

§§21,22
C. 26:2I-5.1
&
26:2I-5.2
§23
Repealer

P.L. 1997, CHAPTER 435, *approved January 19, 1998*
Assembly, No. 3149 (*Third Reprint*)

1 **AN ACT** concerning the New Jersey Health Care Facilities Financing
2 Authority and amending ¹and supplementing¹ P.L.1972, c.29.

3

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

6

7 1. The Title of P.L.1972, c.29 is amended to read as follows:

8 **AN ACT** relating to the financing of health care facilities **[and]**,
9 equipment and services; creating the New Jersey Health Care
10 Facilities Financing Authority and prescribing its powers and duties;
11 authorizing the issuance of bonds and notes of the authority and
12 providing for the terms and security thereof, and making an
13 appropriation therefor.

14

15 2. Section 1 of P.L.1972, c.29 (C.26:2I-1) is amended to read as
16 follows:

17 1. It is hereby declared that a serious public emergency exists
18 affecting the health, safety and welfare of the people of the State
19 resulting from the fact that many **[hospitals and other health-care]**
20 health care facilities throughout the State are **[becoming obsolete and**
21 **are]** no longer adequate to meet the needs of modern **[medicine]** health
22 care. **[As a result of rapid technological changes, such facilities**
23 **require substantial structural or functional changes. Others are**
24 **unsuited for continued use by virtue of their location and the physical**
25 **characteristics of their existing plants and should be replaced. Such**
26 **inadequate]** Inadequate and outmoded facilities deny to the people of
27 the State the benefits of health care of the highest quality, efficiently

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

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹ Assembly AHL committee amendments adopted November 17, 1997.

² Senate floor amendments adopted January 8, 1998.

³ Assembly floor amendments adopted January 12, 1998.

1 and promptly provided at a reasonable cost. [Their replacement and
2 modernization is essential to protect and prolong the lives of the
3 State's population and cannot readily be accomplished by the ordinary
4 unaided operation of private enterprise. Existing hospitals and other
5 health-care facilities must be adapted to accommodate new concepts
6 of medical treatment and provide units for the treatment of alcoholism,
7 narcotics addiction and other social ills] As a result, health care
8 providers are restructuring their organizations, facilities and operations
9 in order to develop integrated health care delivery systems capable of
10 providing a full range of health care services in the most cost-effective
11 manner.

12 It is the purpose of this act to [encourage the timely construction
13 and modernization, including the equipment, of hospital and other
14 health-care facilities, which are necessary for the diagnosis or
15 treatment of human disease, pain, injury, disability, deformity or
16 physical condition, including mental illness and retardation, and of
17 facilities incidental or appurtenant thereto to be administered in
18 accordance with the provisions of the Health Care Facilities Planning
19 Act, P.L.1971, c.136 (C.26:2H-1 et seq.)] ensure that all health care
20 institutions have access to financial resources to improve the health
21 and welfare of the citizens of the State. It is hereby declared to be the
22 policy of the State to encourage the provision of modern,
23 well-equipped [health-care] health care facilities, and such provision
24 is hereby declared to be a public use and purpose.

25 (cf: P.L.1972, c.29, s.1)

26

27 3. Section 3 of P.L.1972, c.29 (C.26:2I-3) is amended to read as
28 follows:

29 3. As used in this act, the following words and terms shall have the
30 following meanings, unless the context indicates or requires another
31 or different meaning or intent:

32 "Authority" means the New Jersey Health Care Facilities Financing
33 Authority created by this act or any board, body, commission,
34 department or officer succeeding to the principal functions thereof or
35 to whom the powers conferred upon the authority by this act shall be
36 given by law.

37 "Bond" means bonds, notes or other evidences of indebtedness of
38 the authority issued pursuant to this act.

39 "Commissioner" means the [State] Commissioner of Health and
40 Senior Services.

41 ["Hospital facility" means a structure suitable to provide hospitals,
42 hospital related housing facilities, doctors' office buildings or other
43 health-care facilities for the prevention, diagnosis or treatment of
44 human disease, pain, injury, disability, deformity or physical condition
45 or mental illness and retardation, and for facilities incidental or
46 appurtenant thereto.

1 "Participating hospital" means a public hospital or private hospital
2 which has entered into a regulatory agreement in accordance with this
3 act.

4 "Private hospital" means a hospital or health-care institution, or an
5 institution for the training of doctors, nurses, paramedical or other
6 personnel engaged in the provision of health care, other than a State,
7 county or municipal hospital or health care facility, or related
8 institution including a health maintenance organization, public health
9 center, diagnostic center, treatment center, rehabilitation center,
10 extended care facility, skilled nursing home, nursing home,
11 intermediate care facility, tuberculosis hospital, chronic disease
12 hospital, maternity hospital, special hospital, mental hospital,
13 outpatient clinic, dispensary, home health agency, boarding home or
14 other home for sheltered care situated within the State and which is a
15 nonprofit institution providing hospital or health care service to the
16 public.]

17 "Credit agreement" means a loan agreement, revolving credit
18 agreement, agreement establishing a line of credit, letter of credit,
19 reimbursement agreement, interest exchange agreement, insurance
20 contract, surety bond, commitment to purchase bonds, purchase or
21 sale agreement, or commitment or other contract or agreement
22 authorized and approved by the authority in connection with the
23 authorization, issuance, security or payment of bonds.

24 "Health care organization" means an organization located in this
25 State which is authorized or permitted by law, whether directly or
26 indirectly through a holding corporation, partnership or other entity,
27 to provide health care-related services, including, but not limited to,
28 hospital, outpatient, public health, home health care, residential care,
29 ¹assisted living, hospice, health maintenance organization,¹ blood
30 bank, alcohol or drug abuse, half-way house, diagnostic, treatment,
31 rehabilitation, extended care, skilled nursing care, nursing care,
32 intermediate care, tuberculosis care, chronic disease care, maternity,
33 mental health, boarding or sheltered care or day care, services
34 provided by a physician in his office, or any other service offered in
35 connection with health care services or by an entity affiliated with a
36 health care organization or an integrated delivery system.

