\$2,000.00] \$3,000, provided that on the first day of the 12th
40 month next following enactment of P.L. , c. (C.) (pending
41 before the Legislature as this bill), the first \$6,000, and on the first
42 day of the 24th month next following enactment of
43 P.L. , c. (C.) (pending before the Legislature as this bill),
44 the first \$9,000 [of which is to] shall be paid without contribution
45 from the displaced person, but thereafter such payments will only
46 be made on a matching dollar-for-dollar basis with the displaced
47 person provided, however, all such amounts in this section shall be

1 adjusted annually in accordance with section 19 of
2 P.L. , c. (C.) (pending before the Legislature as this bill).
3 (cf: P.L.1971, c.362, s.6)
4

5 19. (New section) Beginning on the first day of the 36th month
6 next following enactment of P.L. , c. (pending before the
7 Legislature as this bill) all payment amounts set forth in sections 4
8 through 6 of P.L.1971, c.362 (C.20:4-4 through 20:4-6), as
9 amended by P.L. , c. (C.) (pending before the Legislature
10 as this bill), shall be annually automatically adjusted on the basis of
11 the Consumer Price Index for All Urban Consumers (CPI-U), U. S.
12 City Average, published by the United States Department of Labor,
13 Bureau of Labor Statistics, using the last published index figure as
14 of the date of displacement as the numerator and the index figure
15 for the month in which P.L. , c. (C.) (pending before the
16 Legislature as this bill) becomes effective as the denominator.
17

18 20. (New section) In addition to payments otherwise authorized
19 by P.L. , c. (C.) (pending before the Legislature as this bill)
20 for the taking of private property through the use of eminent domain
21 pursuant to the "Local Redevelopment and Housing Law,"
22 P.L.1992, c.79 (C.40A:12A-1 et seq.), a redevelopment entity shall
23 make an additional payment to the owner of a business for the value
24 of goodwill. For the purposes of this section, "goodwill" means the
25 benefits that accrue to a business as a result of its location,
26 reputation for dependability, skill or quality, and any other
27 circumstances resulting in probable retention of old or acquisition
28 of new patronage.

29 Within 12 months after the date of enactment of
30 P.L. , c. (C.) (pending before the Legislature as this bill),
31 the Department of Community Affairs shall adopt, pursuant to the
32 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
33 seq.), rules and regulations to effectuate the provisions of
34 P.L. , c. (C.) (pending before the Legislature as this bill).
35 The rules and regulations to be adopted by the department pursuant
36 to this section shall include, but are not limited to, the requirements
37 to be met by the business in order to obtain the additional payment,
38 the responsibility of the redevelopment entity, and an appeal
39 process.
40

41 21. (New section) Notwithstanding the provisions of any other
42 law to the contrary:

43 a. A municipal redevelopment entity shall not: negotiate for, or
44 enter into, a redevelopment agreement, other than an agreement
45 awarded pursuant to a fair and open process, with any redeveloper
46 to perform any work under a redevelopment plan, if, beginning after
47 the adoption of a memorializing resolution directing preliminary
48 investigation to determine if a site is in need of redevelopment, that

1 redeveloper has made a contribution that is reportable by the
2 recipient under P.L.1973, c.83 (C.19:44A-1 et seq.), to any
3 municipal committee of a political party in that municipality or to
4 any candidate committee of any person serving in an elective public
5 office of that municipality.

6 b. No redeveloper described above who enters into a municipal
7 redevelopment agreement to perform any work under a
8 redevelopment plan shall make any of the aforesaid contributions
9 during the term of any such redevelopment agreement.

10 c. None of the aforesaid committees shall accept a contribution
11 in excess of the limits set forth above from such a redeveloper
12 during the time periods set forth above.

13 d. Each committee described above shall use reasonable efforts
14 to notify contributors and potential contributors that contributions
15 to it may affect the ability of a redeveloper to enter into a
16 redevelopment agreement. Reasonable efforts shall include, but not
17 be limited to, written notifications in fundraising solicitations or
18 donor information request forms or other fundraising materials.

