

CHAPTER 73

AN ACT concerning landfill reclamation improvement districts, amending and supplementing P.L.1995, c.173, amending N.J.S.40A:4-39, and repealing section 6 of P.L.1995, c.173 (C.40A:12A-55).

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

C.40A:12A-50a "Large Site Landfill Reclamation and Improvement Law."

1. P.L.1995, c.173 (C.40A:12A-50 et seq.) as amended and supplemented shall be known and may be cited as the "Large Site Landfill Reclamation and Improvement Law."

2. Section 1 of P.L.1995, c.173 (C.40:12A-50) is amended to read as follows:

C.40A:12A-50 Findings, declarations relative to landfill reclamation improvement districts.

1. a. The Legislature finds and declares that it is a public purpose and compelling State interest and is consistent with Article VIII, Section 3, paragraph 1 of the Constitution of this State to facilitate the redevelopment of large landfill sites in areas in need of redevelopment within municipalities that are attempting to create economic growth and thereby to promote job creation and economic development. Environmentally sound landfill reclamation is essentially a "capping" process, and the development potential of a capped landfill is limited. The extensive landfill areas in some of the State's areas in need of redevelopment present major obstacles, both environmentally and financially, for the proper redevelopment of the economic potential of these areas, which makes it necessary to provide special financial and redevelopment tools for municipalities to address these obstacles.

b. The Legislature, therefore, determines that it is appropriate to enable municipalities to establish landfill reclamation improvement districts in areas in need of redevelopment comprising landfills of sufficient size to foster meaningful economic development and to provide municipalities with the appropriate tools for the reclamation and redevelopment of those districts.

c. The Legislature further determines that the proper remediation of extensive landfills and the redevelopment of large landfill sites are necessary to halt the decline in economic activity and the underemployment of economic resources in these areas, to reverse the deterioration of the value of previous investments in areas in need of redevelopment and of public revenue collections on those investments, and to eliminate the disincentive to new investment; and that the improvement of these large sites is vital to the safety, health and welfare of the residents of the municipalities in which they are located and to the State, and constitutes an important opportunity for enhancing the economic condition of the municipalities in which large site landfills are located and that of the State, by augmenting the fiscal resources of government and by stimulating private and public efforts to enhance the attractiveness and desirability of the State as a place to live and work.

d. Therefore, to foster this redevelopment, the Legislature further determines, in accordance with the New Jersey Constitution, including without limitation, Article VIII, Section 3, paragraph 1, that a municipality that has created a landfill reclamation improvement district may: (1) provide for a tax abatement within that district and for a payments in lieu of taxes agreement, in accordance with P.L. 1991, c.431 (C.40A:20-1 et seq.) and P. L.1995, c.173 (C.40A:12A-50 et seq.) and this amendatory and supplementary act, P.L.1996, c.73 (C.40A:12A-50a et al.); (2) levy special assessments on real property within that district in accordance with chapter 56 of Title 40 of the Revised Statutes, R.S. 40:56-1 et seq., and with P.L.1995, c.173 and this amendatory and supplementary act, P.L.1996, c.73 (C.40A:12A-50a et al.); and (3) secure revenue bonds, notes or other obligations with those payments in lieu of taxes and special assessments, and utilize these means to secure funds to effect landfill closures, remediation, redevelopment, and construction of infrastructure improvements which will benefit the public at large and which constitute an important public purpose.

e. The Legislature, further, determines that special financing problems exist with respect to the size or nature and extent of remediation and infrastructure improvements where the reclamation improvement district consists of a tract of land of at least 150 acres of which not less than 100 acres were formerly used as a landfill, and determines that the municipality, may, by ordinance, levy a franchise assessment for the privilege of transacting business within the district, which franchise assessment shall be used to compensate the municipality for loss of tax revenues

arising from assignment of payments in lieu of taxes or special assessments, or both, as security for bonds.

f. The Legislature, further, determines that it is appropriate to authorize the New Jersey Economic Development Authority established pursuant to P.L.1974, c.80 (C.34:1B-1 et seq.) or other instrumentality created by law with the power to incur debt and issue bonds and other obligations, as a conduit for municipalities, to issue and secure revenue bonds, notes or other obligations issued in accordance with P.L.1995, c.173 (C.40A:12A-50 et seq.) and this amendatory and supplementary act, P.L.1996, c.73 (C.40A:12A-50a et al.) with respect to financing or refinancing, without limitation, the site work, construction, reconstruction, repair, alteration, improvement, and development of any infrastructure or parking or transportation facilities or work that abates, prevents or reduces environmental pollution or other improvements that provide a public benefit within or appurtenant to a landfill reclamation improvement district.