37 "Integrated delivery system" means a group of legally affiliated
38 health care organizations ¹[which includes an acute care hospital]¹.

39 "Public [hospital] health care organization" means a State, county
40 or municipal [hospital or health-care facility including health
41 maintenance organization, public health center, diagnostic center,
42 treatment center, rehabilitation center, extended care facility, skilled
43 nursing home, nursing home, intermediate care facility, tuberculosis
44 hospital, chronic disease hospital, maternity hospital, mental hospital,
45 outpatient clinic, dispensary, home health care agency, boarding home
46 or other home for sheltered care now or hereafter established or

1 authorized by law] health care organization.

2 "Project" or "[hospital] health care organization project" means [a
3 specific work, including] the acquisition, construction, improvement,
4 renovation or rehabilitation of lands, buildings, [improvements,
5 alterations, renovations, enlargements, reconstructions,] fixtures,
6 equipment and articles of personal property, [acquired, constructed,
7 rehabilitated, owned and operated by] or other tangible or intangible
8 assets that are necessary or useful in the development, establishment
9 or operation of a [participating hospital] health care organization
10 pursuant to this act, [to provide hospital or health-care facilities or
11 facilities related, required or useful to or for the operation of a hospital
12 facility,] and "project" or "[hospital] health care organization project"
13 may include: the financing, refinancing or consolidation of secured or
14 unsecured debt, borrowings or obligations, or the provision of
15 financing for any other expense incurred in the ordinary course of
16 business, all of which lands, buildings, fixtures, equipment and articles
17 of personal property are to be used or occupied by any person in the
18 health care organization; the acquisition of an entity interest, including
19 capital stock, in a corporation; or any combination thereof; and may
20 include any combination of the foregoing undertaken jointly by any
21 [participating hospital] health care organization with one or more
22 other [participating hospitals] health care organizations.

23 "Project cost" or "[hospital] health care organization project cost"
24 means the sum total of all or any part of costs incurred or estimated to
25 be incurred by the authority or by a [participating hospital] health care
26 organization which are reasonable and necessary for carrying out all
27 works and undertakings and providing all necessary equipment for the
28 development of a project, exclusive of the amount of any private or
29 Federal, State or local financial assistance for and received by a
30 [participating hospital] health care organization for the payment of
31 such project cost. Such costs shall include, but are not necessarily
32 limited to[.]; interest prior to, during and for a reasonable period after
33 such development[.]; start-up costs and costs of operation and
34 maintenance during the construction period and for a reasonable
35 additional period thereafter[.]; organization, administration, operation
36 and other expenses of the health care organization prior to and during
37 construction; the cost of necessary studies, surveys, plans and
38 specifications, architectural, engineering, legal or other special
39 services[.]; the cost of acquisition of land, buildings and improvements
40 thereon (including payments for the relocation of persons displaced by
41 such acquisition), site preparation and development, construction,
42 reconstruction, equipment, including fixtures, equipment, and cost of
43 demolition and removal, and articles of personal property required[.];
44 the reasonable cost of financing incurred by a [participating hospital]
45 health care organization or the authority in the course of the
46 development of the project[.]; reserves for debt service[.]; the fees

1 imposed upon a [participating hospital] health care organization by
2 the commissioner and by the authority; other fees charged, and
3 necessary expenses incurred in connection with the initial occupancy
4 of the project[.]; and the cost of such other items as may be reasonable
5 and necessary for the development of a project; as well as provision or
6 reserves for working capital, operating or maintenance or replacement
7 expenses, or for payment or security of principal of, or interest on,
8 bonds. [The commissioner's approval of estimated project cost in
9 accordance with section 6 of this act shall include his approval, which
10 shall be conclusive, as to the reasonableness or necessity of any item
11 of cost and as to the reasonableness of any period of time in respect of
12 which interest, start-up, operation and maintenance costs have
13 included in project costs.]

14 (cf: P.L.1972, c.29, s.3)

15

16 4. Section 4 of P.L.1972, c.29 (C.26:2I-4) is amended to read as
17 follows:

18 4. a. There is hereby established in the [State] Department of
19 Health and Senior Services, a public body corporate and politic, with
20 corporate succession, to be known as the "New Jersey [Health-Care]
21 Health Care Facilities Financing Authority." The authority shall
22 constitute a political subdivision of the State established as an
23 instrumentality exercising public and essential governmental functions,
24 and the exercise by the authority of the powers conferred by this act
25 shall be deemed and held to be an essential governmental function.

26 b. The authority shall consist of seven members, three of whom
27 shall be the commissioner, who shall be the chairman, the
28 Commissioner of Banking and Insurance, and the Commissioner of
29 [the Department of Institutions and Agencies] Human Services, who
30 shall serve during their terms of office, or when so designated by them,
31 their deputies or other representatives, who shall serve at their
32 pleasure, and four public members who are citizens of the State to be
33 appointed by the Governor, with the advice and consent of the Senate
34 for terms of [4] four years; provided that the four members first
35 appointed by the Governor shall serve terms expiring on the first,
36 second, third, and fourth, respectively, April 30 ensuing after the
37 enactment of this act. Each member shall hold office for the term of
38 his appointment and until his successor shall have been appointed and
39 qualified. Any vacancy among the public members shall be filled by
40 appointment for the unexpired term only.

41 c. Any member of the authority appointed by the Governor may be
42 removed from office by the Governor for cause after a public hearing.