19 e. If a redeveloper makes a contribution that would otherwise
20 bar it from negotiating for or entering into a redevelopment
21 agreement or makes a contribution during the term of a
22 redevelopment agreement in violation of this section, the
23 redeveloper may request a full reimbursement from the recipient
24 and, if such reimbursement is received within 60 days thereafter,
25 the redeveloper shall again be eligible to negotiate or enter into a
26 redevelopment agreement or shall no longer be in violation, as
27 appropriate.

28 f. Prior to entering into such a redevelopment agreement, a
29 redevelopment entity shall require the redeveloper with which the
30 redevelopment agreement is to be entered into to provide a written
31 certification that it has not made a contribution that would bar the
32 execution of a redevelopment agreement pursuant to this section. A
33 redeveloper shall have a continuing duty to report to the Election
34 Law Enforcement Commission any contribution that constitutes a
35 violation of this section that is made during the duration of a
36 redevelopment agreement.

37 g. As used in this section:

38 "Fair and open process" means the process described in section
39 11 of P.L. , c. (C.) (pending before the Legislature as this
40 bill) or, at a minimum, that the redevelopment agreement shall be:
41 publicly advertised in newspapers or on the Internet website
42 maintained by the public entity in sufficient time to give notice in
43 advance of the agreement; entered into under a process that
44 provides for public solicitation of proposals or qualifications and
45 entered into and disclosed under criteria established in writing by
46 the public entity prior to the solicitation of proposals or
47 qualifications; and publicly opened and announced when awarded.

1 The decision of a public entity as to what constitutes a fair and open
2 process shall be final; and

3 “Redeveloper” means any person, firm, corporation, or public
4 body that negotiates for, or enters into, a redevelopment agreement
5 with a municipal redevelopment entity for the redevelopment or
6 rehabilitation of an area in need of redevelopment, or an area in
7 need of rehabilitation, or any part thereof, or for any construction or
8 other work forming a part of a redevelopment or rehabilitation
9 project, and includes any principal who owns or controls more than
10 10 percent of the profits or assets of a redeveloper or 10 percent of
11 the stock in the case of a redeveloper that is a corporation for profit,
12 as appropriate.

13

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

16 22. The provisions of this act shall not apply to the State
17 Department of Transportation or the New Jersey Transit
18 Corporation; provided, however, that the State Department of
19 Transportation and the New Jersey Transit Corporation shall
20 supplement its existing relocation assistance program designed to
21 minimize the hardships of persons and business concerns displaced
22 as a result of the acquisition by said State Department of
23 Transportation and the New Jersey Transit Corporation of any real
24 property for a public use, by July 1, 1972. Said supplemented
25 program shall be in compliance with the rules and regulations of the
26 Federal Highway Administration and the Federal Transit
27 Administration relating to relocation assistance so as to fully
28 qualify the Department of Transportation and the New Jersey
29 Transit Corporation for Federal aid reimbursement and to equal or
30 exceed the requirements of this statute. For purposes of
31 coordinating and formulating uniform relocation programs of the
32 State, the Commissioner of Transportation shall consult with the
33 Commissioner of the Department of Community Affairs in order
34 that said relocation assistance program will be in general
35 conformity with any rules and regulations promulgated by the
36 Commissioner of the Department of Community Affairs pursuant to
37 P.L. 91-646, the Uniform Relocation Assistance and Real Property
38 Acquisition Policies Act of 1970, and amendments thereto.

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

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

45

46 23. This act shall take effect on the first day of the fourth month
47 next following enactment. Any final action taken by a municipality

1 or redevelopment entity with respect to: a determination that an area
2 is in need of redevelopment or in need of rehabilitation; enactment
3 of a redevelopment plan; or designation of a redeveloper, prior to
4 the effective date of this act shall have full force and effect, but any
5 subsequent official action by the municipality or redevelopment
6 entity after the effective date of this act shall be subject to its
7 provisions.

