

[First Reprint]

ASSEMBLY, No. 4267

STATE OF NEW JERSEY

218th LEGISLATURE

INTRODUCED JUNE 27, 2018

Sponsored by:

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District 27 (Essex and Morris)

Assemblyman PARKER SPACE

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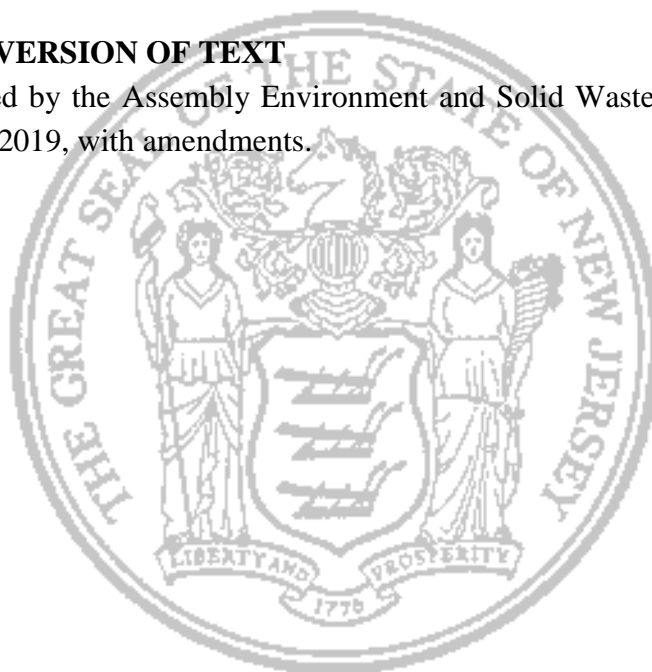
Assemblywoman Pinkin and Assemblyman Danielsen

SYNOPSIS

Concerns regulation of solid waste, hazardous waste, and soil and fill recycling industries.

CURRENT VERSION OF TEXT

As reported by the Assembly Environment and Solid Waste Committee on December 9, 2019, with amendments.



(Sponsorship Updated As Of: 12/13/2019)

1 AN ACT concerning regulation of the solid waste, hazardous waste,
 2 and soil and ¹debris fill¹ recycling industries, amending and
 3 supplementing P.L.1983, c.392, and amending P.L.1991, c.269
 4 ¹[, P.L.1970, c.40]¹ and P.L.1971, c.461.

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

8
 9 1. (New section) a. No later than 90 days after the ¹[date of
 10 enactment] effective date¹ of P.L. , c. (C.) (pending before the
 11 Legislature as this bill), any business concern that ¹is not already a
 12 licensee pursuant to P.L.1991, c.269 (C.13:1E-126 et seq.), and that
 13 actively¹ engages in, or otherwise provides, soil and ¹debris fill¹
 14 recycling services shall register with the ¹[Attorney General]
 15 department¹. The registration shall include ¹, but need not be limited
 16 to¹:

17 (1) the name of the business concern ¹[: and] and its New Jersey
 18 corporate filing number¹;

19 (2) the address of the business concern and the addresses of any
 20 other locations where trucks or equipment used by the business
 21 concern are kept ¹;

22 (3) contact information for the business concern, including, but not
 23 limited to, a valid phone number and email address; and

24 (4) a statement by the business concern that it is actively engaged
 25 in soil and fill recycling services at the time of registration¹.

26 b. A business concern shall submit the information required
 27 pursuant to subsection a. of this section on a registration form
 28 prescribed by the department. The business concern shall certify to the
 29 truth and accuracy of the information provided in the registration form.

30 c.¹ No more than 90 days after submission of ¹[all information
 31 required to be submitted] a registration form¹ pursuant to ¹[subsection
 32 a. of] ¹this section, the ¹[Attorney General] department¹ shall issue a
 33 soil and ¹debris fill¹ recycling registration to the business concern
 34 ¹[that registers pursuant to subsection a. of this section] . Issuance of a
 35 soil and fill recycling registration pursuant to this section shall not
 36 preclude the department from subsequently denying a soil and fill
 37 recycling license to the registrant.

38 d. No more than 270 days after the effective date of P.L. ,
 39 c. (C.) (pending before the Legislature as this bill), a registrant
 40 shall submit a valid and administratively complete application for a
 41 soil and fill recycling license with the Attorney General. Registrants
 42 may request a 90-day extension to file a soil and fill recycling license

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

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹Assembly AEN committee amendments adopted December 9, 2019.

1 application pursuant to this section, and the Attorney General may
 2 grant the request upon a showing of good cause.

3 e. A soil and fill recycling registration issued pursuant to this
 4 section shall automatically expire and become invalid upon: (1)
 5 failure by the registrant to submit a valid and administratively
 6 complete application for a soil and fill recycling license within the
 7 required timeframe; or (2) a final determination by the department
 8 regarding the registrant's application for a soil and fill recycling
 9 license.

10 f. A soil and fill recycling registration issued pursuant to this
 11 section is non-transferable and shall temporarily authorize the
 12 registrant to provide soil and fill recycling services pending the
 13 approval or denial of the registrant's application for a soil and fill
 14 recycling license.

15 g. Any business concern that seeks to engage in soil and fill
 16 recycling services later than 90 days after the effective date of this act
 17 that has not submitted a registration form pursuant to subsection a. of
 18 this section shall file an application for a soil and fill recycling license
 19 with the Attorney General.

20 h. As used in this section, "registrant" means any person who
 21 applies for and is issued a soil and fill recycling registration pursuant
 22 to this section¹.

23
 24 2. (New section) ¹**[No]** Beginning 180 days after the effective
 25 date of P.L. , c. (C.) (pending before the Legislature as this bill),
 26 no¹ business concern shall engage in soil and ¹**[debris]** fill¹ recycling
 27 services unless it holds a soil and ¹**[debris]** fill¹ recycling ¹**[license]**
 28 registration¹ issued pursuant to ¹section 1 of P.L. , c. (C.)
 29 (pending before the Legislature as this bill), a soil and fill recycling
 30 license issued pursuant to¹ section 8 of P.L.1983, c.392 (C.13:1E-
 31 133) ¹, or is a licensee pursuant to section 8 of P.L.1983, c.392 (C.13:1
 32 E-133)¹.

33
 34 3. Section 2 of P.L.1983, c.392 (C.13:1E-127) is amended to read
 35 as follows:

36 2. As used in the provisions of P.L.1983, c.392 (C.13:1E-126 et
 37 seq.) and P.L.1991, c.269 (C.13:1E-128.1 et al.):

38 a. "Applicant" means any business concern **[which]** that (1) has
 39 filed a disclosure statement with the **[department and the]** Attorney
 40 General and is seeking **[an initial]** a license, provided that the business
 41 concern has furnished the department and the Attorney General with
 42 any information required pursuant to ¹**[P.L.1991, c.269 (C.13:1E-**
 43 **128.1 et al.)]** P.L.1983, c.392 (C.13:1E-126 et seq.)¹, or (2) has been
 44 issued a soil and ¹**[debris]** fill¹ recycling registration ¹pursuant to
 45 section 1 of P.L. , c. (C.) (pending before the Legislature as this
 46 bill)¹, has filed a disclosure statement with the ¹**[department and the]**¹

1 Attorney General, and is seeking a soil and ¹**【debris】 fill¹** recycling
2 license.

3 b. "Application" means the forms and accompanying documents
4 filed in connection with an applicant's or permittee's request for a
5 license or a soil and ¹**【debris】 fill¹** recycling license.

6 c. "Business concern" means any corporation, association, firm,
7 partnership, sole proprietorship, trust ¹, limited liability company,¹ or
8 other form of commercial organization.

9 d. "Department" means the Department of Environmental
10 Protection.

11 e. "Disclosure statement" means a statement submitted to the
12 **【department and the】** Attorney General by an applicant or a permittee,
13 which statement shall include:

14 (1) The full name, business address ¹, telephone number, email
15 address,¹ and social security number of the applicant or the permittee,
16 as the case may be, and of any officers, directors, partners, or key
17 employees thereof and all persons holding any equity in or debt
18 liability of the applicant or permittee, or, if the applicant or permittee
19 is a publicly traded corporation, all persons holding more than ¹**【5%】**
20 five percent¹ of the equity in or the debt liability of the applicant or
21 permittee, except that (a) where the equity in or debt liability of the
22 applicant or permittee is held by an institutional investor, the applicant
23 or permittee need only supply the name, business address and the basis
24 upon which the institutional investor qualifies as an institutional
25 investor, and (b) where the debt liability is held by a chartered lending
26 institution, the applicant or permittee need only supply the name and
27 business address of the lending institution;

28 (2) The full name, business address ¹, telephone number, email
29 address,¹ and social security number of all officers, directors, or
30 partners of any business concern disclosed in the disclosure statement
31 and the names and addresses of all persons holding any equity in or the
32 debt liability of any business concern so disclosed, except that (a)
33 where the business concern is a publicly traded corporation, the
34 applicant or permittee need only supply the name and business address
35 of the publicly traded corporation and copies of its annual filings with
36 the Securities and Exchange Commission, or its foreign equivalent, (b)
37 where the equity in or debt liability of that business concern is held by
38 an institutional investor, the applicant or permittee need only supply
39 the name, business address and the basis upon which the institutional
40 investor qualifies as an institutional investor, and (c) where the debt
41 liability is held by a chartered lending institution, the applicant or
42 permittee need only supply the name and business address of the
43 lending institution;

44 (3) The full name and business address of any business concern
45 which collects, transports, treats, stores, ¹brokers,¹ transfers or
46 disposes of solid waste or hazardous waste , or that engages in soil and

1 '[debris] fill' recycling services, in which the applicant or the
2 permittee holds an equity interest;

3 (4) A description of the experience and credentials in, including
4 any past or present licenses for, the collection, transportation,
5 treatment, storage, 'brokering,' transfer or disposal of solid waste or
6 hazardous waste, , or the provision of soil and '[debris] fill' recycling
7 services, possessed by the applicant or the permittee, as the case may
8 be, and by the key employees, officers, directors, or partners thereof;

9 (5) A listing and explanation of any notices of violation or
10 prosecution, administrative orders or license revocations issued by this
11 State or any other state or federal authority, in the 10 years
12 immediately preceding the filing of the application or disclosure
13 statement, whichever is later, which are pending or have resulted in a
14 finding or a settlement of a violation of any law or rule and regulation
15 relating to the collection, transportation, treatment, storage,
16 'brokering,' transfer or disposal of solid waste or hazardous waste, or
17 the provision of soil and '[debris] fill' recycling services, by the
18 applicant or the permittee, as the case may be, or by any key
19 employee, officer, director, or partner thereof;

20 (6) A listing and explanation of any judgment of liability or
21 conviction which was rendered, pursuant to the laws of this State, or
22 any other state or federal statute or local ordinance, against the
23 applicant or the permittee, as the case may be, or against any key
24 employee, officer, director, or partner thereof, except for any violation
25 of Title 39 of the Revised Statutes other than a violation of the
26 provisions of P.L.1983, c.102 (C.39:5B-18 et seq.), P.L.1983, c.401
27 (C.39:5B-25 et seq.) or P.L.1985, c.415 (C.39:5B-30 et seq.);

28 (7) A listing of all labor unions and trade and business associations
29 in which the applicant or the permittee was a member or with which
30 the applicant or the permittee had a collective bargaining agreement
31 during the 10 years preceding the date of the filing of the application
32 or disclosure statement, whichever is later;

33 (8) A listing of any agencies outside of New Jersey which had
34 regulatory responsibility over the applicant or the permittee, as the
35 case may be, in connection with the collection, transportation,
36 treatment, storage, 'brokering,' transfer or disposal of solid waste or
37 hazardous waste or in connection with the provision of soil and
38 '[debris] fill' recycling services; [and]

39 (9) The full name and business address of any individual or
40 business concern that leases real property or equipment used for the
41 collection, transportation, treatment, processing, storage, 'brokering,'
42 transfer, or disposal of solid waste or hazardous waste, or the
43 provision of soil and '[debris] fill' recycling services, to the applicant,
44 permittee, or licensee;

45 (10) A listing and explanation of any civil litigation pending
46 between the applicant, permittee, licensee, key employee, officer,
47 director, or partner thereof and any other person engaged in the

1 collection, transportation, treatment, processing, storage, ¹brokering,¹
2 transfer, or disposal of solid waste or hazardous waste or in the
3 provision of soil and ¹【debris】 fill¹ recycling services, related to the
4 provision of solid waste, hazardous waste or soil and ¹【debris】 fill¹
5 recycling services; and

6 (11) Any other information the Attorney General [or the
7 department] may require that relates to the competency, reliability or
8 integrity of the applicant or the permittee.