43 d. The members of the authority shall serve without compensation,
44 but the authority may reimburse its members for necessary expenses
45 incurred in the discharge of their official duties.

46 e. The authority, upon the first appointment of its members and

1 thereafter on or after April 30 in each year, shall annually elect from
2 among its members a vice chairman who shall hold office until April
3 30 next ensuing and shall continue to serve during the term of his
4 successor and until his successor shall have been appointed and
5 qualified. The authority may also appoint, retain and employ, without
6 regard to the provisions of Title 11, Civil Service, of the Revised
7 Statutes, such officers, agents, and employees as it may require, and
8 it shall determine their qualifications, terms of office, duties, services
9 and compensation.

10 f. The powers of the authority shall be vested in the members
11 thereof in office from time to time and a majority of the total
12 authorized membership of the authority shall constitute a quorum at
13 any meeting thereof. Action may be taken and motions and resolutions
14 adopted by the authority at any meeting thereof by the affirmative vote
15 of a majority of the members present, unless in any case the bylaws of
16 the authority shall require a larger number. No vacancy in the
17 membership of the authority shall impair the right of a quorum to
18 exercise all the rights and perform all the duties of the authority.

19 g. Each member and the treasurer of the authority shall execute a
20 bond to be conditioned upon the faithful performance of the duties of
21 such member or treasurer, as the case may be, in such form and
22 amount as may be prescribed by the Attorney General. Such bonds
23 shall be filed in the office of the Secretary of State. At all times
24 thereafter the members and treasurer of the authority shall maintain
25 such bonds in full force and effect. All costs of such bonds shall be
26 borne by the authority.

27 h. No trustee, director, officer or employee of a [hospital] health
28 care organization may serve as a member of the authority.

29 i. At least two true copies of the minutes of every meeting of the
30 authority shall be forthwith delivered by and under the certification of
31 the secretary thereof, to the Governor. No action taken at such
32 meeting by the authority shall have force or effect until 10 days,
33 exclusive of Saturdays, Sundays and public holidays, after such copies
34 of the minutes shall have been so delivered or at such earlier time as
35 the Governor shall sign a statement of approval thereof. If, in said
36 10-day period, the Governor returns a copy of the minutes with veto
37 of any action taken by the authority or any member thereof at such
38 meeting, such action shall be null and of no effect. If the Governor
39 shall not return the minutes within said 10-day period, any action
40 therein recited shall have force and effect according to the wording
41 thereof. At any time prior to the expiration of the said 10-day period,
42 the Governor may sign a statement of approval of all or any such
43 action of the authority.

44 The powers conferred in this subsection upon the Governor shall be
45 exercised with due regard for the rights of the holders of bonds of the
46 authority at any time outstanding.

1 (cf: P.L.1972, c.29, s.4)

2

3 5. Section 5 of P.L.1972, c.29 (C.26:2I-5) is amended to read as
4 follows:

5 5. Powers of authority. The authority shall have power:

6 a. To adopt bylaws for the regulation of its affairs and the conduct
7 of its business and to alter and revise such bylaws from time to time at
8 its discretion.

9 b. To adopt and have an official seal and alter the same at pleasure.

10 c. To maintain an office at such place or places within the State as
11 it may designate.

12 d. To sue and be sued in its own name.

13 e. To borrow money and to issue bonds of the authority and to
14 provide for the rights of the holders thereof as provided in this act.

15 f. To acquire, lease as lessee or lessor, hold and dispose of real and
16 personal property or any interest therein, in the exercise of its powers
17 and the performance of its duties under this act.

18 g. To acquire in the name of the authority by purchase or
19 otherwise, on such terms and conditions and in such manner as it may
20 deem proper, any land or interest therein and other property which it
21 may determine is reasonably necessary for any project; and to hold and
22 use the same and to sell, convey, lease or otherwise dispose of
23 property so acquired, no longer necessary for the authority's purposes,
24 for fair consideration after public notice.

25 h. To receive and accept, from any federal or other public agency
26 or governmental entity directly or through the Department of Health
27 and Senior Services or any other agency of the State or any
28 [participating hospital] health care organization, grants or loans for or
29 in aid of the acquisition or construction of any project, and to receive
30 and accept aid or contributions from any other source, of either
31 money, property, labor or other things of value, to be held, used and
32 applied only for the purposes for which such grants, loans and
33 contributions may be made.

34 i. To prepare or cause to be prepared plans, specifications, designs
35 and estimates of costs for the construction and equipment of [hospital]
36 health care organization projects for [participating hospitals] health
37 care organizations under the provisions of this act, and from time to
38 time to modify such plans, specifications, designs or estimates.

39 j. By contract or contracts with and for [participating hospitals]
40 health care organizations only, to construct, acquire, reconstruct,
41 rehabilitate and improve, and furnish and equip [hospital] health care
42 organization projects. The authority, in the exercise of its authority to
43 make and enter into contracts and agreements necessary or incidental
44 to the performance of its duties and the execution of its powers, shall
45 adopt standing rules and procedures providing that, except as
46 hereinafter provided, no contract on behalf of the authority shall be

1 entered into for the doing of any work, or for the hiring of equipment
2 or vehicles, where the sum to be expended exceeds the sum of
3 \$7,500.00 or the amount determined as provided in this subsection,
4 unless the authority shall first publicly advertise for bids therefor, and
5 shall award the contract to the lowest responsible bidder; provided,
6 however, that such advertising shall not be required where the contract
7 to be entered into is one for the furnishing or performing of services
8 of a professional nature or for the supplying of any product or the
9 rendering of any service by a public utility subject to the jurisdiction
10 of the Board of Public Utilities, and tariffs and schedules of the
11 charges, made, charged, or exacted by the public utility for any such
12 products to be supplied or services to be rendered are filed with said
13 board. The Governor, in consultation with the Department of the
14 Treasury, shall, no later than March 1 of each odd-numbered year,
15 adjust the threshold amount set forth in this subsection, or subsequent
16 to 1985 the threshold amount resulting from any adjustment under this
17 subsection or section 17 of P.L.1985, c.469, in direct proportion to
18 the rise or fall of the Consumer Price Index for all urban consumers in
19 the New York City and the Philadelphia areas as reported by the
20 United States Department of Labor. The Governor shall, no later than
21 June 1 of each odd-numbered year, notify the authority of the
22 adjustment. The adjustment shall become effective July 1 of each
23 odd-numbered year.