3. Section 2 of P.L.1995, c.173 (C.40A:12A-51) is amended to read as follows:

C.40A:12A-51 Definitions used in C.40A:12A-50 et seq.

2. As used in P.L.1995, c.173 (C.40A:12A-50 et seq.) and this amendatory and supplementary act, P.L.1996, c.73 (C.40A:12A-50a et al.):

"Authority" means the New Jersey Economic Development Authority established pursuant to P.L.1974, c.80 (C.34:1B-1 et seq.) or other instrumentality created by law with the power to incur debt and issue bonds and other obligations.

"Bonds" mean bonds, notes or other obligations issued to finance projects by the authority pursuant to P.L.1995, c.173 (C.40A:12A-50 et seq.) and this amendatory and supplementary act, P.L.1996, c.73 (C.40A:12A-50a et al.).

"Municipality" means the municipal governing body or, if a redevelopment agency or redevelopment entity is established in the municipality pursuant to P.L.1992, c.79 (C.40A:12A-1 et seq.) and the municipality so provides, the redevelopment agency or entity so established.

"Redeveloper" means any person that enters or proposes to enter, pursuant to P.L.1995, c.173 (C.40A:12A-50 et seq.) and this amendatory and supplementary act, P.L.1996, c.73 (C.40A:12A-50a et al.) and the "Local Redevelopment and Housing Law," P.L.1992, c.79 (C.40A:12A-1 et seq.), into a redevelopment agreement with a municipality that has established a landfill reclamation improvement district.

"Redevelopment agreement" means a contract between a municipality and a redeveloper for any work or undertaking for the clearance, development and redevelopment, and the construction or rehabilitation of any commercial, industrial or public structures or improvements, landfill closure, remediation, or redevelopment, including, but not limited to, on-site and off-site infrastructure improvements, or rehabilitation of an area in need of redevelopment, or part thereof, under the provisions of P.L.1995, c.173 (C.40A:12A-50 et seq.) and this amendatory and supplementary act, P.L.1996, c.73 (C.40A:12A-50a et al.) and the "Local Redevelopment and Housing Law," P.L.1992, c.79 (C.40A:12A-1 et seq.), that provide a public benefit within a district undertaken pursuant to an ordinance creating a landfill reclamation improvement district pursuant to section 3 of P.L.1995, c.173 (C.40A:12A-52).

"Financial agreement" means an agreement that meets the requirements of a financial agreement under P.L.1991, c.431 (C.40A:20-1 et seq.).

"Franchise assessment" means: (1) a gross receipts assessment on the amount of the sale price of all tangible property sold by a business in a district, valued in money, whether received in money or otherwise, excluding the cost of transportation if such cost is separately stated in the written contract and excluding any tax imposed pursuant to the "Sales and Use Tax Act," P.L.1966, c.30 (C.54:32B-1 et seq.); (2) or a gross receipts assessment on all rental receipts from the rental of commercial property in a district; or (3) both (1) and (2), as imposed pursuant to section 4 of P.L.1995, c.173 (C.40A:12A-53), and this amendatory and supplementary act, P.L.1996, c.73 (C.40A:12A-50a et al.).

"Landfill reclamation improvement district" or "district" means a tract of land of at least 150 acres in size, which may consist of one or more tax lots, of which not less than 100 acres were formerly or are presently used as a landfill, which has been delineated a "redevelopment area" or "area in need of redevelopment" pursuant to the "Local Redevelopment and Housing Law" P.L.1992, c.79 (C.40A:12A-1 et seq.), and is an area which has been designated a landfill reclamation improvement district by a municipality pursuant to section 3 of P.L.1995, c.173

(C.40A:12A-52).

"Special assessment" means an assessment upon the lands or improvements on such lands, or both, in the landfill reclamation improvement district benefitted by improvements undertaken pursuant to P.L.1995, c.173 (C.40A:12A-50 et seq.) and this amendatory and supplementary act, P.L.1996, c.73 (C.40A:12A-50a et al.), assessed pursuant to chapter 56 of Title 40 of the Revised Statutes, R.S.40:56-1 et seq. except as otherwise provided in subsection b. of section 8 of this amendatory and supplementary act, P.L.1996, c.73 (C.40A:12A-56).

4. Section 3 of P.L.1995, c.173 (C.40A:12A-52) is amended to read as follows:

C.40A:12A-52 Creation of landfill reclamation improvement districts permitted.