8
9

10 STATEMENT

11

12 This bill amends and supplements various parts of statutory law
13 to provide greater accountability and transparency in the use of
14 eminent domain by local governments in New Jersey.

15 The criteria for finding property to be an "area in need of
16 redevelopment" would be reorganized and the ability to include
17 non-qualifying parcels in an area in need of redevelopment would
18 be limited to 20% of the land mass within the proposed
19 redevelopment area. If eminent domain is used, the bill would
20 require that the redevelopment agreement contain a timeframe for
21 the acquisition of such property and a requirement that all requests
22 for the use of eminent domain be made within five years of the date
23 of the redevelopment agreement. Awards for eminent domain
24 would be based on the highest value of the property, either at the
25 time of taking or the time of the adoption of the redevelopment plan
26 and would be based on the uses permitted under the plan.

27 Residential property owners whose homes are taken by eminent
28 domain would be ensured that compensation would at least equal
29 the replacement value of their home. Additionally, any resident
30 dislocated by the use of eminent domain would be granted a right of
31 first refusal to purchase or lease a unit within the redevelopment
32 project that resulted in their displacement. Displaced residents of
33 housing units provided under any State or federal housing subsidy
34 program or the "Fair Housing Act," P.L.1985, c.222 (C.52:27D-301
35 et al.) would have first priority for those replacement units provided
36 in the redevelopment plan. Tenants who are otherwise eligible for
37 rental assistance and who are displaced by a redevelopment project
38 undertaken because of the use of eminent domain authorized
39 pursuant to the "Local Redevelopment and Housing Law" would be
40 entitled to receive rental assistance, on a priority basis, under the
41 State rental assistance program for low income individuals or
42 households. The redeveloper of the project in connection with
43 which eminent domain has been employed would be responsible for
44 reimbursing the State for the cost of the rental assistance for a
45 period not to exceed four years from the commencement of
46 occupancy of the new unit, and would, prior to any displacement,

1 deposit with the Commissioner of Community Affairs the amount
2 estimated by the commissioner to be necessary for this purpose.

3 The notice provisions for designing and undertaking a
4 redevelopment project would be greatly enhanced under the bill.
5 The bill would require that the hearing notice be sent by both
6 certified and regular mail and be written in a simple, clear and
7 easily understandable format, and would tell people that a
8 consequence of the designation of an area as being in need of
9 redevelopment could be the use of eminent domain. Prior to the
10 hearing, all documents relevant to the determination of an area in
11 need of redevelopment would be made available for public
12 inspection and posted on the municipal website. At the hearing, all
13 testimony would be provided under oath or affirmation and the
14 hearing would be recorded or transcribed.

15 The bill would require an informational meeting before the
16 process is formally begun for larger redevelopment projects. Notice
17 to impacted property owners, including tenants, would be greatly
18 expanded to include direct notice during (1) the study of a proposed
19 redevelopment area by a planning board, (2) the determination that
20 an area is in need of redevelopment by the governing body, and (3)
21 the formulation and adoption of a redevelopment plan. For the
22 adoption of a redevelopment plan, such notice would also be
23 required to identify which parcels within the redevelopment area
24 would be subject to acquisition by eminent domain and inform
25 notice recipients of the right to appeal the determination. If the
26 determination that the delineated area is a redevelopment area is
27 challenged in court, the municipality would be required to show, by
28 a preponderance of the evidence, that the delineated area fulfills the
29 criteria set forth in section 5 of P.L.1992, c.79 (C.40A:12A-5).

30 An additional public hearing would be required to be held within
31 60 days of undertaking the preparation of a redevelopment plan to
32 afford public comment on the goals and content of the proposed
33 plan. Notice of public hearing upon adoption of a redevelopment
34 plan would notify those property owners whose properties do not
35 exhibit blight conditions of the reasons why acquisition of their
36 properties are needed for the redevelopment project.