9 The provisions of paragraphs (1) through [(9)] (11) of this
10 subsection to the contrary notwithstanding, if an applicant or a
11 permittee is a secondary business activity corporation, "disclosure
12 statement" means a statement submitted to the [department and the]
13 Attorney General by an applicant or a permittee, which statement shall
14 include:

15 (a) The full name, primary business activity, office or position
16 held, business address, home address, ¹telephone number, email
17 address,¹ date of birth and federal employer identification number of
18 the applicant or the permittee, as the case may be, and of all officers,
19 directors, partners, or key employees of the business concern; and of
20 all persons holding more than ¹【5%】 five percent¹ of the equity in or
21 debt liability of that business concern, except that where the debt
22 liability is held by a chartered lending institution, the applicant or
23 permittee need only supply the name and business address of the
24 lending institution. The Attorney General or the department may
25 request the social security number of any individual identified
26 pursuant to this paragraph;

27 (b) The full name, business address and federal employer
28 identification number of any business concern in any state, territory or
29 district of the United States, which (i) engages in soil and ¹【debris】
30 fill¹ recycling services, or (ii) collects, transports, treats, stores,
31 ¹processes,¹ recycles, brokers, transfers or disposes of solid waste or
32 hazardous waste on a commercial basis, in which the applicant or the
33 permittee holds an equity interest ¹【of 25% or more】¹, and the type,
34 amount and dates of the equity held in such business concern;

35 (c) A listing of every license, registration, permit, certificate of
36 public convenience and necessity, uniform tariff approval or
37 equivalent operating authorization held by the applicant or permittee
38 within the last five years under any name for the collection,
39 transportation, treatment, storage, ¹brokering,¹ recycling, processing,
40 transfer or disposal of solid waste or hazardous waste , or the provision
41 of soil and ¹【debris】 fill¹ recycling services, on a commercial basis in
42 any state, territory or district of the United States, and the name of
43 every agency issuing such operating authorization;

44 (d) If the applicant or the permittee is a subsidiary of a parent
45 corporation, or is the parent corporation of one or more subsidiaries, or
46 is part of a group of companies in common ownership, as the case may

1 be, a chart, or, if impractical or burdensome, a list showing the names,
2 federal employer identification numbers and relationships of all parent,
3 sister, subsidiary and affiliate corporations, or members of the group ¹,
4 and the equity interest by percentage for each subsidiary company¹;

5 (e) A listing and explanation of any notices of violation or
6 prosecution, administrative orders or license revocations issued by this
7 State or any other state or federal authority to the applicant or
8 permittee in the 10 years immediately preceding the filing of the
9 application or disclosure statement, whichever is later, which are
10 pending or have resulted in a finding or a settlement of a violation of
11 any law or rule or regulation relating to the collection, transportation,
12 treatment, storage, ¹brokering,¹ recycling, processing, transfer or
13 disposal of solid waste or hazardous waste, or the provision of soil and
14 ¹["debris"] fill¹ recycling services, by the applicant or permittee;

15 (f) A listing and explanation of any judgment, decree or order,
16 whether by consent or not, issued against the applicant or permittee in
17 the 10 years immediately preceding the filing of the application, and of
18 any pending civil complaints against the applicant or permittee
19 pertaining to a violation or alleged violation of federal or state antitrust
20 laws, trade regulations or securities regulations;

21 (g) A listing and explanation of any conviction issued against the
22 applicant or permittee for a felony resulting in a plea of nolo
23 contendere, or any conviction in the 10 years immediately preceding
24 the filing of the application, and of any pending indictment,
25 accusation, complaint or information for any felony issued to the
26 applicant or the permittee pursuant to any state or federal statute; and

27 (h) A completed personal history disclosure form shall be
28 submitted to the ["department and the"] Attorney General by every
29 person required to be listed in this disclosure statement, except for
30 those individuals who are exempt from the personal history disclosure
31 requirements pursuant to paragraph (5) of subsection a. of section 3 of
32 P.L.1983, c.392 (C.13:1E-128).

33 f. "Key employee" means any individual employed ¹or otherwise
34 engaged¹ by the applicant, the permittee or the licensee in a
35 supervisory capacity or empowered to make discretionary decisions
36 with respect to the solid waste ~~["or"]~~, hazardous waste , or soil and
37 ¹["debris"] fill¹ recycling operations of the business concern; any family
38 member of an officer, director, partner, or key employee, employed ¹or
39 otherwise engaged¹ by the applicant or permittee; or any broker,
40 consultant or sales person employed ¹or otherwise engaged¹ by, or
41 who do business with, the applicant, permittee, or licensee, with
42 respect to the solid waste, hazardous waste, or soil and ¹["debris"] fill¹
43 recycling operations of the business concern; but shall not include
44 ¹(1)¹ employees, who are not family members, exclusively engaged in
45 the physical or mechanical collection, transportation, treatment,
46 storage, transfer or disposal of solid waste or hazardous waste, or the

1 provision of soil and ¹["debris"] fill¹ recycling services ¹; or (2) a sales
2 person employed by a publicly traded corporation or a direct or
3 indirect subsidiary of a publicly traded corporation¹ .

4 g. "License" means the ¹["initial"]¹ approval ¹["and first renewal by

5 the department"]¹ of any registration statement or engineering design

6 pursuant to P.L.1970, c.39 (C.13:1E-1 et seq.) or P.L.1981,

7 c.279 (C.13:1E-49 et seq.), for the collection, transportation, treatment,

8 storage, ¹processing, brokering,¹ transfer or disposal of solid waste or

9 hazardous waste in this State.

10 A "license" shall not include any registration statement or

11 engineering design approved for:

12 (1) Any State department, division, agency, commission or

13 authority, or county, municipality or agency thereof;

14 (2) Any person solely for the collection, transportation, treatment,

15 storage ¹, processing, brokering, transfer,¹ or disposal of solid waste or

16 hazardous waste generated by that person ¹, provided that the

17 department may adopt regulations to limit the scope of this exemption

18 based on volume or other standards¹;

19 (3) Any person for the operation of a hazardous waste facility, if at

20 least 75 ¹["%"] percent¹ of the total design capacity of that facility is

21 utilized to treat, store or dispose of hazardous waste generated by that

22 person;

23 (4) Any person for the operation of a hazardous waste facility

24 which is considered as such solely as the result of the reclamation,

25 recycling or refining of hazardous wastes which are or contain any of

26 the following precious metals: gold, silver, osmium, platinum,

27 palladium, iridium, rhodium, ruthenium, or copper;

28 (5) Any person solely for the transportation of hazardous wastes

29 which are or contain precious metals to a hazardous waste facility

30 described in paragraph (4) of this subsection for the purposes of

31 reclamation.

32 A "license" shall include any registration statement approved for

33 any person who transports any other hazardous waste in addition to

34 hazardous wastes which are or contain precious metals;

35 (6) Any person solely for the collection, transportation, treatment,

36 storage or disposal of granular activated carbon used in the adsorption

37 of hazardous waste; or

38 (7) Any regulated medical waste generator for the treatment or

39 disposal of regulated medical waste at any noncommercial incinerator

40 or noncommercial facility in this State that accepts regulated medical

41 waste for disposal.

42 h. "Licensee" means any business concern which has completed

43 the requirements of section 3 of P.L.1983, c.392 (C.13:1E-128) and

44 whose application for the issuance or renewal of a license has been

45 approved by the ["department"] ¹["Attorney General"] department¹

46 pursuant to section 8 of P.L.1983, c.392 (C.13:1E-133).

47 i. "Permittee" means and shall include:

1 (1) Any business concern which has filed a disclosure statement
2 with the department and the Attorney General and to which a valid
3 registration statement or engineering design approval for the
4 collection, transportation, treatment, storage, transfer or disposal of
5 solid waste or hazardous waste pursuant to P.L.1970, c.39 (C.13:1E-1
6 et seq.) or P.L.1981, c.279 (C.13:1E-49 et seq.) has been given by the
7 department prior to June 14, 1984;

8 (2) Any business concern which has filed a disclosure statement
9 with the department and the Attorney General and to which a
10 temporary license has been approved, issued or renewed by the
11 department pursuant to section 10 of P.L.1983, c.392 (C.13:1E-135),
12 but which has not otherwise completed the requirements of section 3
13 of P.L.1983, c.392 (C.13:1E-128) and whose application for a license
14 has not been approved by the department pursuant to section 8 of
15 P.L.1983, c.392 (C.13:1E-133), provided that the temporary license
16 remains valid, and provided further that the business concern has
17 furnished the department and the Attorney General with any
18 information required pursuant to P.L.1991, c.269 (C.13:1E-128.1 et
19 al.);

20 (3) Any business concern which has filed a disclosure statement
21 with the department and the Attorney General and to which a valid
22 registration statement or engineering design approval for the
23 collection, transportation, treatment, storage, transfer or disposal of
24 solid waste or hazardous waste pursuant to P.L.1970, c.39 (C.13:1E-1
25 et seq.) or P.L.1981, c.279 (C.13:1E-49 et seq.) has been given by the
26 department between February 20, 1985 and January 23, 1986,
27 inclusive, provided that the registration statement or engineering
28 design approval remains valid, and provided further that the business
29 concern has furnished the department and the Attorney General with
30 any information required pursuant to P.L.1991, c.269 (C.13:1E-128.1
31 et al.); **["or"]** ¹or¹

32 (4) Any business concern to which a temporary approval of
33 registration has been given by the department at any time after January
34 23, 1986 pursuant to statute or rule and regulation, provided that such
35 temporary approval of registration, statute, or rule and regulation
36 remains valid, and provided further that the business concern has
37 furnished the department and the Attorney General with any
38 information required pursuant to P.L.1991, c.269 (C.13:1E-128.1 et
39 al.) and filed a disclosure statement with the department and the
40 Attorney General ¹**["; or"]**

41 (5) Any business concern that has been issued a prior approval to
42 operate as a soil and debris recycling center from the Department of
43 Environmental Protection pursuant to section 41 of P.L.1987,
44 c.102 (C.13:1E-99.34) but whose application for a soil and debris
45 recycling license has not been approved]¹ .

46 j. "Person" means any individual or business concern.

47 k. "Secondary business activity corporation" means any business
48 concern which has derived less than ¹**["5%"]** five percent¹ of its annual

1 gross revenues in each of the three years immediately preceding the
2 one in which the application for a license or a soil and '【debris】 fill¹
3 recycling license is being made from the collection, transportation,
4 treatment, storage, '【recycling,】' processing, 'brokering,' transfer or
5 disposal of solid waste or hazardous waste, or the provision of soil and
6 '【debris】 fill¹ recycling services, whether directly or through other
7 business concerns partially or wholly owned or controlled by the
8 applicant or the permittee, as the case may be, and which (1) has one
9 or more classes of security registered pursuant to section 12 of the
10 "Securities Exchange Act of 1934," as amended (15 U.S.C. s.78l), or
11 (2) is an issuer subject to subsection (d) of section 15 of the "Securities
12 Exchange Act of 1934," as amended (15 U.S.C. s.78o).

13 1. "Institutional investor" means a retirement fund administered
14 by a public agency for the exclusive benefit of federal, state, or local
15 public employees; government or government-owned entity;
16 investment company registered under the "Investment Company Act
17 of 1940" (15 U.S.C. s.80a-1 et seq.); collective investment trust
18 organized by banks under Part Nine of the Rules of the Comptroller of
19 the Currency; closed end investment trust; chartered or licensed life
20 insurance company or property and casualty insurance company;
21 banking or other chartered or licensed lending institution; partnerships,
22 funds or trusts managed by or directed in conjunction with an
23 investment adviser registered under the "Investment Advisers Act of
24 1940" (15 U.S.C. s.80b-1 et seq.) or an institutional investment
25 manager required to make filings under subsection (f) of section 13 of
26 the "Securities Exchange Act of 1934," as amended (15 U.S.C. s.78m);
27 institutional buyer, as defined pursuant to section 2 of the "Uniform
28 Securities Law (1997)," P.L.1967, c.93 (C.49:3-49); small business
29 investment company licensed by the United States Small Business
30 Administration under subsection (c) of section 301 of the "Small
31 Business Investment Act of 1958," as amended (15 U.S.C. s.681);
32 private equity or venture capital entity having or managing aggregate
33 capital commitments in excess of \$25,000,000; and other persons as
34 the **【department】** Attorney General may determine for reasons
35 consistent with the policies of P.L.1983, c.392 (C.13:1E-126 et seq.).