24 k. To determine the location and character of any project to be
25 undertaken, subject to the provisions of this act, and subject to State
26 health and environmental laws, to construct, reconstruct, maintain,
27 repair, lease as lessee or lessor, and regulate the same and operate the
28 same in the event of default by a [participating hospital] health care
29 organization of its obligations and agreements with the authority; to
30 enter into contracts for any or all such purposes; and to enter into
31 contracts for the management and operation of a project in the event
32 of default as herein provided. The authority shall use its best efforts
33 to conclude its position as an operator as herein provided as soon as
34 is practicable.

35 l. To establish rules and regulations for the use of a project or any
36 portion thereof and to designate a [participating hospital] health care
37 organization as its agent to establish rules and regulations for the use
38 of a project undertaken by such a [participating hospital] health care
39 organization.

40 m. Generally to fix and revise from time to time and to charge and
41 collect rates, rents, fees and other charges for the use of and for the
42 services furnished or to be furnished by a project or any portion
43 thereof and to contract with holders of its bonds and with any other
44 person, party, association, corporation or other body, public or
45 private, in respect thereof[, subject to the provisions of the "Health
46 Care Facilities Planning Act," P.L.1971, c.136 (C.26:2H-1 et seq.)].

1 n. To enter into agreements, credit agreements or contracts,
2 execute any and all instruments, and do and perform any and all acts
3 or things necessary, convenient or desirable for the purposes of the
4 authority or to carry out any power expressly given in this act.

5 o. To invest any moneys held in reserve or sinking funds, or any
6 moneys not required for immediate use or disbursement, at the
7 discretion of the authority, in such obligations as are authorized by
8 resolution of the authority.

9 p. To obtain, or aid in obtaining, from any department or agency
10 of the United States any insurance or guarantee as to, or of, or for the
11 payment or repayment of interest or principal, or both, or any part
12 thereof, on any loan or any instrument evidencing or securing the
13 same, made or entered into pursuant to the provisions of this act; and
14 notwithstanding any other provisions of this act, to enter into
15 agreement, contract or any other instrument whatsoever with respect
16 to any such insurance or guarantee, and accept payment in such
17 manner and form as provided therein in the event of default by the
18 borrower.

19 q. To obtain from any department or agency of the United States
20 or a private insurance company any insurance or guarantee as to, or of,
21 or for the payment or repayment of interest or principal, or both, or
22 any part thereof, on any bonds issued by the authority pursuant to the
23 provisions of this act; and notwithstanding any other provisions of this
24 act, to enter into any agreement, contract or any other instrument
25 whatsoever with respect to any such insurance or guarantee, except to
26 the extent that such action would in any way impair or interfere with
27 the authority's ability to perform and fulfill the terms of any agreement
28 made with the holders of the bonds of the authority.

29 r. To receive and accept, from any department or agency of the
30 United States or of the State or from any other entity, any grant,
31 appropriation or other moneys to be used for or applied to any
32 corporate purpose of the authority, including without limitation the
33 meeting of debt service obligations of the authority in respect of its
34 bonds.

35 (cf: P.L.1985, c.469, s.2)

36
37 6. Section 10 of P.L.1972, c.29 (C.26:2I-10) is amended to read
38 as follows:

39 10. The authority is authorized to fix, revise, charge and collect
40 rates, rents, fees and charges for the use of and for the services
41 furnished or to be furnished by each project and to contract with any
42 person, partnership, association or corporation, or other body, public
43 or private, in respect thereof. Such rates, rents, fees and charges shall
44 be fixed and adjusted in respect of the aggregate of rents, rates, fees
45 and charges from such project so as to provide funds sufficient with
46 other revenues or moneys, if any:

1 a. To pay the cost of maintaining, repairing and operating the
2 project and each and every portion thereof, to the extent that the
3 payment of such cost has not otherwise been adequately provided for.

4 b. To pay the principal of and the interest on outstanding bonds of
5 the authority issued in respect of such project as the same shall
6 become due and payable; and

7 c. To create and maintain reserves required or provided for in any
8 resolution authorizing, or trust agreement securing, such bonds of the
9 authority.