37 Additionally, the bill would require all significant steps of the
38 process to be undertaken by ordinance so that public hearings are
39 held by the governing body at each critical point in the process.
40 These amendments to the eminent domain and land use laws will
41 add transparency to a process that is often subject to unnecessary
42 miscommunication and will provide for the opportunity for greater
43 public input and consensus.

44 The bill would also expand the scope of future redevelopment
45 plans to identify, not just the benefits inherent in future
46 redevelopment projects, but also the costs. In addition to an
47 analysis of the land use controls, a redevelopment plan would be

1 required to contain an inventory of environmental, historical and
2 cultural assets within the redevelopment area, together with
3 preservation and conservation strategies for such assets.
4 Additionally, the redevelopment plan would need to quantify the
5 impact of the plan on surrounding areas and the legal obligations
6 applicable to low and moderate income persons within the
7 municipality and the relocation needs arising from any displacement
8 of residents or businesses as a result of the plan. Finally, the
9 redevelopment plan would need to document consistency with
10 smart growth planning principles. In order to continue an area in
11 need of redevelopment determination, ten years following the
12 adoption of blight determination or ten years following the final
13 adoption of the redevelopment plan, whichever occurs later, not to
14 exceed a period of 15 years following the initial blight
15 determination adoption, the municipality would continue the blight
16 determination through the adoption of an ordinance affirming that
17 the conditions supporting the determination are still present or that
18 substantial progress has been made on the implementation of the
19 redevelopment plan.

20 The bill would also establish a process for selecting redevelopers
21 for redevelopment projects that involve a significant amount of land
22 that is either municipally owned or could be assembled by a
23 municipality using eminent domain. Other changes include
24 expanding the criteria for areas in need of rehabilitation. Areas in
25 need of rehabilitation exist today and can be subjected to the
26 controls and visions set forth in the redevelopment plan.
27 Municipalities have the same powers to implement a redevelopment
28 plan for an area in need of rehabilitation as a redevelopment area,
29 except that municipalities cannot exercise the power of eminent
30 domain. The bill would allow municipalities to identify areas that
31 may be studied in the future for designation as redevelopment or
32 rehabilitation areas when revising municipal master plans.

33 The bill amends current law concerning compensation and
34 replacement housing for relocation of displaced persons and
35 businesses, and provides that all such compensation would be
36 annually automatically adjusted on the basis of the Consumer Price
37 Index for All Urban Consumers (CPI-U), U. S. City Average,
38 published by the United States Department of Labor, Bureau of
39 Labor Statistics, using the last published index figure as of the date
40 of displacement as the numerator and the index figure for the month
41 in which this bill becomes effective as the denominator.

42 The bill provides that, in addition to payments otherwise
43 authorized in this bill for the taking of private property through the
44 use of eminent domain, a redevelopment entity would make an
45 additional payment to the owner of a business for the value of
46 goodwill. For the purposes of this bill, "goodwill" means the
47 benefits that accrue to a business as a result of its location,

1 reputation for dependability, skill or quality, and any other
2 circumstances resulting in probable retention of old or acquisition
3 of new patronage.

4 The bill bans certain contributions by redevelopers and their
5 consultants from the onset of the redevelopment process to the
6 completion of the redevelopment agreement.

7 Finally, the bill would establish a new reporting requirement for
8 municipalities that determine that an area is in need of
9 redevelopment. The municipality would have to submit a map of
10 the new redevelopment area to DCA, together with a preliminary
11 investigation report and the ordinance declaring the area to be in
12 need of redevelopment. Each municipality would also be required
13 to report to DCA a record of each use of condemnation and the
14 compensation paid. DCA would be required to prepare and to make
15 publicly available a report portraying all the redevelopment areas in
16 New Jersey and specify certain relevant data.