36 m. "Publicly traded corporation" means a corporation or other
37 legal entity, except a natural person, which:

38 (1) has one or more classes of security registered pursuant to
39 section 12 of the "Securities Exchange Act of 1934," as amended (15
40 U.S.C. s.78l);

41 (2) is an issuer subject to subsection (d) of section 15 of the
42 "Securities Exchange Act of 1934," as amended (15 U.S.C. s.78o); or

43 (3) has one or more classes of securities traded in an open market
44 in any foreign jurisdiction, provided that the **【department】** Attorney
45 General determines that the foreign exchange provides openness,
46 integrity and oversight in its operations sufficient to meet the intent of
47 P.L.1983, c.392 (C.13:1E-126 et seq.), or that the securities traded on

1 the foreign exchange are regulated pursuant to a statute of a foreign
2 jurisdiction that is substantially similar, both in form and effect, to
3 section 12 or subsection (d) of section 15 of the "Securities Exchange
4 Act of 1934," as amended.

5 n. "Broker" means a person who ¹for direct or indirect
6 compensation¹ arranges agreements between a business concern and
7 its customers for the collection, transportation, treatment, storage,
8 **1[recycling]**¹, processing, transfer or disposal of solid waste or
9 hazardous waste, or the provision of soil and **1[debris]** fill¹ recycling
10 services.

11 o. "Consultant" means a person who performs functions for a
12 business concern engaged in the collection, transportation, treatment,
13 storage, **1[recycling,]**¹ processing, ¹brokering,¹ transfer or disposal of
14 solid waste or hazardous waste, or the provision of soil and **1[debris]**
15 fill¹ recycling services, provided that "consultant" shall not include a
16 person who performs functions for a business concern and holds a
17 professional license from the State in order to perform those functions.

18 p. "Family member" means spouse, domestic partner, partner in a
19 civil union, child, parent, sibling, aunt, uncle, niece, nephew, first
20 cousin, grandparent, grandchild, father-in-law, mother-in-law, son-in-
21 law, daughter-in-law, stepparent, stepchild, stepbrother, stepsister, half
22 brother, or half sister, whether the individual is related by blood,
23 marriage, or adoption.

24 q. **1["Recyclable"]** "Soil and fill recyclable¹ materials" means
25 **1[(1) source-separated, non-putrescible, waste material resulting from**
26 **construction, remodeling, repair, and demolition operations on houses,**
27 **commercial buildings, pavements and other structures, (2) source-**
28 **separated, non-putrescible waste concrete, asphalt, brick, block,**
29 **asphalt-based roofing, scrap wood, and wood waste, and (3) soil,**
30 **which would otherwise become solid waste, and which may be**
31 **collected, separated or processed and returned to the economic**
32 **mainstream in the form of raw materials or products. For the purposes**
33 **of P.L.1983, c.392 (C.13:1E-126 et seq.), "recyclable materials" shall**
34 **not include metal, glass, or plastic containers, paper, or corrugated**
35 **cardboard]** non-putrescible aggregate substitute, including, but not
36 limited to, broken or crushed brick, block, concrete, or other similar
37 manufactured materials; soil or soil that may contain aggregate
38 substitute or other debris or material, generated from land clearing,
39 excavation, demolition, or redevelopment activities that would
40 otherwise be managed as solid waste, and that may be returned to the
41 economic mainstream in the form of raw materials for further
42 processing or for use as fill material. "Soil and fill recyclable
43 materials" shall not include: (1) Class A recyclable material, as
44 defined by regulation adopted pursuant to section 4 of P.L.1989, c.268
45 (C.13:1E-99.43); (2) Class B recyclable material, as defined by
46 regulation adopted pursuant to section 4 of P.L.1989, c.268 (C.13:1E-
47 99.43), that is shipped to a Class B recycling center approved by the

1 department for receipt, storage, processing, or transfer in accordance
2 with subsection b. of section 41 of P.L.1987, c.102 (C.13:1E-99.34);
3 (3) beneficial use material for which the generator has obtained prior
4 approval from the department to transport to an approved and
5 designated destination pursuant to regulations adopted pursuant to
6 subsection a. of section 6 of P.L.1970, c.39 (C.13:1E-6); and (4) virgin
7 quarry products including, but not limited to, rock, stone, gravel, sand,
8 clay and other mined products¹.

9 r. "Sales person" means a person or persons that makes or
10 arranges for sales for a business concern, for the collection,
11 transportation, treatment, storage, ¹["recycling.,"] processing, transfer
12 or disposal of solid waste or hazardous waste or the provision of soil
13 and ¹["debris"] fill¹ recycling services.

14 s. "Soil and ¹["debris"] fill¹ recycling license" means an approval
15 to operate a business concern engaged in soil and ¹["debris"] fill¹
16 recycling services issued pursuant to section 8 of P.L.1983, c.392
17 (C.13:1E-133).

18 t. "Soil and ¹["debris"] fill¹ recycling services" means the services
19 provided by persons engaging in the business of the collection,
20 transportation, processing, ¹brokering,¹ storage, purchase, sale or
21 disposition, or any combination thereof, of ¹soil and fill¹ recyclable
22 materials. ¹"Soil and fill recycling services" shall not include the
23 operation of a solar electric power generation facility at a properly
24 closed sanitary landfill where soil and fill materials have been
25 previously deposited for permanent disposal.¹

26 (cf: P.L.2011, c.68, s.1)

27
28 4. Section 3 of P.L.1983, c.392 (C.13:1E-128) is amended to read
29 as follows:

30 3. In addition to any other procedure, condition or information
31 required pursuant to P.L.1970, c.39 (C.13:1E-1 et seq.),
32 P.L.1981, c.279 (C.13:1E-49 et seq.) or any other law:

33 a. (1) Every applicant and permittee shall file a disclosure
34 statement with the [department and the] Attorney General;

35 (2) Except as otherwise provided in this subsection, any person
36 required to be listed in the disclosure statement shall be fingerprinted
37 for identification and investigation purposes in accordance with
38 procedures therefor established by the Attorney General;

39 (3) The Attorney General shall, upon the receipt of the disclosure
40 statement from an applicant for an initial license [or] , from a
41 permittee, or from an applicant for a soil and ¹["debris"] fill¹ recycling
42 license, prepare [and transmit to the department] ¹and transmit to the
43 department¹ an investigative report on the applicant or the permittee,
44 as the case may be, based in part upon the disclosure statement. In
45 preparing this report, the Attorney General may request and receive

1 criminal history information from the State Commission of
2 Investigation or the Federal Bureau of Investigation;

3 (4) In conducting a review of the application, the **department**
4 Attorney General shall include a review of the disclosure statement
5 and investigative report;

6 (5) An applicant or permittee may file a limited disclosure
7 statement pursuant to the provisions of paragraphs (a) through (h) of
8 subsection e. of section 2 of P.L.1983, c.392 (C.13:1E-127); and a
9 person required to be listed in the disclosure statement is exempt from
10 the fingerprint and personal history disclosure requirements; if:

11 (a) The applicant or permittee is a secondary business activity
12 corporation; and

13 (b) The person required to be listed in the disclosure statement is
14 (i) a director or chief executive officer; or (ii) an individual who does
15 not have any responsibility for, or control of, the commercial solid
16 waste or hazardous waste operations, or the provision of soil and
17 '[debris] fill' recycling services, of the applicant, permittee or
18 licensee conducted in New Jersey, and who will not exercise any such
19 responsibility or control upon the issuance of a license or soil and
20 '[debris] fill' recycling license by the **department** '[Attorney
21 General] department';

22 (6) (a) A person who is a director or chief executive officer of a
23 business concern that is a secondary business activity corporation, a
24 publicly traded corporation or an institutional investor, including
25 limited partnership interests, that is not the applicant or permittee but
26 which is listed in a disclosure statement pursuant to subsection e. of
27 section 2 of P.L.1983, c.392 (C.13:1E-127), shall be exempt from the
28 fingerprint and personal history disclosure requirements;

29 (b) An individual who is an officer or partner of, or who holds any
30 equity in or debt liability of, a business concern that is a secondary
31 business activity corporation, a publicly traded corporation or an
32 institutional investor, including limited partnership interests, that is not
33 the applicant or permittee but which is listed in a disclosure statement
34 pursuant to subsection e. of section 2 of P.L.1983, c.392 (C.13:1E-
35 127), shall be exempt from the fingerprint and personal history
36 disclosure requirements, provided that the person or secondary
37 business activity corporation or publicly traded corporation or
38 institutional investor is not and will not be engaged in active
39 management of the commercial solid waste or hazardous waste
40 operations or the soil and '[debris] fill' recycling operations of the
41 applicant or permittee conducted in New Jersey;

42 (c) A business concern that is a secondary business activity
43 corporation or an institutional investor, including limited partnership
44 interests, that is not the applicant, licensee, '[or]' permittee', or
45 business concern that has been issued a soil and fill recycling license,'
46 but which is listed in a disclosure statement pursuant to subsection e.
47 of section 2 of P.L.1983, c.392 (C.13:1E-127), shall be exempt from

1 disclosure requirements established in subsection e. of section 2 of
2 P.L.1983, c.392 (C.13:1E-127) provided that the secondary business
3 activity corporation or institutional investor is not and will not be
4 engaged in active management of the commercial solid waste or
5 hazardous waste operations or the soil and ¹["debris"] fill¹ recycling
6 ¹service¹ operations of the applicant, licensee, ¹["or"]¹ permittee ¹, or
7 business concern that has been issued a soil and fill recycling license¹
8 conducted in New Jersey;

9 (d) A business concern that is a publicly traded corporation that is
10 not the applicant, licensee, ¹["or"]¹ permittee ¹, or business concern that
11 has been issued a soil and fill recycling license¹ but which is listed in
12 a disclosure statement pursuant to subsection e. of section 2 of
13 P.L.1983, c.392 (C.13:1E-127), shall be exempt from disclosure
14 requirements established in subsection e. of section 2 of
15 P.L.1983, c.392 (C.13:1E-127) provided that the name and business
16 address of the publicly traded corporation and copies of its annual
17 filings with the Securities and Exchange Commission, or its foreign
18 equivalent, are filed with the disclosure forms of the applicant,
19 licensee, ¹["or"]¹ permittee ¹, or business concern that has been issued a
20 soil and fill recycling license¹ . Subsidiaries intervening in the chain
21 of equity between the publicly traded corporation and the applicant,
22 licensee, ¹["or"]¹ permittee ¹, or business concern that has been issued a
23 soil and fill recycling license¹ , and the officers and directors of those
24 intervening subsidiaries, shall also be exempt from the disclosure
25 requirements established in subsection e. of section 2 of
26 P.L.1983, c.392 (C.13:1E-127) provided that the intervening
27 subsidiary is not and will not be engaged in active management of the
28 commercial solid waste or hazardous waste operations or the soil and
29 ¹["debris"] fill¹ recycling ¹service¹ operations of the applicant, licensee,
30 ¹["or"]¹ permittee ¹, or business concern that has been issued a soil and
31 fill recycling license¹ conducted in New Jersey;

32 (e) An individual exempt from disclosure requirements under
33 subparagraph (b) of this paragraph, a secondary business activity
34 corporation or institutional investor exempt from disclosure
35 requirements under subparagraph (c) of this paragraph, and a publicly
36 traded corporation exempt from disclosure requirements under
37 subparagraph (d) of this paragraph, may be required by the Attorney
38 General to file disclosure forms and be fingerprinted in the
39 circumstances described in subsection d. of this section; and

40 (f) A person that holds equity in, or debt liability of, a business
41 concern that is exempt from the disclosure requirements established in
42 subsection e. of section 2 of P.L.1983, c.392 (C.13:1E-127) shall also
43 be exempt from the disclosure requirements established in subsection
44 e. of section 2 of P.L.1983, c.392 (C.13:1E-127).