10 Such rates, rents, fees and charges shall not be subject to
11 supervision or regulation by any department, commission, board, body,
12 bureau or agency of this State other than the authority [and the
13 provisions of the Health Care Facilities Planning Act, P.L.1971, c.136
14 (C.26:2H-1 et seq.)]. A sufficient amount of the revenues derived in
15 respect of a project, except such part of such revenues as may be
16 necessary to pay the cost of maintenance, repair and operation and to
17 provide reserves for renewals, replacements, extensions, enlargements
18 and improvements as may be provided for in the resolution authorizing
19 the issuance of any bonds of the authority or in the trust agreement
20 securing the same, shall be set aside at such regular intervals as may
21 be provided in such resolution or trust agreement in a sinking or other
22 similar fund which is hereby pledged to, and charged with, the
23 payment of the principal of and the interest on such bonds as the same
24 shall become due, and the redemption price or the purchase price of
25 bonds retired by call or purchase as therein provided. Such pledge
26 shall be valid and binding from the time when the pledge is made; the
27 rates, rents, fees and charges and other revenues or other moneys or
28 securities so pledged and thereafter received by the authority shall
29 immediately be subject to the lien of such pledge without any physical
30 delivery thereof or further act, and the lien of any such pledge shall be
31 valid and binding as against all parties having claims of any kind in
32 tort, contract or otherwise against the authority, irrespective of
33 whether such parties have notice thereof. Neither the resolution nor
34 any trust agreement by which a pledge is created need be filed or
35 recorded except in the records of the authority. The use and
36 disposition of moneys to the credit of such sinking or other similar
37 fund shall be subject to the provisions of the resolution authorizing the
38 issuance of such bonds or of such trust agreement. Except as may
39 otherwise be provided in such resolution or such trust agreement, such
40 sinking or other similar fund shall be a fund for all such bonds issued
41 to finance projects of a [participating hospital] health care
42 organization without distinction or priority of one over another;
43 provided the authority in any such resolution or trust agreement may
44 provide that such sinking or other similar fund shall be the fund for a
45 particular project at a [participating hospital] health care organization
46 and for the bonds issued to finance a particular project and may,

1 additionally, permit and provide for the issuance of bonds having a
2 subordinate lien in respect of the security herein authorized to other
3 bonds of the authority and, in such case, the authority may create
4 separate sinking or other similar funds in respect to such subordinate
5 lien bonds.

6 (cf: P.L.1972, c.29, s.10)

7

8 7. Section 17 of P.L.1972, c.29 (C.26:2I-17) is amended to read
9 as follows:

10 17. The State of New Jersey does pledge to and agree with the
11 holders of the bonds issued pursuant to authority contained in this act,
12 and with those parties who may enter into contracts with the authority
13 pursuant to the provisions of this act, that the State will not limit, alter
14 or restrict the rights hereby vested in the authority and the
15 [participating hospital] health care organization to maintain, construct,
16 reconstruct and operate any project as defined in this act or to
17 establish and collect such rents, fees, receipts or other charges as may
18 be convenient or necessary to produce sufficient revenues to meet the
19 expenses of maintenance and operation thereof and to fulfill the terms
20 of any agreements made with the holders of bonds authorized by this
21 act, and with the parties who may enter into contracts with the
22 authority pursuant to the provisions of this act, or in any way impair
23 the rights or remedies of the holders of such bonds or such parties
24 until the bonds, together with interest thereon, are fully paid and
25 discharged and such contracts are fully performed on the part of the
26 authority. The authority as a public body corporate and politic shall
27 have the right to include the pledge herein made in its bonds and
28 contracts.

29 (cf: P.L.1972, c.29, s.17)

30

31 8. Section 21 of P.L.1972, c.29 (C.26:2I-21) is amended to read
32 as follows:

33 21. The Department of Health and Senior Services, or the
34 commissioner or their representatives, may visit, examine into and
35 inspect, the authority and may require, as often as desired, duly
36 verified reports therefrom giving such information and in such form as
37 such department or commissioner shall prescribe.

38 (cf: P.L.1971, c.29, s.21)

39

40 9. Section 23 of P.L.1972, c.29 (C.26:2I-23) is amended to read
41 as follows:

42 23. In order to provide new [hospitals] health care organizations
43 and to enable the construction and financing thereof, to refinance
44 indebtedness hereafter created by the authority for the purpose of
45 providing [a hospital or hospitals] one or more health care
46 organizations or additions or improvements thereto or modernization

1 thereof or for any one or more of said purposes but for no other
2 purpose unless authorized by law, each of the following bodies shall
3 have the powers hereafter enumerated to be exercised upon such terms
4 and conditions, including the fixing of fair consideration or rental to
5 be paid or received, as it shall determine by resolution as to such
6 property and each shall be subject to the performance of the duties
7 hereafter enumerated, that is to say, the [State] Department of Health
8 and Senior Services as to such as are located on land owned by, or
9 owned by the State and held for, any State institution or on lands of
10 the institutions under the jurisdiction of the [State] Department of
11 Health and Senior Services or of the [State] Department of
12 [Institutions and Agencies] Human Services, or by the authority, the
13 Commissioner of [the State Department of Institutions and Agencies]
14 Human Services as to State institutions operated by that department,
15 the board of trustees or governing body of any public [hospital] health
16 care organization, the board of trustees of the [College] University of
17 Medicine and Dentistry of New Jersey, as to such as are located on
18 land owned by [such college] the university, or by the State for [such
19 college] the university, the State or by the particular public [hospital]
20 health care organization, respectively, namely:

21 a. The power to sell and to convey to the authority title in fee
22 simple in any such land and any existing [hospital facilities] health care
23 facility thereon owned by the State and held for any department
24 thereof or of any of the institutions under the jurisdiction of the [State]
25 Department of Health and Senior Services or the power to sell and to
26 convey to the authority such title as the State or the public [hospital]
27 health care organization, respectively, may have in any such land and
28 any existing [hospitals] health care facility thereon.

29 b. The power to lease to the authority any land and any existing
30 [hospital facilities] health care facility thereon so owned for a term or
31 terms not exceeding 50 years each.

32 c. The power to lease or sublease from the authority, and to make
33 available, any such land and existing [hospitals] health care facility
34 conveyed or leased to the authority under subsections a. and b. of this
35 section, and any new [hospitals] health care facility erected upon such
36 land or upon any other land owned by the authority.

37 d. The power and duty, upon receipt of notice of any assignment
38 by the authority of any lease or sublease made under subsection c. of
39 this section, or of any of its rights under any such lease or sublease, to
40 recognize and give effect to such assignment, and to pay to the
41 assignee thereof rentals or other payments then due or which may
42 become due under any such lease or sublease which has been so
43 assigned by the authority.