3. A municipality in which there is a tract of land of at least 150 acres in size which may consist of one or more tax lots, of which not less than 100 acres were formerly or are presently used as a landfill which has been delineated a "redevelopment area" or "area in need of redevelopment" pursuant to the "Local Redevelopment and Housing Law" P.L.1992, c.79 (C.40A:12A-1 et seq.), may adopt an ordinance creating a landfill reclamation improvement district whenever the municipality determines that the closure and remediation of the landfill within the district and the proposed development of the property within the district will promote the health and general welfare of the residents of the municipality and the district. A municipality may create, by separate ordinances, more than one district. Any municipal redevelopment plan adopted by the municipality shall provide for the development of the property within the district in compliance with P.L.1995, c.173 (C.40A:12A-50 et seq.) and this amendatory and supplementary act, P.L.1996, c.73 (C.40A:12A-50a et al.).

5. Section 4 of P.L.1995, c.173 (C.40A:12A-53) is amended to read as follows:

C.40A:12A-53 Adoption of ordinance to levy, collect franchise assessment; purposes.

4. a. A municipality that has created a district pursuant to section 3 of P.L.1995, c.173 (C.40A:12A-52), in which there is an area designated as an urban enterprise zone in which the receipts of certain sales are exempt to the extent of 50% of the tax imposed under the "Sales and Use Tax Act," P.L.1966, c.30 (C.54:32B-1 et seq.), pursuant to section 21 of P.L.1983, c.303 (C.52:27H-80), may for the purpose of increasing public revenue adopt an ordinance to levy and collect, within the district, a franchise assessment not to exceed three percent of gross receipts and to devote the proceeds from those assessments to municipal purposes as provided in this section.

b. The rate of the franchise assessment shall be uniform throughout the district. The franchise assessment shall apply only within the territorial limits of the district and shall be in addition to any other assessments, taxes and excises.

c. The ordinance shall be a valid and binding ordinance of the municipality. The ordinance shall continue in force and effect until repealed by the governing body. The municipality may also provide and covenant by ordinance that the ordinance authorizing the franchise assessment will not be amended so as to repeal or reduce the franchise assessment while bonds issued pursuant to P.L.1995, c.173 (C.40A:12A-50 et seq.) and this amendatory and supplementary act, P.L.1996, c.73 (C.40A:12A-50a et al.) are outstanding, unless the resolution authorizing the bonds shall provide otherwise. Such covenant shall constitute a valid and legally binding contract between the municipality and bondholders.

d. No franchise assessment shall be imposed on gross receipts which the municipality or the State is prohibited from taxing under New Jersey law, or the Constitution and laws of the United States of America.

e. Upon adoption, the municipal clerk shall immediately transmit a copy of the ordinance to the Director of the Division of Local Government Services in the Department of Community Affairs and to the Director of the Division of Taxation in the Department of the Treasury. Every ordinance levying a franchise assessment pursuant to this section shall provide for reporting assessments due and for the collection thereof, and all franchise assessments pursuant to such an ordinance shall be remitted to the chief financial officer of the municipality. An ordinance levying a franchise assessment shall take effect only on the first day of any month in any year. The ordinance shall provide for the allocation and distribution of the proceeds of the franchise assessments collected; provided, however, that only such sums as are retained by the

municipality pursuant to the ordinance shall be included in the general funds of the municipality and all other franchise assessment proceeds shall be held in trust for the payment or reimbursement of costs or obligations incurred for the purposes of the district.

f. The ordinance shall set forth the person or persons subject to the franchise assessment payment and collection procedures, and any other matters deemed relevant by the municipality with the municipality having discretion as to the mechanism to be utilized. The ordinance shall also contain findings that the imposition of the franchise assessment is necessary because of the substantial risks undertaken to develop a landfill reclamation improvement district, and to offset loss of revenues by the municipality because of its assignment of payments in lieu of taxes.

g. The ordinance shall provide for the collection of the franchise assessment by an officer of the municipality who shall be designated in the ordinance; shall provide methods for enforcement; and may provide penalties for the violation of any of the provisions of the ordinance.

h. All revenues collected under the ordinance and retained by the municipality pursuant to this section shall be deposited in the general fund of the municipality and may be used for general municipal purposes, including the payment of salaries, construction, reconstruction, maintenance and repair of municipal buildings, installations and properties and for such other purposes as may be provided by existing ordinances or ordinances hereafter enacted for general municipal purposes.

C.40A:12A-53.1 Powers of municipality adopting franchise assessment ordinance.