45 b. All applicants, permittees and licensees, and all business
46 concerns that have been issued a soil and ¹["debris"] fill¹ recycling
47 license, shall have the continuing duty to provide any assistance or

1 information requested by the department or the Attorney General, and
2 to cooperate in any inquiry or investigation conducted by the Attorney
3 General or the State Commission of Investigation and any inquiry,
4 investigation, or hearing conducted by the department. Except as
5 otherwise determined by the Superior Court pursuant to subsection d.
6 of this section, if, upon issuance of a formal request to answer any
7 inquiry or produce information, evidence or testimony, any applicant,
8 permittee '[or] , ' licensee, or any business concern that has been
9 issued a soil and '[debris] fill' recycling license, 'fails or' refuses to
10 comply, the application of the business concern for a license, or a soil
11 and '[debris] fill' recycling license, as the case may be, may be
12 denied, or the license or soil and '[debris] fill' recycling license of
13 that business concern may be revoked by the [department] '[Attorney
14 General] department'.

15 c. If any of the information required to be included in the
16 disclosure statement changes, or if any information provided
17 concerning the applicability of an exemption under subsection d. of
18 this section changes, or if any additional information should be added
19 to the disclosure statement after it has been filed, the applicant,
20 permittee or licensee, or the business concern that has been issued a
21 soil and '[debris] fill' recycling license, shall provide that information
22 to the department and the Attorney General, in writing, within 30 days
23 of the change or addition 'and on any subsequent annual updated
24 required to be filed. If the applicant, permittee, licensee, or business
25 concern that has been issued a soil and fill recycling license adds a
26 new person who is required to be listed in the disclosure statement,
27 that person is subject to the same disclosure requirements as set forth
28 in this section, and the applicant, permittee, licensee, or business
29 concern that has been issued a soil and fill recycling license shall be
30 required to pay an additional fee in accordance with a fee schedule
31 adopted pursuant to rules and regulations promulgated by the
32 department'.

33 d. The provisions of paragraphs (5) and (6) of subsection a. of this
34 section to the contrary notwithstanding, the Attorney General may at
35 any time require any person required to be listed in the disclosure
36 statement to file a completed personal history disclosure form and a
37 full disclosure statement with the [department and the] Attorney
38 General pursuant to paragraphs (1) through (9) of subsection e. of
39 section 2 of P.L.1983, c.392 (C.13:1E-127), or to be fingerprinted for
40 identification and investigation purposes pursuant to paragraph (2) of
41 subsection a. of this section, if the Attorney General determines that
42 there exists a reasonable suspicion that the additional information is
43 likely to lead to information relevant to a determination regarding the
44 approval of a license or a soil and '[debris] fill' recycling license
45 pursuant to section 8 of P.L.1983, c.392 (C.13:1E-133), the revocation
46 of a license or soil and '[debris] fill' recycling license pursuant to
47 section 9 of P.L.1983, c.392 (C.13:1E-134), or the severance of a

1 disqualifying person pursuant to section 10 of P.L.1983, c.392
2 (C.13:1E-135).

3 If the Attorney General requires any or all of this information, a
4 written request for the additional information shall be served upon the
5 applicant, permittee or licensee, or the business concern that has been
6 issued a soil and '【debris】 fill' recycling license. Within 60 days of
7 receipt of a written request for additional information, the applicant,
8 permittee or licensee, or the business concern that has been issued a
9 soil and '【debris】 fill' recycling license may seek review of the
10 Attorney General's determination in the Superior Court. If the
11 applicant, permittee or licensee, or the business concern that has been
12 issued a soil and '【debris】 fill' recycling license fails to provide the
13 additional information to the Attorney General within 60 days of
14 receipt of the written request, the Attorney General may file with the
15 Superior Court a petition for an order requiring the applicant,
16 permittee or licensee, or the business concern that has been issued a
17 soil and '【debris】 fill' recycling license to provide the additional
18 information. In a proceeding brought by either party, the applicant,
19 permittee or licensee, or the business concern that has been issued a
20 soil and '【debris】 fill' recycling license shall demonstrate that the
21 additional information requested is not likely to lead to information
22 relevant to a determination regarding the approval of a license or soil
23 and '【debris】 fill' recycling license pursuant to section 8 of P.L.1983,
24 c.392 (C.13:1E-133), the revocation of a license or soil and '【debris】
25 fill' recycling license pursuant to section 9 of P.L.1983, c.392
26 (C.13:1E-134), or the severance of a disqualifying person pursuant to
27 section 10 of P.L.1983, c.392 (C.13:1E-135). For good cause shown,
28 the court may review in camera the submission of the Attorney
29 General or the applicant, permittee or licensee, or the business concern
30 that has been issued a soil and '【debris】 fill' recycling license, or any
31 part thereof.

32 (cf: P.L.2011, c.68, s.2)

33

34 5. Section 4 of P.L.1983, c.392 (C.13:1E-129) is amended to read
35 as follows:

36 4. a. Whenever the Attorney General determines that there exists
37 a reasonable suspicion that any person may have information or be in
38 possession, custody, or control of any documentary materials relevant
39 to an investigation of an applicant, permittee or licensee ' , or business
40 concern that has been issued a soil and fill recycling license'
41 conducted pursuant to this act, he may issue in writing, and cause to be
42 served upon that person an investigative interrogatory requiring that
43 person to answer questions under oath and produce material for
44 examination.

45 b. Each interrogatory shall:

1 (1) Identify the licensee, permittee or applicant ¹, or business
2 concern that has been issued a soil and fill recycling license¹ who is
3 the subject of the investigation;

4 (2) Advise the person that he has the right to discuss the
5 interrogatory with legal counsel prior to returning it to the Attorney
6 General or prior to making material available, as provided in
7 subsection f. of this section, and that he has the right to file in Superior
8 Court a petition to modify or set aside the interrogatory, as provided in
9 subsection j. of this section;

10 (3) Describe the class or classes of documentary material to be
11 produced thereunder with sufficient particularity as to permit the
12 material to be reasonably identified;

13 (4) Prescribe a return date, which date shall provide a reasonable
14 period of time within which answers may be made and material so
15 demanded may be assembled and made available for inspection and
16 copying or reproduction, as provided in subsection f. of this section.

17 c. No interrogatory shall:

18 (1) Contain any requirement which would be held to be
19 unreasonable if contained in a **【subpena】** subpoena duces tecum
20 issued in aid of a grand jury investigation; or

21 (2) Require the production of any documentary evidence which
22 would be otherwise privileged from disclosure if demanded by a
23 **【subpena】** subpoena duces tecum issued in aid of a grand jury
24 investigation.

25 d. Service of any interrogatory filed under this section may be
26 made upon any person by:

27 (1) Delivering a duly executed copy thereof to the person or any
28 partner, executive officer, managing agent, employee or general agent
29 thereof, or to any agent thereof authorized by appointment or by law to
30 receive service of process on behalf of the person; or

31 (2) Delivering a duly executed copy thereof to the principal office
32 or place of business of the person to be served; or

33 (3) Depositing a copy in the United States mail, by registered or
34 certified mail duly addressed to the person at his principal office or
35 place of business.

36 e. A verified return by the individual serving any interrogatory,
37 setting forth the manner of service, shall be prima facie proof of
38 service. In the case of service by registered or certified mail, the return
39 shall be accompanied by the return post office receipt of delivery of
40 the interrogatory.

41 f. Any person upon whom any interrogatory issued under this
42 section has been duly served which requires the production of
43 materials shall make the material available for inspection and copying
44 or reproduction to the Attorney General at the principal place of
45 business of that person in the State of New Jersey or at any other place
46 as the Attorney General and the person thereafter may agree and
47 prescribe in writing, on the return date specified in the interrogatory or
48 on a later date as the Attorney General may prescribe in writing. Upon

1 written agreement between the person and the Attorney General,
2 copies may be substituted for all or any part of the original materials.
3 The Attorney General may cause the preparation of any copies of
4 documentary material as may be required for official use by the
5 Attorney General.

6 No material produced pursuant to this section shall be available for
7 examination, without the consent of the person who produced the
8 material, by an individual other than the Attorney General or any
9 person retained by the Attorney General in connection with the
10 enforcement of this act. Under reasonable terms and conditions as the
11 Attorney General shall prescribe, documentary material while in his
12 possession shall be available for examination by the person who
13 produced the material or any of his duly authorized representatives.

14 In any investigation conducted pursuant to this act, the Attorney
15 General may present before the ~~department,~~ 'department, or' court
16 or grand jury any documentary material in his possession pursuant to
17 this section, subject to any protective order deemed proper by the
18 Superior Court.

19 g. Upon completion of:

20 (1) The review and investigation for which any documentary
21 material was produced under this section, and

22 (2) Any case or proceeding arising from the investigation, the
23 Attorney General shall return to the person who produced the material
24 all the material, other than copies thereof made by the Attorney
25 General pursuant to this section, which has not passed into the control
26 of ~~the department or~~ 'the department or' any court or grand jury
27 through the introduction thereof into the record of the case or
28 proceeding.

29 h. When any documentary material has been produced by any
30 person under this section for use in an investigation, and no case or
31 proceeding arising therefrom has been instituted within two years after
32 completion of the examination and analysis of all evidence assembled
33 in the course of the investigation, the person shall be entitled, upon
34 written demand made upon the Attorney General, to the return of all
35 documentary material, other than copies thereof made pursuant to this
36 section so produced by him.

37 i. Whenever any person fails to comply with any investigative
38 interrogatory duly served upon him under this section, or whenever
39 satisfactory copying or reproduction of any material cannot be done
40 and he refuses to surrender the material, the Attorney General may file
41 in the Superior Court a petition for an order of the court for the
42 enforcement of this section.

43 j. At any time before the return date specified in the
44 interrogatory, the person served with the interrogatory may file in the
45 Superior Court a petition for an order modifying or setting aside the
46 interrogatory. The time allowed for compliance with the interrogatory
47 shall not run during the pendency of this petition. The petition shall
48 specify each ground upon which the petition relies in seeking relief,

1 and may be based upon any failure of the interrogatory to comply with
2 the provisions of this section or upon any constitutional or other legal
3 right or privilege of the petitioner. In this proceeding, the Attorney
4 General shall establish the existence of an investigation pursuant to
5 this act and the nature and subject matter of the investigation.

6 (cf: P.L.1991, c.269, s.4)

7
8 6. Section 5 of P.L.1983, c.392 (C.13:1E-130) is amended to read
9 as follows:

10 5. a. Whenever the Attorney General determines that there exists
11 a reasonable suspicion that any person may have information or
12 knowledge relevant to an investigation conducted pursuant to this act,
13 he may issue in writing and cause to be served upon that person a
14 **【subpena】 subpoena** to appear and be examined under oath before the
15 Attorney General.

16 b. The **【subpena】 subpoena** shall:

17 (1) Identify the licensee, permittee or applicant ¹, or business
18 concern that has been issued a soil and fill recycling license¹ who is
19 the subject of the investigation;

20 (2) Advise that person that he may have an attorney present when
21 he appears and testifies or otherwise responds to the **【subpena】**
22 subpoena, that he has a right, at any time before the return date of the
23 **【subpena】 subpoena**, to file in Superior Court a petition to modify or
24 set aside the **【subpena】 subpoena**, as provided in subsection f. of this
25 section;

26 (3) Prescribe a date and time at which that person must appear to
27 testify, under oath, provided that this date shall not be less than seven
28 days from the date of service of the **【subpena】 subpoena**.

29 c. Except as otherwise provided in this section, no information
30 derived pursuant to the **【subpena】 subpoena** shall be disclosed by the
31 Attorney General **【or the department】** ¹or the department¹ without the
32 consent of the person testifying.

33 In any investigation conducted pursuant to this act, the Attorney
34 General may present before the **【department,】** ¹department,¹ court or
35 grand jury any information disclosed pursuant to the **【subpena】**
36 subpoena, subject to any protective order deemed proper by the
37 Superior Court.

38 d. Service of a **【subpena】 subpoena** pursuant to this section shall
39 be by any of those methods specified in the New Jersey Court Rules
40 for service of summons and complaint in a civil action.

41 e. Whenever any person fails to comply with any **【subpena】**
42 subpoena duly served upon him under this section, or whenever
43 satisfactory copying or reproduction of any material cannot be done
44 and he refuses to surrender the material, the Attorney General may file
45 in the Superior Court a petition for an order of the court for the
46 enforcement of the **【subpena】 subpoena**.