44 (cf: P.L.1972, c.29, s.23)

45

46 10. Section 24 of P.L.1972, c.29 (C.26:2I-24) is amended to read

1 as follows:

2 24. In addition thereto the Commissioner of [the State Department
3 of Institutions and Agencies] Human Services as to institutions
4 operated by that department, the chief executive officer and the board
5 of trustees of other State institutions, and the board of trustees or
6 governing body of county and municipal public [hospitals] health care
7 organizations shall have the following powers and shall be subject to
8 the following duties as to their lands and [hospital] health care
9 facilities:

10 a. The power to pledge and assign all or any part of the revenues
11 derived from the operation of [such new hospitals] a health care
12 organization as security for the payment of rentals due and to become
13 due under any lease or sublease of [such] a new [hospitals] health care
14 facility as provided under subsection c. of [the preceding] section 23
15 of P.L.1972, c.29 (C.26:2I-23).

16 b. The power to covenant and agree in any lease or sublease of
17 such new [hospitals] health care facilities made under subsection c. of
18 [the preceding] section 23 of P.L.1972, c.29 (C.26:2I-23) to impose
19 fees, rentals or other charges for the use and occupancy or other
20 operation of such new [hospitals] health care facilities in an amount
21 calculated to produce net revenues sufficient to pay the rentals due and
22 to become due under such lease or sublease.

23 c. The power to apply all or any part of the revenues derived from
24 the operation of any [hospitals] health care organization to the
25 payment of rentals due and to become due under any lease or sublease
26 made under subsection c. of [the preceding] section 23 of P.L.1972,
27 c.29 (C.26:2I-23).

28 d. The power to pledge and assign all or any part of the revenues
29 derived from the operation of any [hospitals] health care organization
30 to the payment of rentals due and to become due under any lease or
31 sublease made under subsection c. of [the preceding] section 23 of
32 P.L.1972, c.29 (C.26:2I-23).

33 e. The power to covenant and agree in any lease or sublease made
34 under subsection c. of [the preceding] section 23 of P.L.1972, c.29
35 (C.26:2I-23) to impose fees, rentals or other charges for the use and
36 occupancy of a health care facility or [other] for the operation of [any
37 hospitals] a health care organization in an amount calculated to
38 produce net revenues sufficient to pay the rentals due and to become
39 due under such lease or sublease.

40 (cf: P.L.1972, c.29, s.24)

1 11. Section 25 of P.L.1972, c.29 (C.26:2I-25) is amended to read
2 as follows:

3 25. In addition to the powers and duties with respect to [hospitals]
4 health care organizations given under sections 23 and 24 of P.L.1972,
5 c.29 (C.26:2I-23 and C.26:2I-24, respectively), the board of trustees
6 or governing body of any State institution or public [hospital] health
7 care organization and the board of trustees of the [College] University
8 of Medicine and Dentistry of New Jersey shall also have the same
9 powers and be subject to the same duties in relation to any
10 conveyance, lease or sublease made under subsections a., b., or c. of
11 section 24 of P.L.1972, c.29 (C.26:2I-24), with respect to revenue
12 producing facilities; that is to say, structures or facilities which
13 produce revenues sufficient to pay the rentals due and to become due
14 under any lease or sublease made under subsection c. of section 24 of
15 P.L.1972, c.29 (C.26:2I-24), including, without limitation, extended
16 care and parking facilities.

17 (cf: P.L.1972, c.29, s.25)

18

19 12. Section 27 of P.L.1972, c.29 (C.26:2I-27) is amended to read
20 as follows:

21 27. To the extent not otherwise expressly provided under existing
22 law, all powers and duties conferred upon any State institution or the
23 [College] University of Medicine and Dentistry of New Jersey or any
24 county, city or municipal [hospital] health care organization pursuant
25 to this act shall be exercised and performed by resolution of its
26 governing body and all powers and duties conferred upon any of [said
27 hospitals] these health care organizations pursuant to this act shall be
28 exercised and performed by resolution of its board of trustees or
29 governing body.

30 (cf: P.L.1972, c.29, s.27)

31

32 13. Section 28 of P.L.1972, c.29 (C.26:2I-28) is amended to read
33 as follows:

34 28. In addition to the foregoing powers, the authority with respect
35 to [private hospitals] health care organizations shall have power[, but
36 only upon approval by the commissioner of a regulatory agreement
37 with such private hospital and subject to the terms and conditions of
38 such agreement; and provided that no project will be undertaken
39 pursuant to this act without the prior issuance of a certificate of need
40 pursuant to P.L.1971, c.136 (C.26:2H-1 et seq.)]:

41 a. Upon application of the [participating hospital] health care
42 organization to construct, acquire or otherwise provide projects for
43 the use and benefit of the [participating hospital] health care
44 organization and the patients, employees and staff of [such
45 participating hospital] the health care organization. The [participating
46 hospital] health care organization for which such a project is

1 undertaken by the authority shall approve the plans and specifications
2 of such project.

3 b. To operate and manage any project provided pursuant to this
4 section, or the authority may lease any such project to the
5 [participating hospital] health care organization for which such project
6 is provided. At such time as the liabilities of the authority incurred for
7 any such project have been met and the bonds of the authority issued
8 therefor have been paid, or such liabilities and bonds have otherwise
9 been discharged, the authority shall transfer title to all the real and
10 personal property of such project vested in the authority, to the
11 [participating hospital] health care organization in connection with
12 which such project is then being operated, or to which such project is
13 then leased; provided, however, that if at any time prior thereto [such
14 participating hospital] the health care organization ceases to offer
15 [hospital or] health services, then such title shall vest in the State of
16 New Jersey.

