

ASSEMBLY, No. 3996

STATE OF NEW JERSEY 219th LEGISLATURE

INTRODUCED MAY 1, 2020

Sponsored by:

Assemblywoman YVONNE LOPEZ

District 19 (Middlesex)

Assemblywoman ANGELA V. MCKNIGHT

District 31 (Hudson)

Assemblyman ROBERT J. KARABINCHAK

District 18 (Middlesex)

SYNOPSIS

Provides for waivers of contract penalties and modification of contract terms on public contracts between non-profit organizations and State agencies for failure to perform due to COVID-19 pandemic.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 5/11/2020)

1 AN ACT providing for waivers of contract penalties and modification
2 of contract terms on public contracts between non-profit
3 organizations and State agencies for failure to perform due to the
4 COVID-19 Public Health Emergency and State of Emergency.

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

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9 1. Notwithstanding the provisions of any law, rule, or regulation
10 to the contrary, a State agency that has awarded a contract to or
11 entered into an agreement with a non-profit organization may provide
12 a waiver of any penalty provided in the contract or agreement for the
13 failure of the non-profit organization to fulfill the terms and
14 conditions in the contract or agreement if the failure is due to the
15 COVID-19 Public Health Emergency and State of Emergency
16 declared by the Governor in Executive Order No. 103 of 2020 and
17 the failure occurred during the period of the emergencies or during
18 the six-month period immediately following the end of the
19 emergencies. The waiver shall be provided to the extent the State
20 agency or agencies deem it feasible and appropriate under the
21 circumstances.

22 A non-profit organization shall be permitted to request a
23 modification of the terms and conditions of a contract awarded by, or
24 of an agreement entered into with, a State agency and the State
25 agency shall consider such a request to modify the terms and
26 conditions in the contract or agreement, when compliance by the non-
27 profit organization with the terms and conditions was impacted due
28 to the emergencies and the impact occurred during the period of the
29 emergencies or during the six-month period immediately following
30 the end of the emergencies.

31 Non-profit organizations shall submit to the appropriate State
32 agency supportive documentation as proof that the failure to fulfill
33 the terms and conditions of a contract or agreement was due to, or
34 that the compliance was impacted by, the COVID-19 Public Health
35 Emergency and State of Emergency declared by the Governor in
36 Executive Order No. 103 of 2020, in order to receive a waiver of a
37 penalty or to have a modification of the terms and conditions
38 considered by a State agency.

39 As used in this section, "State agency" means any of the principal
40 departments in the Executive Branch of the State Government, and
41 any division, board, bureau, office, commission, or other
42 instrumentality within or created by such department, the Legislature
43 of the State, and any office, board, bureau, or commission within or
44 created by the Legislative Branch, and any independent State
45 authority, commission, instrumentality, or agency. A county or
46 municipality shall not be deemed an agency or instrumentality of the
47 State.

1 2. This act shall take effect immediately and shall expire on the
2 first day of the ninth month following the end of the Public Health
3 Emergency and State of Emergency declared by the Governor in
4 Executive Order No. 103 of 2020.

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STATEMENT

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9 This bill provides that a State agency that has awarded a contract
10 to or entered into an agreement with a non-profit organization may
11 provide a waiver of any penalty provided in the contract or agreement
12 for the failure of the non-profit organization to fulfill the terms and
13 conditions in the contract or agreement if the failure is due to the
14 COVID-19 Public Health Emergency and State of Emergency
15 declared by the Governor in Executive Order No. 103 of 2020 and
16 the failure occurred during the period of the emergencies or during
17 the six-month period immediately following the end of the
18 emergencies. The waiver will be provided to the extent the State
19 agency or agencies deem it feasible and appropriate under the
20 circumstances.

21 The bill also permits a non-profit organization to request a
22 modification of the terms and conditions of a contract awarded by or
23 of an agreement entered into with, a State agency and the State
24 agency must consider such a request, when compliance by the non-
25 profit organization with the terms and conditions was impacted due
26 to the emergencies and the impact occurred during the period of the
27 emergencies or during the six-month period immediately following
28 the end of the emergencies.

29 The COVID-19 pandemic has caused non-profit organizations to
30 drastically reduce staffing and shift priorities. These changes have
31 made it difficult for non-profit organizations to deliver on State
32 contracts. The purpose of this bill is to provide greater flexibility and
33 to ensure that non-profit organizations are not further negatively
34 impacted by the COVID-19 pandemic.