1 f. At any time before the return date specified in the [subpena]
2 subpoena, the person who has been served with the [subpena]
3 subpoena may file in the Superior Court a petition for an order
4 modifying or setting aside the [subpena] subpoena. The time allowed
5 for compliance with the [subpena] subpoena shall not run during the
6 pendency of this petition. The petition shall specify each ground upon
7 which the petitioner relies in seeking relief, and may be based upon
8 any failure of the [subpena] subpoena to comply with the provisions
9 of this section or upon any constitutional or other legal right or
10 privilege of the petitioner. In this proceeding, the Attorney General
11 shall establish the existence of an investigation pursuant to this act and
12 the nature and subject matter of the investigation.
13 (cf: P.L.1991, c.269, s.5)
14

15 7. Section 8 of P.L.1983, c.392 (¹C. ¹13:1E-133) is amended to
16 read as follows:

17 8. The provisions of any law to the contrary notwithstanding, no
18 license or soil and ¹[debris] fill¹ recycling license shall be approved
19 by the [department] ¹[Attorney General] department¹:

20 a. Unless the [department] ¹[Attorney General] department¹
21 finds that the applicant, or the permittee, as the case may be, in any
22 prior performance record in the collection, transportation, treatment,
23 storage, transfer or disposal of solid waste or hazardous waste, or the
24 provision of soil and ¹[debris] fill¹ recycling services, has exhibited
25 sufficient integrity, reliability, expertise, and competency to engage in
26 the collection or transportation of solid waste or hazardous waste, or to
27 operate the solid waste facility or hazardous waste facility, or engage
28 in soil and ¹[debris] fill¹ recycling services, given the potential
29 economic consequences for affected counties, municipalities and
30 ratepayers or significant adverse impacts upon human health and the
31 environment which could result from the irresponsible participation
32 therein or operation thereof, or if no prior record exists, that the
33 applicant or the permittee is likely to exhibit that integrity, reliability,
34 expertise and competence.

35 b. If any person required to be listed in the disclosure statement,
36 or otherwise shown to have a beneficial interest in the business of the
37 applicant, the permittee or the licensee, ¹or the business concern that
38 has been issued a soil and fill recycling license,¹ or to have rented or
39 leased at any or no cost real property, vehicles or other equipment used
40 for the collection, transportation, treatment, processing, storage,
41 ¹brokering,¹ transfer, or disposal of solid waste or hazardous waste, or
42 the provision of soil and ¹[debris] fill¹ recycling services, to the
43 applicant, the permittee, ¹[or]¹ the licensee, ¹or the business concern
44 that has been issued a soil and fill recycling license¹ has been barred
45 from the provision of solid waste, hazardous waste or soil and
46 ¹[debris] fill¹ recycling services in ¹the State or¹ any other jurisdiction

1 outside of the State, or has been convicted of any of the following
2 crimes under the laws of New Jersey or the equivalent thereof under
3 the laws of any other jurisdiction:

- 4 (1) Murder;
- 5 (2) Kidnapping;
- 6 (3) Gambling;
- 7 (4) Robbery;
- 8 (5) Bribery;
- 9 (6) Extortion;
- 10 (7) Criminal usury;
- 11 (8) Arson;
- 12 (9) Burglary;
- 13 (10) Theft and related crimes;
- 14 (11) Forgery and fraudulent practices;
- 15 (12) Fraud in the offering, sale or purchase of securities;
- 16 (13) Alteration of motor vehicle identification numbers;
- 17 (14) Unlawful manufacture, purchase, use or transfer of firearms;
- 18 (15) Unlawful possession or use of destructive devices or
19 explosives;
- 20 (16) Violation of N.J.S.2C:35-5, except possession of 84 grams or
21 less of marijuana, or of N.J.S.2C:35-10;
- 22 (17) Racketeering, ¹**["P.L.1981, c.167 (C.2C:41-1 et seq.)"]**
23 N.J.S.2C:41-1 et seq.¹;
- 24 (18) Violation of criminal provisions of the "New Jersey Antitrust
25 Act," P.L.1970, c.73 (C.56:9-1 et seq.);
- 26 (19) Any purposeful or reckless violation of the criminal
27 provisions of any federal or state environmental protection laws, rules,
28 or regulations, including, but not limited to, solid waste or hazardous
29 waste management laws, rules, or regulations;
- 30 (20) Violation of N.J.S.2C:17-2;
- 31 (21) Any offense specified in chapter 28 of Title 2C; ¹**["or"]**¹
- 32 (22) Violation of the "Solid Waste Utility Control Act of 1970,"
33 P.L.1970, c.40 (C.48:13A-1 et seq.) or P.L.1981, c.221 (C.48:13A-
34 6.1) ¹; or
- 35 (23) Aggravated assault¹.

36 c. If the Attorney General determines that there is a reasonable
37 suspicion to believe that a person required to be listed in the disclosure
38 statement, or otherwise shown to have a beneficial interest in the
39 business of the applicant, the permittee or the licensee, ¹or the business
40 concern that has been issued a soil and fill recycling license,¹ or to
41 have rented or leased at any cost or at no cost real property, vehicles or
42 other equipment used for the collection, transportation, treatment,
43 processing, storage, ¹brokering,¹ transfer, or disposal of solid waste or
44 hazardous waste, or the provision of soil and ¹**["debris"] fill¹ recycling**
45 services, to the applicant, the permittee, ¹**["or"]**¹ the licensee, ¹or the
46 business concern that has been issued a soil and fill recycling license,¹
47 does not possess a reputation for good character, honesty and integrity,

1 and that person or the applicant, the permittee or the licensee ¹, or the
2 business concern that has been issued a soil and fill recycling license¹
3 fails, by clear and convincing evidence, to establish his reputation for
4 good character, honesty and integrity.

5 d. With respect to the approval of an initial license or a soil and
6 ¹[debris] fill¹ recycling license, if there are current prosecutions or
7 pending charges in any jurisdiction against any person required to be
8 listed in the disclosure statement, or otherwise shown to have a
9 beneficial interest in the business of the applicant or the permittee, or
10 to have rented or leased at any or no cost real property, vehicles or
11 other equipment used for the collection, transportation, treatment,
12 processing, storage, ¹brokering, ¹ transfer, or disposal of solid waste or
13 hazardous waste, or the provision of soil and ¹[debris] fill¹ recycling
14 services, to the applicant or the permittee, for any of the crimes
15 enumerated in subsection b. of this section, provided, however, that at
16 the request of the applicant, permittee, or the person charged, the
17 **[department]** ¹**[Attorney General]** **department**¹ shall defer decision
18 upon such application during the pendency of such charge.

19 e. If any person required to be listed in the disclosure statement,
20 or otherwise shown to have a beneficial interest in the business of the
21 applicant, permittee or the licensee, ¹or the business concern that has
22 been issued a soil and fill recycling license,¹ or to have rented or
23 leased at any or no cost real property, vehicles or other equipment used
24 for the collection, transportation, treatment, processing, storage,
25 ¹brokering, ¹ transfer, or disposal of solid waste or hazardous waste, or
26 the provision of soil and ¹[debris] fill¹ recycling services, to the
27 applicant, the permittee, ¹[or]¹ the licensee, ¹or the business concern
28 that has been issued a soil and fill recycling license,¹ has pursued
29 economic gain in an occupational manner or context which is in
30 violation of the criminal or civil public policies of this State, where
31 such pursuit creates a reasonable belief that the participation of that
32 person in any activity required to be licensed under this act would be
33 inimical to the policies of this act. For the purposes of this section,
34 "occupational manner or context" means the systematic planning,
35 administration, management, or execution of an activity for financial
36 gain.

37 f. If the Attorney General determines that any person required to
38 be listed in the disclosure statement, or otherwise shown to have a
39 beneficial interest in the business of the applicant, permittee or the
40 licensee, ¹or the business concern that has been issued a soil and fill
41 recycling license,¹ or to have rented or leased at any or no cost real
42 property, vehicles or other equipment used for the collection,
43 transportation, treatment, processing, storage, ¹brokering, ¹ transfer, or
44 disposal of solid waste or hazardous waste, or the provision of soil
45 and ¹[debris] fill¹ recycling services, to the applicant, the permittee,
46 ¹[or]¹ the licensee, ¹or the business concern that has been issued a soil

1 and fill recycling license,¹ has been identified by the State
2 Commission of Investigation or the Federal Bureau of Investigation as
3 a career offender or a member of a career offender cartel or an
4 associate of a career offender or career offender cartel, where such
5 identification, membership or association creates a reasonable belief
6 that the participation of that person in any activity required to be
7 licensed under this act would be inimical to the policies of this act.
8 For the purposes of this section, "career offender" means any person
9 whose behavior is pursued in an occupational manner or context for
10 the purpose of economic gain, utilizing such methods as are deemed
11 criminal violations of the public policy of this State; and a "career
12 offender cartel" means any group of persons who operate together as
13 career offenders.

14 A license or a soil and ¹【debris】 fill¹ recycling license may be
15 approved by the 【department】 ¹【Attorney General】 department¹ for
16 any applicant or permittee if the information contained within the
17 disclosure statement and investigative report, including any
18 determination made by the Attorney General concerning the character,
19 honesty and integrity of any person required to be listed in the
20 disclosure statement, or otherwise shown to have a beneficial interest
21 in the business of the applicant or permittee, or to have rented or
22 leased at any or no cost real property, vehicles or other equipment used
23 for the collection, transportation, treatment, processing, storage,
24 ¹brokering,¹ transfer, or disposal of solid waste or hazardous waste, or
25 the provision of soil and ¹【debris】 fill¹ recycling services, to the
26 applicant, the permittee, ¹【or】¹ the licensee, ¹or the business concern
27 that has been issued a soil and fill recycling license,¹ would not require
28 disqualification pursuant to subsection a., b. c., e. or f. of this section.

29 ¹The department may issue a license or a soil and fill recycling
30 license subject to such conditions, restrictions, limitations, or
31 covenants as the department determines necessary to accomplish the
32 objectives of P.L.1983, c.392 (C.13:1E-126 et seq.).¹

33 A license or a soil and ¹【debris】 fill¹ recycling license approved
34 by the 【department】 ¹【Attorney General】 department¹ for any
35 applicant or permittee pursuant to this section is non-transferable and
36 shall be valid only for the length of time for which it is given.

37 Any applicant or permittee who is denied 【an initial】 a license or a
38 soil and ¹【debris】 fill¹ recycling license pursuant to this section shall,
39 upon a written request transmitted to the 【department】 ¹【Attorney
40 General】 department¹ within 30 days of that denial, be afforded the
41 opportunity for a hearing thereon in the manner provided for contested
42 cases pursuant to the "Administrative Procedure Act," P.L.1968, c.410
43 (C.52:14B-1 et seq.).
44 (cf: P.L.1991, c.269, s.6)

1 8. Section 7 of P.L.1991, c.269 (C.13:1E-133.1) is amended to
2 read as follows:

3 7. a. Notwithstanding the 'debarment pursuant to section 8 of
4 P.L.1983, c.392 (C.13:1E-133) or the' conviction of any person
5 required to be listed in a disclosure statement, or otherwise shown to
6 have a beneficial interest in the business of an applicant, permittee or
7 licensee ' , or business concern that has been issued a soil and fill
8 recycling license' or to have rented or leased at any or no cost real
9 property, vehicles or other equipment used for the collection,
10 transportation, treatment, processing, storage, 'brokering,' transfer, or
11 disposal of solid waste or hazardous waste, or the provision of soil
12 and '【debris】 fill' recycling services, to the applicant, the permittee,
13 or the licensee, 'or the business concern that has been issued a soil and
14 fill recycling license,' for any of the crimes enumerated in subsection
15 b. of section 8 of P.L.1983, c.392 (C.13:1E-133), the 【department】
16 '【Attorney General】 department' may issue or renew a license or a
17 soil and '【debris】 fill' recycling license to an applicant, permittee or
18 licensee ' , or business concern that has been issued a soil and fill
19 recycling license' if the **【department】** '【Attorney General】
20 department' determines in a writing setting forth findings of fact that
21 the 'debarred or' convicted person has affirmatively demonstrated
22 rehabilitation by clear and convincing evidence pursuant to the
23 provisions of this section. If the **【department】** '【Attorney General】
24 department' determines that the nature and seriousness of the
25 'debarment or' crime creates a reasonable doubt that an applicant,
26 permittee, or licensee ' , or business concern that has been issued a soil
27 and fill recycling license' will engage in the activity for which a
28 license or soil and '【debris】 fill' recycling license is sought in a lawful
29 and responsible manner, the **【department】** '【Attorney General】
30 department' shall make a determination in a writing setting forth
31 findings of fact that the 'debarred or' convicted person cannot
32 affirmatively demonstrate rehabilitation.