17 Any lease of a project authorized by this section shall be a general
18 obligation of the lessee and may contain provisions, which shall be a
19 part of the contract with the holders of the bonds of the authority
20 issued for such project, as to:

21 (i) pledging all or any part of the moneys, earnings, income and
22 revenues derived by the lessee from such project or any part or parts
23 thereof, or other personal property of the lessee, to secure payments
24 required under the terms of such lease;

25 (ii) the rates, rentals, fees and other charges to be fixed and
26 collected by the lessee, the amounts to be raised in each year thereby,
27 and the use and disposition of such moneys, earning, income and
28 revenues;

29 (iii) the setting aside of reserves and the creation of special funds
30 and the regulation and disposition thereof;

31 (iv) the procedure, if any, by which the terms of such lease may be
32 amended;

33 (v) vesting in a trustee or trustees such specified properties, rights,
34 powers and duties as shall be deemed necessary or desirable for the
35 security of the holders of the bonds of the authority issued for such
36 projects;

37 (vi) the obligations of the lessee with respect to the replacement,
38 reconstruction, maintenance, operation, repairs and insurance of such
39 project;

40 (vii) defining the acts or omissions to act which shall constitute a
41 default in the obligations and duties of the lessee, and providing for the
42 rights and remedies of the authority and of its bondholders in the event
43 of such default;

44 (viii) any other matters, of like or different character, which may
45 be deemed necessary or desirable for the security or protection of the
46 authority or the holders of its bonds.

1 (cf: P.L.1972, c.29, s.28)

2

3 14. Section 29 of P.L.1972, c.29 (C.26:2I-29) is amended to read
4 as follows:

5 29. The authority also shall have power:

6 a. To make loans to any [private hospital] health care organization
7 for the construction or acquisition of projects in accordance with a
8 loan agreement [and plans and specifications approved by the
9 authority]. No such loan shall exceed the total cost of such project [as
10 determined and approved by the authority]. Each such loan shall be
11 promised upon an agreement between the authority and the [private
12 hospital] health care organization as to payment, security, maturity,
13 redemption, interest and other appropriate matters.

14 b. To make loans to any [private hospital] health care organization
15 to refund existing bonds, mortgages or advances given or made by
16 [such private hospital] the health care organization for the
17 construction of projects to the extent that this will enable [such private
18 hospital] the health care organization to offer greater security for loans
19 for new project construction.

20 (cf: P.L.1972, c.29, s.29)

21

22 15. Section 30 of P.L.1972, c.29 (C.26:2I-30) is amended to read
23 as follows:

24 30. For the purpose of obtaining and securing loans under section
25 29 of P.L.1972, c.29 (C.26:2I-29), every [private hospital] health care
26 organization shall have power to mortgage and pledge any of its real
27 or personal property, and to pledge any of its income from whatever
28 source to repay the principal of and interest on any loan made to it by
29 the authority or to pay the interest on and principal and redemption
30 premium, if any, of any bond or other evidence of indebtedness
31 evidencing the debt created by any such loan; provided that the
32 foregoing shall not be construed to authorize actions in conflict with
33 specific legislation, trusts, endowment, or other agreements relating to
34 specific properties or funds.

35 (cf: P.L.1972, c.29, s.30)

36

37 16. Section 31 of P.L.1972, c.29 (C.26:2I-31) is amended to read
38 as follows:

39 31. Moneys of the authority received from any [private hospital]
40 health care organization in payment of any sum due to the authority
41 pursuant to the terms of any loan or other agreement or any bond,
42 note or other evidence of indebtedness, shall be deposited in an
43 account in which only moneys received from [private hospitals] health
44 care organizations shall be deposited and shall be kept separate and
45 apart from and not commingled with any other moneys of the
46 authority. Moneys deposited in such account shall be paid out on

1 checks signed by the chairman of the authority or by such other person
2 or persons as the authority may authorize, and countersigned by one
3 other member of the authority.

4 (cf: P.L.1972, c.29, s.31)

5

6 17. Section 32 of P.L.1972, c.29 (C.26:2I-32) is amended to read
7 as follows:

8 32. a. Whenever the authority under section 28 of P.L.1972, c.29
9 (C.26:2I-28) undertakes to construct, acquire or otherwise provide
10 and operate and manage a project, the authority shall be responsible
11 for the direct operation and maintenance costs of such projects, but
12 each [private hospital] health care organization in connection with
13 which such a project is provided and operated and managed shall be
14 responsible at its own expense for the overall supervision of each
15 project, for the overhead and general administrative costs of the
16 [private hospital] health care organization which are incurred because
17 of such project and for the integration of each project operation into
18 the [institution's hospital] health care organization's health care
19 program.

20 b. Whenever the authority under section 28 of P.L.1972, c.29
21 (C.26:2I-28) undertakes to construct, acquire or otherwise provide a
22 project and to lease the same to a [private hospital] health care
23 organization, the lessee shall be responsible for the direct operation
24 and maintenance costs of such project and, in addition, shall be
25 responsible for the overall supervision of each project, for the
26 overhead and general administrative costs of the lessee which are
27 incurred because of such project and for the integration of each project
28 operation into the lessee's [hospital] health care program.

29 c. Whenever the authority under section 29 of P.L.1972, c.29
30 (C.26:2I-29) makes loans for the construction of a project, the [private
31 hospital] health care organization at which such project is located shall
32 be responsible for the direct operation and maintenance costs of such
33 project and, in addition, shall be responsible for the overall supervision
34 of each project, for the overhead and general administrative costs of
35 the [private hospital] health care organization which are incurred
36 because of such project and for the integration of each project
37 operation into the [institution's hospital] health care organization's
38 health care program.