6. For the purposes of the effective administration of the franchise assessment, a municipality adopting a franchise assessment ordinance shall have the power to:

a. Collect the franchise assessment, interest and penalties imposed by an ordinance adopted pursuant to section 4 of P.L.1995, c.173 (C.40A:12A-53) which shall from the time due be a debt of the person by whom payable to the municipality, recoverable in a court of competent jurisdiction in a civil action in the name of the municipality to be instituted within three years of the date due.

b. Authorize, as an additional remedy, the chief financial officer of the municipality to issue a certificate to the clerk of the Superior Court that any person is indebted under the ordinance in an amount stated in the certificate. Thereupon, the clerk to whom the certificate is issued shall immediately enter upon the record of documented judgments the name of the person, the address of the place of business where the franchise assessment liability was incurred, the amount of the debt so certified and the date of making of the entry. The making of the entry shall have the same force and effect as the entry of a documented judgment in the office of the clerk, and the chief financial officer of the municipality shall have all the remedies and may take all the proceedings for the collection of the debt which may be had or taken upon the recovery of a judgment in an action, but without prejudice to the person's right of appeal.

c. Provide that, if for any reason the franchise assessment is not paid when due, interest at the rate of 12% per annum on the amount of the franchise assessment due, and an additional penalty of one-half of 1% of the amount of the unpaid assessment for each month or fraction thereof during which the franchise assessment remains unpaid, shall be added and collected. When action is brought for the recovery of any franchise assessment, the person liable therefor shall, in addition, be liable for the costs of collection and the interest and penalties imposed.

Any aggrieved person may, within 90 days of the entry of the decision, order, finding, assessment or action of the chief financial officer of the municipality under this section, file an appeal in the Superior Court, upon payment of the amount stated by the chief financial officer to be due. The appeal provided by this section shall be the exclusive remedy available to any person for review of a determination of the chief financial officer with respect to a liability for the franchise assessment imposed.

7. Section 5 of P.L.1995, c.173 (C.40A:12A-54) is amended to read as follows:

C.40A:12A-54 Appropriation of franchise assessments; apportionment of retained amount.

5. Any portion of the aggregate franchise assessment collected annually by the municipality which is not appropriated or expended by the municipality for purposes of the district as such purposes are provided in the "Local Redevelopment and Housing Law," P.L.1992, c.79 (C.40A:12A-1 et seq.), but is retained by the municipality, shall be apportioned between the

municipality and the county in which the landfill reclamation improvement district is located, such that 90 percent of the retained franchise assessment collected in that year shall be retained by the municipality and 10 percent shall be transferred by the municipality to the county for use in economic development.

C.40A:12A-56 Provision for tax abatement, payments in lieu of taxes; special assessments.

8. a. A municipality that has created a landfill reclamation improvement district pursuant to section 3 of P.L.1995, c.173 (C.40A:12A-52) may provide for tax abatement within that district and for payments in lieu of taxes in accordance with the provisions of P.L.1991, c.431 (C.40A:20-1 et seq.); provided, however, that the provisions of section 12 of P.L.1991, c.431 (C.40A:20-12) establishing a minimum or maximum annual service charge and requiring staged increases in annual service charges over the term of the exemption period, and of section 13 of P.L.1991, c.431 (C.40A:20-13) permitting the relinquishment of status under that act, shall not apply to landfill reclamation improvement district projects.

b. In addition to, or in lieu of, the tax abatement provided for in subsection a. of this section, the municipality may provide by ordinance for one or more special assessments within the landfill reclamation improvement district in accordance with chapter 56 of title 40 of the Revised Statutes, R.S.40:56-1 et seq., provided, however, that the provisions of R.S.40:56-35 shall be applied so that if any installment of a special assessment shall remain unpaid for 30 days after the time at which it shall become due, the municipality may provide, by ordinance, either that: (1) the whole assessment or balance due thereon shall become and be immediately due; or, (2) any subsequent installments which would not yet have become due except for the default shall be considered as not in default and that the lien for the installments not yet due shall continue; and provided, further, that the ordinance may require that the assessments be payable in yearly installments, with legal interest thereon, over a period of years up to but in no event exceeding the period of years for which the bonds were issued, or for 30 years, whichever shall be less. In levying a special assessment on the lands or improvements, or both, located in the district, the municipality may provide that the amount of the special assessment shall be a specific amount, not to exceed the cost of the improvements, paid with respect to property located in the district. That specific amount shall, to the extent accepted by the owner of the property benefitted, be deemed the conferred benefit, in lieu of the amount being determined by the procedures otherwise applicable to determining the actual benefit conferred on the property. Special assessments levied pursuant to an ordinance adopted under this subsection shall constitute a municipal lien upon confirmation by the municipal governing body or by the court, under R.S.40:56-33.