33 b. In determining whether a 'debarred or' convicted individual
34 has affirmatively demonstrated rehabilitation, the **【department** shall
35 request a recommendation thereon from the **】** 'department shall request
36 a recommendation thereon from the' Attorney General **【**, which
37 recommendation shall be **】** '【shall make a finding,】 , which
38 recommendation shall be' in writing **【and】**, 'and' based upon a
39 consideration of at least the following factors:

40 (1) The nature and responsibilities of the position which a
41 'debarred or' convicted individual would hold;

42 (2) The nature and seriousness of the 'debarment or' crime;

43 (3) The circumstances under which the 'debarment was imposed
44 or the' crime was committed;

1 (4) The date of the 'debarment or' crime;

2 (5) The age of the 'debarred or' convicted individual when the
3 'cause of debarment or' crime '[was committed] took place';

4 (6) Whether the 'cause of the debarment or' crime was an isolated
5 or repeated 'event or' act;

6 (7) Any evidence of good conduct in the community, counseling or
7 psychiatric treatment received, acquisition of additional academic or
8 vocational schooling, or the recommendation of persons who have
9 supervised the 'debarred or' convicted individual since the 'debarment
10 or' conviction; and

11 (8) The full criminal record of the 'debarred or' convicted
12 individual, any record of civil or regulatory violations or notices or any
13 complaints alleging any such civil or regulatory violations, or any
14 other allegations of wrongdoing.

15 Notwithstanding any other provision of this subsection, a
16 convicted individual shall have affirmatively demonstrated
17 rehabilitation pursuant to the provisions of this section if the convicted
18 individual produces evidence of a pardon issued by the Governor of
19 this or any other state, or evidence of the expungement of every
20 conviction for any of the crimes enumerated in subsection b. of section
21 8 of P.L.1983, c.392 (C.13:1E-133).

22 c. In determining whether a 'debarred or' convicted business
23 concern has affirmatively demonstrated rehabilitation, the [department
24 shall request a recommendation thereon from the] 'department shall
25 request a recommendation thereon from the' Attorney General [,
26 which recommendation shall be] '[shall make a finding.] , which
27 recommendation shall be' in writing [and], 'and' based upon a
28 consideration of at least the following factors:

29 (1) The nature and seriousness of the 'debarment or' crime;

30 (2) The circumstances under which the 'debarment was imposed
31 or the' crime was committed;

32 (3) The date of the 'debarment or' crime;

33 (4) Whether the 'cause of debarment or' crime was an isolated or
34 repeated 'event or' act; and

35 (5) The full criminal record of the 'debarred or' convicted
36 business concern, any record of civil or regulatory violations or notices
37 or any complaints alleging any such civil or regulatory violations, or
38 any other allegations of wrongdoing.

39 d. The Attorney General may require, as a predicate to a
40 determination that a 'debarred or' convicted business concern has
41 affirmatively demonstrated rehabilitation, that the 'debarred or'
42 convicted business concern agree, in writing, to an investigation of the
43 'debarment.' crime or crimes committed by the 'debarred or'
44 convicted business concern which caused disqualification pursuant to
45 subsection b. of section 8 of P.L.1983, c.392 (C.13:1E-133), the

1 persons involved in the 'debarment or' crime, and any corporate
2 policies, procedures, and organizational structure that may have led to
3 the 'debarment or' crime. At the conclusion of this investigation a
4 report shall be prepared identifying the underlying conduct giving rise
5 to 'the debarment or' any criminal convictions and any steps that have
6 subsequently been taken by the 'debarred or' convicted business
7 concern to prevent a recurrence of the 'acts leading to debarment or'
8 criminal activity, and recommending any steps that may be deemed
9 necessary to prevent a recurrence of the 'acts leading to debarment or'
10 criminal activity. The investigation shall be conducted by, or on behalf
11 of, the Attorney General, and the cost thereof shall be borne by the
12 'debarred or' convicted business concern.

13 The Attorney General may require, on the basis of this
14 investigation and as a condition of **recommending** **'determining**
15 **recommending'** that a 'debarred or' convicted business concern has
16 affirmatively demonstrated rehabilitation, that a 'debarred or'
17 convicted business concern comply, or agree in writing to comply,
18 with any of the following:

19 (1) changes in the 'debarred or' convicted business concern's
20 organizational structure to reduce the opportunity and motivation of
21 individual employees to engage in criminal activity, including
22 procedures for informing employees of the requirements of relevant
23 state and federal law;

24 (2) changes in the 'debarred or' convicted business concern's long
25 and short term planning to ensure that the 'debarred or' convicted
26 business concern implements procedures and policies to prevent future
27 violations of the law;

28 (3) changes in the 'debarred or' convicted business concern's
29 legal, accounting, or other internal or external control and monitoring
30 procedures to discourage or prevent future violations of state or federal
31 law;

32 (4) changes in the 'debarred or' convicted business concern's
33 ownership, control, personnel, and personnel selection practices,
34 including the removal of any person shown to have a beneficial
35 interest in the 'debarred or' convicted business concern, and the
36 imposition of a reward or disincentive system in order to encourage
37 employees to comply with relevant state and federal law;

38 (5) post-licensing monitoring of the 'debarred or' convicted
39 business concern's activities relating to any changes in policy,
40 procedure, or structure required by the Attorney General pursuant to
41 this subsection, the cost of such monitoring to be borne by the
42 'debarred or' convicted business concern; and

43 (6) any other requirements deemed necessary by the Attorney
44 General.

45 e. The **department** **'Attorney General** **department'** shall not
46 determine that a 'debarred or' convicted business concern has

1 affirmatively demonstrated rehabilitation if the ¹debarred or¹
2 convicted business concern has not complied, or agreed in writing to
3 comply, with every requirement imposed by the Attorney General
4 pursuant to subsection d. of this section.
5 (cf: P.L.1991, c.269, s.7)

6
7 9. Section 8 of P.L.1991, c.269 (C.13:1E-133.2) is amended to
8 read as follows:

9 8. a. Notwithstanding any current prosecutions or pending
10 charges in any jurisdiction against any person required to be listed in a
11 disclosure statement, or otherwise shown to have a beneficial interest
12 in the business of an applicant, permittee or licensee ¹, or business
13 concern that has been issued a soil and fill recycling license¹, or to
14 have rented or leased at any or no cost real property, vehicles or other
15 equipment used for the collection, transportation, treatment,
16 processing, storage, ¹brokering, ¹transfer, or disposal of solid waste or
17 hazardous waste, or the provision of soil and ¹**[debris]** fill¹ recycling
18 services, to the applicant, the permittee, or the licensee, ¹or business
19 concern that has been issued a soil and fill recycling license,¹ for any
20 of the crimes enumerated in subsection b. of section 8 of P.L.1983,
21 c.392 (C.13:1E-133), the **[department]** ¹**[Attorney General]**
22 department¹ may issue or renew a license or a soil and ¹**[debris]** fill¹
23 recycling license to an applicant, permittee or licensee ¹, or business
24 concern that has been issued a soil and fill recycling license¹ if the
25 **[department]** ¹**[Attorney General]** department¹ determines in a
26 writing setting forth findings of fact that the person against whom
27 there are current prosecutions or pending charges has affirmatively
28 reestablished a reputation for good character, honesty and integrity by
29 clear and convincing evidence pursuant to the provisions of this
30 section. If the **[department]** ¹**[Attorney General]** department¹
31 determines that the nature and seriousness of the crime alleged in a
32 current prosecution or pending charge creates a reasonable doubt that
33 an applicant, permittee, or licensee ¹, or business concern that has been
34 issued a soil and fill recycling license¹ will engage in the activity for
35 which a license is sought in a lawful and responsible manner, the
36 **[department]** ¹**[Attorney General]** department¹ shall make a
37 determination in a writing setting forth findings of fact that the person
38 against whom there are current prosecutions or pending charges cannot
39 reestablish a reputation for good character, honesty and integrity.

40 A person may affirmatively reestablish a reputation for good
41 character, honesty and integrity pursuant to this section in advance of
42 the disposition of the current prosecutions or pending charges provided
43 that this reestablishment consists of evidence of good character,
44 honesty and integrity rather than any defenses to the current
45 prosecutions or pending charges. A reestablishment of a reputation for
46 good character, honesty and integrity pursuant to this section shall not

1 be deemed insufficient due to a lack of admission of guilt to the
2 current prosecutions or pending charges.

3 b. In determining whether an individual against whom there are
4 current prosecutions or pending charges has affirmatively
5 reestablished a reputation for good character, honesty and integrity, the
6 **【department shall request a recommendation thereon from the】**
7 **‘department shall request a recommendation thereon from the’**
8 **Attorney General 【, which recommendation shall be】** **‘【shall make a**
9 **finding.】 , which recommendation shall be’** in writing, and based upon
10 a consideration of at least the following factors:

11 (1) The nature and responsibilities of the position which the
12 individual against whom there are current prosecutions or pending
13 charges would hold;

14 (2) The nature and seriousness of the alleged crime;

15 (3) The circumstances under which the alleged crime was
16 committed;

17 (4) The date of the alleged crime;

18 (5) The age of the individual against whom there are current
19 prosecutions or pending charges when the alleged crime was
20 committed;

21 (6) Whether the alleged crime was an isolated or repeated act;

22 (7) Any evidence of good conduct in the community, counseling or
23 psychiatric treatment received, acquisition of additional academic or
24 vocational schooling, or the recommendation of persons who have
25 supervised the individual since the date of the alleged crime; and

26 (8) The full criminal record of the individual against whom there
27 are current prosecutions or pending charges, any record of civil or
28 regulatory violations or notices or any complaints alleging any such
29 civil or regulatory violations, or any other allegations of wrongdoing.

30 c. In determining whether a business concern against whom there
31 are current prosecutions or pending charges has affirmatively
32 reestablished a reputation for good character, honesty and integrity, the
33 **【department shall request a recommendation thereon from the】**
34 **‘department shall request a recommendation thereon from the’**
35 **Attorney General 【, which recommendation shall be】** **‘【shall make a**
36 **finding.】 , which recommendation shall be’** in writing, and based upon
37 a consideration of at least the following factors:

38 (1) The nature and seriousness of the alleged crime;

39 (2) The circumstances under which the alleged crime was
40 committed;

41 (3) The date of the alleged crime;

42 (4) Whether the alleged crime was an isolated or repeated act; and

43 (5) The full criminal record of the business concern against whom
44 there are current prosecutions or pending charges, any record of civil
45 or regulatory violations or notices or any complaints alleging any such
46 civil or regulatory violations, or any other allegations of wrongdoing.

1 d. The Attorney General may require, as a predicate to a
2 determination that a business concern against which there are current
3 prosecutions or pending charges has affirmatively reestablished a
4 reputation for good character, honesty and integrity, that the business
5 concern agree, in writing, to an investigation of the alleged crime or
6 crimes committed by the business concern, the persons involved in the
7 alleged crime, and any corporate policies, procedures, and
8 organizational structure that may have led to the alleged crime. At the
9 conclusion of this investigation a report shall be prepared identifying
10 the underlying conduct giving rise to any alleged criminal activity and
11 any steps that have subsequently been taken by the business concern to
12 prevent a recurrence of the alleged criminal activity, and
13 recommending any steps that may be deemed necessary to prevent a
14 recurrence of the alleged criminal activity. The investigation shall be
15 conducted by, or on behalf of, the Attorney General, and the cost
16 thereof shall be borne by the business concern.

17 The Attorney General may require, on the basis of this
18 investigation and as a condition of **[recommending]** ¹**[finding]**
19 recommending¹ that a business concern against which there are current
20 prosecutions or pending charges has affirmatively reestablished a
21 reputation for good character, honesty and integrity, that a business
22 concern comply, or agree in writing to comply, with any of the
23 following:

24 (1) changes in the business concern's organizational structure to
25 reduce the opportunity and motivation of individual employees to
26 engage in criminal activity, including procedures for informing
27 employees of the requirements of relevant state and federal law;

28 (2) changes in the business concern's long and short term planning
29 to ensure that the business concern implements procedures and
30 policies to prevent future violations of state or federal law;

31 (3) changes in the business concern's legal, accounting, or other
32 internal or external control and monitoring procedures to discourage or
33 prevent future violations of state or federal law;

34 (4) changes in the business concern's ownership, control,
35 personnel, and personnel selection practices, including the removal of
36 any person shown to have a beneficial interest in the business concern,
37 and the imposition of a reward or disincentive system in order to
38 encourage employees to comply with relevant state and federal law;

39 (5) post-licensing monitoring of the business concern's activities
40 relating to any changes in policy, procedure, or structure required by
41 the Attorney General pursuant to this subsection, the cost of such
42 monitoring to be borne by the business concern; and

43 (6) any other requirements deemed necessary by the Attorney
44 General.