39 (cf: P.L.1972, c.29, s.32)

40

41 18. Section 33 of P.L.1972, c.29 (C.26:2I-33) is amended to read
42 as follows:

43 33. Any pledge of moneys, earnings, income or revenues
44 authorized with respect to [private hospitals] health care
45 organizations, pursuant to the provisions of this act, shall be valid and
46 binding from the time when the pledge is made. The moneys, earnings,

1 income or revenues so pledged and thereafter received by the pledgor
2 shall immediately be subject to the lien of such pledge without any
3 physical delivery thereof or further act. The lien of any such pledge
4 shall be valid and binding as against all parties having claims of any
5 kind in tort, contract or otherwise against the pledgor irrespective of
6 whether such parties have notice thereof. No instrument by which
7 such a pledge is created need be filed or recorded in any manner.

8 (cf: P.L.1972, c.29, s.33)

9
10 19. Section 34 of P.L.1972, c.29 (C.26:2I-34) is amended to read
11 as follows:

12 34. a. Whenever any [public or private hospital] health care
13 organization has constructed or acquired any work or improvement
14 which would otherwise qualify as a project under the preceding
15 portions of this act except for the fact that such construction or
16 acquisition was undertaken and financed without assistance from the
17 authority, the authority may purchase such work or improvement, and
18 lease the same to [such hospital] the health care organization, or may
19 lend funds to [such hospital] the health care organization for the
20 purpose of enabling the latter to retire obligations incurred for such
21 construction or acquisition, provided that the amount of any such
22 purchase price or loan shall not exceed the project cost as herein
23 defined, irrespective of such work or improvement. All powers,
24 rights, obligations and duties granted to or imposed upon the
25 authority, [hospitals] health care organizations, State departments and
26 agencies or others by this act in respect to projects shall apply to the
27 same extent with respect to transactions authorized by this section,
28 provided that any action otherwise required to be taken at a particular
29 time in the progression of a project may, where the circumstances so
30 required in connection with a transaction under this section be taken
31 nunc pro tunc.

32 b. Acquisition of [hospital] health care facilities from counties or
33 municipalities. Notwithstanding the provisions of any law to the
34 contrary, the authority may authorize the acquisition, and any county
35 or municipality by resolution or ordinance may authorize a private sale
36 and conveyance or leasing to the authority, of any interest of the
37 county or municipality in any lands and existing [hospital] health care
38 facilities which are then being operated by a [private or public
39 hospital] health care organization upon such terms and conditions as
40 may be agreed upon by the authority and the county and municipality.
41 The authority may use its funds for the acquisition by providing for
42 the retirement of obligations incurred for the acquisition of the land,
43 and for the acquisition and construction of the existing [hospital]
44 health care facilities, provided that the amount of the purchase price
45 shall not exceed the project costs. Upon acquisition of the lands and
46 existing [hospital] health care facilities, the authority may convey or

1 lease the lands and existing [hospital] health care facilities to a
2 [participating hospital] health care organization under such terms and
3 conditions as the authority and [participating hospital] health care
4 organization may agree.

5 (cf: P.L.1984, c.217, s.1)

6
7 20. Section 38 of P.L.1972, c.29 (C.26:2I-38) is amended to read
8 as follows:

9 38. All laws, or parts thereof, inconsistent with this act are hereby
10 declared to be inapplicable to the provisions of this act, except as
11 otherwise provided[, and provided that no project shall be constructed
12 pursuant to this act which does not comply with the Health Care
13 Facilities Planning Act, P.L.1971, c.136 (C.26:2H-1, et seq.)].

14 (cf: P.L.1972, c.29, s.38)

15
16 ¹21. (New section) The provisions of P.L.1972, c.29 (C.26:2I-1
17 et seq.) shall not be construed to require a health care organization as
18 defined in section 3 of P.L.1972, c.29 (C.26:2I-3) which is seeking to
19 finance a project^{2, 2} to obtain financing from the New Jersey Health
20 Care Facilities Financing Authority.¹

21
22 ¹22. (New section) ²[Notwithstanding the provisions of P.L.1972,
23 c.29 (C.26:2I-1 et seq.) to the contrary, nothing in that act shall be
24 construed to provide the New Jersey Health Care Facilities Financing
25 Authority with greater authority to finance a project undertaken by a
26 for-profit health care organization than the New Jersey Economic
27 Development Authority has under P.L.1974, c.80 (C.34:1B-1 et
28 seq.).¹ ³[The authority shall not enter into a credit agreement with a
29 health care organization that does not qualify as a nonprofit entity
30 under Title 15A of the New Jersey Statutes unless: a. the borrowing
31 is a part of a larger plan of financing for an organization that qualifies
32 as a nonprofit entity, or b. the health care organization has provided
33 the authority with certification that it has sought financing directly
34 from a banking institution or other licensed lending institution which
35 is not a government entity or authority, and in good faith, is unable to
36 obtain financing on terms acceptable to the borrower unless the
37 financing is completed through the authority.²] Notwithstanding the
38 provisions of P.L.1972, c.29 (C.26:2I-1 et seq.) to the contrary,
39 nothing in that act shall be construed to provide the New Jersey Health
40 Care Facilities Financing Authority with greater authority to finance
41 a project undertaken by a for-profit health care organization than the
42 New Jersey Economic Development Authority has under P.L.1974,
43 c.80 (C.34:1B-1 et seq.).³

44
45 ¹[21.] ^{23.}¹ Sections 6 and 26 of P.L.1972, c.29 (C.26:2I-6 and
46 C.26:2I-26, respectively) are repealed.

1 ¹[22.] 24.¹ This act shall take effect immediately.

2

3

4

5

6 Expands range of health care organizations and projects eligible for

7 New Jersey Health Care Facilities Financing Authority financing.