45 e. The **[department]** ¹**[Attorney General]** department¹ shall not
46 determine that a business concern against which there are current
47 prosecutions or pending charges has affirmatively reestablished a
48 reputation for good character, honesty and integrity if the business

1 concern has not complied, or agreed in writing to comply, with every
2 requirement imposed by the Attorney General pursuant to subsection
3 d. of this section.

4 (cf: P.L.1991, c.269, s.8)

5
6 ¹【10. Section 17 of P.L.1991, c.269 (C.13:1E-133.3) is amended
7 to read as follows:

8 17. The Department of Environmental Protection shall not issue
9 any permits required pursuant to P.L.1954, c.212 (C.26:2C-1 et
10 seq.), P.L.1962, c.19 (C.58:16A-50 et seq.), P.L.1975,
11 c.232 (C.13:1D-29 et seq.), P.L.1977, c.74 (C.58:10A-1 et seq.),
12 P.L.1981, c.262 (C.58:1A-1 et seq.), or any other law, or any rules
13 and regulations adopted thereto, to any person proposing to own or
14 operate a resource recovery facility prior to the completion by the
15 Attorney General 【and the department】 of the requirements of
16 sections 3 and 8 of P.L.1983, c.392 (C.13:1E-128 and 13:1E-133),
17 and unless the person proposing to own or operate the resource
18 recovery facility has received a license approved by the
19 【department】 Attorney General pursuant to section 8 of
20 P.L.1983, c.392 (C.13:1E-133); except that the department may
21 issue such permits if the 【department】 Attorney General has
22 approved, issued or renewed a temporary license for such person
23 pursuant to section 10 of P.L.1983, c.392 (C.13:1E-135).

24 (cf: P.L.1991, c.269, s.17)】¹

25
26 ¹【11.】 10.¹ Section 9 of P.L.1983, c.392 (C.13:1E-134) is
27 amended to read as follows:

28 9. Any license or soil and ¹【debris】 fill¹ recycling license may be
29 revoked by the 【department】 ¹【Attorney General】 department¹
30 pursuant to the "Administrative Procedure Act," P.L.1968, c.410
31 (C.52:14B-1 et seq.) for any of the following causes:

32 a. Any cause which would require disqualification, pursuant to
33 subsection a., b., c., e. or f. of section 8 of P.L.1983, c.392 (C.13:1E-
34 133), from receiving a license or a soil and ¹【debris】 fill¹ recycling
35 license upon original application;

36 b. Fraud, deceit or misrepresentation in securing ¹or maintaining¹
37 the license or soil and ¹【debris】 fill¹ recycling license, or in the
38 conduct of the licensed activity;

39 c. Offering, conferring or agreeing to confer any benefit to induce
40 any other person to violate the provisions of P.L.1983, c.392 (C.13:1E-
41 126 et seq.), or of any other law relating to the collection,
42 transportation, treatment, storage, ¹brokering,¹ transfer or disposal of
43 solid waste or hazardous waste, or the provision of soil and ¹【debris】
44 fill¹ recycling services, or of any rule or regulation adopted pursuant
45 thereto;

46 d. Coercion of a customer by violence or economic reprisal or the
47 threat thereof to utilize the services of any permittee or licensee, or a

1 business concern that holds a soil and ¹["debris"] fill¹ recycling license;
 2 ¹["or"]¹

3 e. Preventing, without authorization of the department, any
 4 permittee or licensee ¹, or business concern that has been issued a soil
 5 and fill recycling license¹ from disposing of solid waste or hazardous
 6 waste at a licensed, authorized or approved treatment, storage, transfer
 7 or disposal facility ¹, or

8 f. Failing to file timely annual updates as directed by the
 9 Attorney General¹.
 10 (cf: P.L.1991, c.269, s.9)

11
 12 ¹["12."] 11.¹ Section 10 of ¹["P.L.1991, c.269"] P.L.1983, c.392¹
 13 (C.13:1E-135) is amended to read as follows:

14 10. a. (1) Notwithstanding the disqualification of the applicant or
 15 permittee pursuant to subsection a., b., c., e. or f. of section 8 of
 16 P.L.1983, c.392 (C.13:1E-133), the department may issue or renew a
 17 license or a soil and ¹["debris"] fill¹ recycling license if the applicant or
 18 permittee severs the interest of or affiliation with the person who
 19 would otherwise cause that disqualification. ¹The department may bar
 20 the person that would otherwise cause the disqualification from
 21 participation in the collection, transportation, treatment, storage,
 22 processing, brokering, transfer, or disposal of solid or hazardous
 23 waste, or the provision of soil and fill recycling services.¹

24 (2) The department may issue or renew a temporary license to any
 25 applicant or permittee for periods not to exceed six months if the
 26 department determines that the issuance or renewal of a temporary
 27 license is necessitated by the public interest.

28 b. After July 1, 1992, the provisions of any other law to the
 29 contrary notwithstanding, no temporary license shall be approved,
 30 issued or renewed by the department for any applicant or permittee, as
 31 the case may be, to own or operate a resource recovery facility or other
 32 solid waste facility approved by the department for the long-term solid
 33 waste disposal requirements of a district or districts pursuant to the
 34 "Solid Waste Management Act," P.L.1970, c.39 (C.13:1E-1 et seq.)
 35 prior to the completion by the Attorney General **["and the department"]**
 36 ¹and the department¹ of the requirements of sections 3 and 8 of
 37 P.L.1983, c.392 (C.13:1E-128 and 13:1E-133); except that the
 38 department may issue a temporary license to an applicant or renew the
 39 temporary license of a permittee if the Commissioner of the
 40 Department of Environmental Protection determines, in writing, that
 41 the issuance of a temporary license for that applicant or renewal of the
 42 temporary license for that permittee is necessitated by the public
 43 interest.

44 (cf: P.L.1991, c.269, s.10)

45
 46 ¹["13. Section 7 of P.L.1970, c.40 (C.48:13A-6) is amended to
 47 read as follows:

1 7. a. No person shall engage, or be permitted to engage, in the
2 business of solid waste collection or solid waste disposal until
3 found by the Department of Environmental Protection to be
4 qualified by experience, training or education to engage in such
5 business, is able to furnish proof of financial responsibility, and
6 unless that person holds a certificate of public convenience and
7 necessity issued by the Department of Environmental Protection.

8 (1) No certificate shall be issued for solid waste collection or
9 solid waste disposal until the person proposing to engage in solid
10 waste collection or solid waste disposal, as the case may be, has
11 been registered with and approved by the Department of
12 Environmental Protection as provided by section 5 of P.L.1970,
13 c.39 (C.13:1E-5).

14 (2) No certificate of public convenience and necessity shall be
15 issued by the Department of Environmental Protection to any
16 person who has been denied approval of a license under the
17 provisions of P.L.1983, c.392 (C.13:1E-126 et seq.), or whose
18 license has been revoked by the [Department of Environmental
19 Protection] Attorney General, as the case may be.

20 b. No person shall transport regulated medical waste until
21 found by the Department of Environmental Protection to be
22 qualified by experience, training or education to engage in such
23 business, and is able to furnish proof of financial responsibility, and
24 holds a certificate of public convenience and necessity issued by the
25 Department of Environmental Protection. No certificate shall be
26 issued for the transportation of regulated medical waste until the
27 proposed transporter has obtained a registration statement required
28 by section 5 of P.L.1970, c.39 (C.13:1E-5) and paid the fee imposed
29 under section 9 of P.L.1989, c.34 (C.13:1E-48.9).

30 c. Notwithstanding the provisions of subsection b. of this
31 section, the department shall not have jurisdiction over rates or
32 charges for the transportation of regulated medical waste.
33 (cf: P.L.2003, c.169, s.13) ¹

34
35 ¹[14. Section 10 of P.L.1970, c.40 (C.48:13A-9) is amended to
36 read as follows:

37 10. The Department of Environmental Protection shall revoke or
38 suspend the certificate of public convenience and necessity issued
39 to any person engaged in the solid waste collection business or the
40 solid waste disposal business upon the finding that such person:

41 a. Has violated any provision of P.L.1970, c.40 (C.48:13A-1 et
42 seq.) or P.L.1991, c.381 (C.48:13A-7.1 et al.), or any rule,
43 regulation or administrative order adopted or issued pursuant
44 thereto; or

45 b. Has violated any provision of any laws related to pollution
46 of the air, water or lands of this State; or

47 c. Has refused or failed to comply with any lawful order of the
48 department; or

1 d. Has had its registration revoked by the Department of
2 Environmental Protection; or

3 e. Has been denied approval of a license under the provisions
4 of P.L.1983, c.392 (C.13:1E-126 et seq.), or has had its license
5 revoked by the **【Department of Environmental Protection】** Attorney
6 General, as the case may be.
7 (cf: P.L.2003, c.169, s.19)¹
8

9 ¹**【15.】** 12.¹ Section 3 of P.L.1971, c.461 (C.13:1E-18) is
10 amended to read as follows:

11 3. a. The department may in accordance with a fee schedule
12 adopted as a rule or regulation establish and charge annual or
13 periodic fees for any of the services to be performed in connection
14 with the "Solid Waste Management Act," P.L.1970, c.39 (C.13:1E-1
15 et seq.) **【**, except that the annual or periodic fees charged by the
16 department to cover the costs incurred by any State agency relevant
17 to pre-licensing investigations, post-licensing compliance
18 monitoring or related activities under the provisions of P.L.1983,
19 c.392 (C.13:1E-126 et seq.) shall be based upon the size of the
20 business concern. For the purposes of this subsection, "business
21 concern" means any corporation, association, firm, partnership, sole
22 proprietorship, trust or other form of commercial organization;
23 "size" means the number of key employees or persons required to
24 be listed in the disclosure statement, or otherwise shown to have a
25 beneficial interest in the business of the applicant, permittee or
26 licensee as defined in section 2 of P.L.1983, c.392 (C.13:1E-127);
27 and "State agency" means any State department, division, agency,
28 commission or authority.

29 The department, upon receipt of standard billing, shall provide
30 reimbursement in full to the Attorney General or any other State
31 agency for all expenses incurred by that State agency in the
32 performance of pre-licensing investigations, post-licensing
33 compliance monitoring or any other related activities consistent
34 with the provisions of P.L.1983, c.392 (C.13:1E-126 et seq.)**】**.

35 b. The fee schedule shall reasonably reflect the duration or
36 complexity of the specific service rendered, permit application
37 reviewed, or registration statement or engineering design
38 application approval sought.

39 (cf: P.L.1991, c.269, s.15)
40

41 ¹**【16.】** 13.¹ (New section) a. The ¹**【Attorney General】**
42 department¹ shall establish application and license fees ¹, annual fees,
43 and any other fees the department determines necessary to defray the
44 costs of administration,¹ for any license or soil and ¹**【debris】** fill¹
45 recycling license issued pursuant to P.L.1983, c.392 (C.13:1E-126 et
46 seq.) ¹, or the soil and fill recycling registration issued pursuant to
47 section 1 of P.L. , c. (C.) (pending before the Legislature as this

1 bill¹. The fees shall be ¹**based upon the cost of investigation and**
 2 consideration of the license application, and the actual and prospective
 3 costs of the investigative and enforcement functions of the office. The
 4 annual or periodic fees shall cover the costs incurred by any State
 5 agency relevant to pre-licensing investigations, post-licensing
 6 compliance monitoring or related activities under the provisions of
 7 P.L.1983, c.392 (C.13:1E-126 et seq.) and shall be based upon the size
 8 of the business concern. For the purposes of this section, "business
 9 concern" means any corporation, association, firm, partnership, sole
 10 proprietorship, trust or other form of commercial organization; "size"
 11 means the number of key employees or persons required to be listed in
 12 the disclosure statement, or otherwise shown to have a beneficial
 13 interest in the business of the applicant, permittee or licensee as
 14 defined in section 2 of P.L.1983, c.392 (C.13:1E-127); and "State
 15 agency" means any State department, division, agency, commission or
 16 authority.

17 The Attorney General shall provide reimbursement in full to any
 18 State agency for all expenses incurred by that State agency in the
 19 performance of pre-licensing investigations, post-licensing compliance
 20 monitoring or any other related activities consistent with the
 21 provisions of P.L.1983, c.392 (C.13:1E-126 et seq.) **used to pay costs**
 22 related to consideration of license and soil and fill recycling license
 23 applications, investigations, monitoring, enforcement, and related
 24 activities, and to reimburse any State agency for expenses incurred by
 25 the agency in the performance of pre-licensing investigations, post-
 26 licensing compliance monitoring, or any other related activities
 27 consistent with the provisions of P.L.1983, c.392 (C.13:1E-126 et
 28 seq.). Annual fees shall be assessed on licensees and the holders of
 29 soil and fill recycling licenses based on a percentage their gross
 30 operating revenue from intrastate operations during the preceding
 31 calendar year. Fees collected under this section shall be deposited into
 32 a special account, to be administered by the department, and shall be
 33 used only for the costs associated with administering the provisions of
 34 P.L.1983, c.392 (C.13:1E-126 et seq.).¹

35 b. ¹The department may, pursuant to the "Administrative
 36 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), adopt rules and
 37 regulations to effectuate monitoring and enforcement of P.L.1983,
 38 c.392 (C.13:1E-126 et seq.) and P.L. , c. (C.) (pending before the
 39 Legislature as this bill).

40 c.¹ The ¹**Attorney General** department¹ shall prepare and
 41 submit, pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), to the
 42 Legislature an annual report on the establishment and implementation
 43 of the fee schedule adopted pursuant to this section.
 44

45 ¹**17.** 14.¹ (New section) No later than 90 days after the
 46 ¹effective¹ date of ¹**enactment of**¹ P.L. , c. (C.) (pending before
 47 the Legislature as this bill), the Department of Environmental

1 Protection, the Department of the Treasury, and the Attorney General
2 shall enter into a memorandum of agreement that provides for ¹the
3 establishment of a records and information management system] a
4 reciprocal information exchange method¹ to provide ¹State regulators
5 at each department and other relevant government agencies in New
6 Jersey and elsewhere] the Department of Environmental Protection,
7 the Department of Treasury, and the Attorney General¹ with effective
8 and efficient access to information concerning individuals and
9 business concerns that are applicants, license holders, and permittees
10 in the solid waste, hazardous waste and recycling industries ¹]. The
11 information in the system shall include license and permit information,
12 records of violations, criminal charges and convictions, debarment
13 determinations and any other information deemed to be relevant] as
14 determined to be appropriate by the Attorney General¹.

15
16 ¹[18.] 15.¹ (New section) The State Treasurer shall establish a
17 list to be maintained in the Department of the Treasury of individuals
18 and business concerns that have:

19 a. been debarred from contracting with or receiving funds from
20 any unit in the Executive branch of State government, including any
21 entity exercising executive branch authority or independent State
22 authority, or any unit of local government or board of education;

23 b. had a permit, license, ¹[or] ¹soil and ¹[debris] fill¹ recycling
24 registration issued pursuant to section 1 of P.L. , c. (C.) (pending
25 before the Legislature as this bill), or soil and fill recycling¹ license
26 denied or revoked pursuant to P.L.1983, c.392 (C.13:1E-126 et seq.);
27 or

28 c. had any license denied or revoked pursuant to
29 P.L.1977, c.110 (C.5:12-1 et seq.).

30
31 ¹[19.] 16.¹ (New section) The Attorney General shall seek to
32 establish with the State of New York and other states in the region a
33 reciprocal information exchange ¹[system] method¹ to facilitate the
34 sharing of information among the states on the solid waste, hazardous
35 waste, and recycling industries in the respective states. Each year for
36 the first three years after the ¹effective¹ date of ¹[enactment of]¹
37 P.L. , c. (C.) (pending before the Legislature as this bill), the
38 Attorney General shall prepare and submit, pursuant to section 2 of
39 P.L.1991, c.164 (C.52:14-19.1), to the Legislature a report on the
40 progress made toward establishing and implementing this interstate
41 cooperative effort.

42
43 ¹17. (New section) a. The department shall adopt, pursuant to the
44 “Administrative Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et seq.),
45 rules and regulations establishing a schedule of penalties for violations

1 of P.L.1983, c.392 (C.13:1E-126 et seq.), to be applied pursuant to this
2 section.

3 b. Whenever, on the basis of available information, the
4 department finds that a person has violated any provision of P.L.1983,
5 c.392 (C.13:1E-126 et seq.), or any rule or regulation adopted, or
6 license issued, pursuant thereto, the department may:

7 (1) Issue an order requiring the person found to be in violation to
8 comply in accordance with subsection c. of this section;

9 (2) Bring a civil action in accordance with subsection d. of this
10 section;

11 (3) Levy a civil administrative penalty in accordance with
12 subsection e. of this section;

13 (4) Bring an action for a civil penalty in accordance with
14 subsection f. of this section; or

15 (5) Petition the Attorney General to bring a criminal action in
16 accordance with subsection g. of this section.

17 c. Whenever the department finds that a person has violated any
18 provision of P.L.1983, c.392 (C.13:1E-126 et seq.), or any rule or
19 regulation adopted, or license issued, pursuant thereto, the department
20 may issue an order specifying the provision or provisions of P.L.1983,
21 c.392 (C.13:1E-126 et seq.), or the rule, regulation, or license of which
22 the person is in violation, citing the action which constituted the
23 violation, ordering abatement of the violation, and giving notice to the
24 person of his right to a hearing on the matters contained in the order.
25 The ordered party shall have 20 calendar days from receipt of the order
26 within which to deliver to the department a written request for a
27 hearing. Such order shall be effective upon receipt, and any person to
28 whom such order is directed shall comply with the order immediately.
29 A request for hearing shall not automatically stay the effect of the
30 order.

31 d. The department, a local board of health, or a county health
32 department may institute an action or proceeding in the Superior Court
33 for injunctive and other relief, including the appointment of a receiver
34 for any violation of P.L.1983, c.392 (C.13:1E-126 et seq.), or of any
35 rule or regulation adopted, or license issued, pursuant to P.L.1983,
36 c.392 (C.13:1E-126 et seq.), and the court may proceed in the action in
37 a summary manner. In any such proceeding the court may grant
38 temporary or interlocutory relief. Such relief may include, singly or in
39 combination;

40 (1) A temporary or permanent injunction;

41 (2) Assessment of the violator for the costs of any investigation,
42 inspection, or monitoring survey which led to the establishment of the
43 violation, and for the reasonable costs of preparing and litigating the
44 case under this subsection;

45 (3) Assessment of the violator for any cost incurred by the State in
46 removing, correcting, or terminating the adverse effects upon air
47 quality or water quality resulting from any violation of any provision
48 of P.L.1983, c.392 (C.13:1E-126 et seq.), or any rule or regulation

1 adopted, or licensed issued, pursuant thereto for which the action
2 under this subsection may have been brought;

3 (4) Assessment against the violator of compensatory damages for
4 any loss or destruction of wildlife, fish or aquatic life, and for any
5 other actual damages caused by any violation of P.L.1983, c.392
6 (C.13:1E-126 et seq.) or any rule or regulation adopted, or license
7 issued, pursuant thereto for which the action under this subsection may
8 have been brought. Assessments under this subsection shall be paid to
9 the State Treasurer, or to the local board of health, or to the county
10 health department, as the case may be, except that compensatory
11 damages may be paid by specific order of the court to any persons who
12 have been aggrieved by the violation.

13 If a proceeding is instituted by a local board of health or county
14 health department, notice thereof shall be served upon the department
15 in the same manner as if the department were a named party to the
16 action or proceeding. The department may intervene as a matter of
17 right in any proceeding brought by a local board of health or county
18 health department.

19 e. The department is authorized to assess a civil administrative
20 penalty of not more than \$50,000.00 for each violation provided that
21 each day during which the violation continues shall constitute an
22 additional, separate, and distinct offense. The department shall not
23 assess a civil administrative penalty in excess of \$25,000.00 for a
24 single violation, or in excess of \$2,500.00 for each day during which a
25 violation continues, until the department has adopted, pursuant to the
26 “Administrative Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et seq.),
27 rules and regulations requiring the department, in assessing a civil
28 administrative penalty, to consider the operational history of the
29 violator, the severity of the violation, the measures taken to mitigate or
30 prevent further violations, and whether the penalty will maintain an
31 appropriate deterrent. No assessment shall be levied pursuant to this
32 section until after the violator has been notified by certified mail or
33 personal service. The notice shall include a reference to the section of
34 the statute, rule, regulation, or license violated, a concise statement of
35 the facts alleged to constitute a violation, a statement of the amount of
36 the civil administrative penalties to be imposed, and a statement of the
37 party's right to a hearing. The ordered party shall have 20 calendar
38 days from receipt of the notice within which to deliver to the
39 department a written request for a hearing. After the hearing and upon
40 finding that a violation has occurred, the department may issue a final
41 order after assessing the amount of the fine specified in the notice. If
42 no hearing is requested, the notice shall become a final order after the
43 expiration of the 20-day period. Payment of the assessment is due
44 when a final order is issued or the notice becomes a final order. The
45 authority to levy a civil administrative penalty is in addition to all
46 other enforcement provisions in P.L.1983, c.392 (C.13:1E-126 et seq.)
47 and P.L.1970, c. 39 (C. 13:1E-1 et seq.), and the payment of any
48 assessment shall not be deemed to affect the availability of any other

1 enforcement provisions in connection with the violation for which the
2 assessment is levied. The department may settle any civil
3 administrative penalty assessed under this section in an amount the
4 department determines appropriate.

5 f. Any person who violates the provisions of P.L.1983, c.392
6 (C.13:1E-126 et seq.), or any rule or regulation adopted, or licensed
7 issued, pursuant thereto shall be liable to a penalty of not more than
8 \$50,000.00 per day, to be collected in a civil action commenced by a
9 local board of health, a county health department, or the department.

10 Any person who violates an administrative order issued pursuant to
11 subsection c. of this section, or a court order issued pursuant to
12 subsection d. of this section, or who fails to pay an administrative
13 assessment in full pursuant to subsection e. of this section is subject
14 upon order of a court to a civil penalty not to exceed \$100,000.00 per
15 day of such violations.

16 Any penalty imposed pursuant to this subsection may be collected
17 with costs in a summary proceeding pursuant to "the penalty
18 enforcement law" (N.J.S.2A:58-1 et seq.). The Superior Court and the
19 municipal court shall have jurisdiction to enforce the provisions of
20 "the penalty enforcement law" in connection with this act.

21 g. Any person who engages in soil and fill recycling services
22 without a registration issued pursuant to section 1 of P.L. , c. (C.)
23 (pending before the Legislature as this bill), or a soil and fill recycling
24 license issued pursuant to section 8 of P.L.1983, c.392 (C.13:1E-133),
25 as appropriate, or who knowingly makes any false or misleading
26 statement to the department or the Attorney General in connection
27 with a registration or license, shall, upon conviction, be guilty of a
28 crime of the third degree and, notwithstanding the provisions of
29 N.J.S.2C:43-3, shall be subject to a fine of not more than \$50,000.00
30 for the first offense and not more than \$100,000.00 for the second and
31 each subsequent offense and restitution, in addition to any other
32 appropriate disposition authorized by subsection b. of N.J.S.2C:43-2.

33 h. Any person who collects, transports, treats, stores, brokers,
34 transfers, or disposes of solid waste or hazardous waste, or that
35 engages in soil and fill recycling services, shall furnish the appropriate
36 license or registration upon the request of any law enforcement officer
37 or any agent of the department, a local board of health, or a county
38 health department.

39 i. Pursuit of any remedy specified in this section shall not preclude
40 the pursuit of any other remedy provided by any other law.
41 Administrative and judicial remedies provided in this section may be
42 pursued simultaneously.¹

43
44 ¹18. (New section) The department, a local board of health, and a
45 county health department shall have the right to enter, inspect, and
46 take samples at or from, any facility or premises used in connection
47 with the provision of soil and fill recycling services in order to
48 determine compliance with a registration issued pursuant to section 1

1 of P.L. , c. (C.) (pending before the Legislature as this bill), a soil
2 and fill recycling license issued pursuant to section 8 of P.L.1983,
3 c.392 (C.13:1E-133), and any other applicable law, and rules and
4 regulations adopted pursuant thereto.¹

5
6 ¹~~20.~~ Section 2 of this act shall take effect on the 180th day after
7 the date of enactment, and the remainder of this act~~19.~~ This act¹
8 shall take effect immediately.