c. Upon adoption, a copy of the ordinance shall be filed for public inspection in the office of the municipal clerk, and there shall be published in a newspaper, published or circulating in the municipality, a notice stating the fact and the date of adoption and the place where the ordinance is filed and a summary of the contents of the ordinance. The notice shall state that any action or proceeding of any kind or nature in any court questioning the validity or proper authorization of the ordinance or the actions authorized to be taken as set forth in the ordinance shall be commenced within 20 days after the publication of the notice. If no action or proceeding questioning the validity of the ordinance providing for tax abatement, special assessments or other actions authorized by the ordinance shall be commenced or instituted within 20 days after the publication of the notice, the county and the school district and all other municipalities within the county and all residents and taxpayers and owners of property therein shall be forever barred and foreclosed from instituting or commencing any action or proceeding in any court questioning the validity or enforceability of the ordinance or the validity or enforceability of acts authorized under the ordinance, and the ordinance and acts authorized by the ordinance shall be conclusively deemed to be valid and enforceable in accordance with their terms and tenor.

C.40A:12A-57 Application for issuance of negotiable bonds, obligations secured by payments in lieu of taxes, special assessments.

9. a. The municipality may, by resolution of the governing body, authorize the municipality to apply to the authority for the authority to issue negotiable bonds or other obligations secured by payments in lieu of taxes and special assessments. Bonds so issued shall be for the purpose of financing or refinancing the construction, reconstruction, repair, alteration, improvement, and development of any on-site or off-site infrastructure improvements, or parking or transportation

facilities, or work that reduces, abates or prevents environmental pollution, or other improvements that provide a public benefit within or to a landfill reclamation improvement district.

b. A municipality that has created a landfill reclamation improvement district pursuant to section 3 of P.L.1995, c.173 (C.40A:12A-52) may, by resolution of its governing body, enter into contracts with the authority relating to any project or projects for the purpose of financing or refinancing the construction, reconstruction, repair, alteration, improvement, and development of any on-site or off-site infrastructure improvements, or parking or transportation facilities, or work that reduces, abates or prevents environmental pollution, or other improvements that provide a public benefit within or to a landfill reclamation improvement district. A resolution so adopted shall contain findings and determinations of the governing body: (1) that the project will result in the closure and remediation of a landfill and create employment opportunities in the municipality; and, (2) that the contract with the authority is a necessary inducement to the undertaking of the project in that the contract makes the financing thereof feasible. The contract or contracts may provide for the assignment, for the benefit of bondholders, of all or any portion of payments in lieu of taxes and special assessments. A contract may be made and entered into for a term beginning currently or at some future or contingent date, and with or without consideration, and for a specified or unlimited time, and on any terms and conditions which may be requested by the municipality and as may be agreed to by the authority in conformity with its contracts with the holders of bonds, and shall be valid and binding on the municipality. The municipality is hereby authorized and directed to do and perform any contract so entered into by it and to provide for the discharge of any obligation thereunder in the same manner as other obligations of the municipality.

Any contract, and any instrument making or evidencing the same, may be pledged or assigned by the authority, with the consent of the municipality executing the contract, to secure its bonds and thereafter may not be modified except as provided by the terms of the instrument or by the terms of the pledge or assignment.

c. The payments in lieu of taxes and special assessments may be assigned directly to the authority or the trustee for the bonds as payment or security for the bonds. Notwithstanding any law to the contrary, the assignment shall be an absolute assignment of all the municipality's right, title, and interest in the payment in lieu of taxes and special assessments, or portion thereof, along with the rights and remedies provided to the municipality under the agreement including, but not limited to, the right of collection of payments due. Payments in lieu of taxes and special assessments shall not be included in the general funds of the municipality, nor shall they be subject to any laws regarding the receipt, deposit, investment or appropriation of public funds and shall retain such status notwithstanding enforcement of the payment or assessment by the municipality or assignee as provided herein. The municipality shall be a "person" within the meaning of that term as defined in section 3 of P.L.1974, c.80 (C.34:1B-3); and the purpose described in this section shall be a "project" within the meaning of that term as defined in section 3 of P.L.1974, c.80 (C.34:1B-3).

d. Notwithstanding the provisions of subsection g. of section 37 of P.L.1992, c.79 (C.40A:12A-37), the bonds and notes issued pursuant to this section shall be non-recourse obligations, and shall not be direct and general obligations of the municipality, and the municipality shall not be obligated to levy and collect a tax sufficient in an amount to pay the principal and interest on the bonds and notes when the same become due and payable. The provisions of the "Local Government Supervision Act (1947)," P.L.1947, c.151 (C.52:27BB-1 et seq.) shall not apply to any bonds or other obligations issued or authorized pursuant to this section and those bonds or other obligations shall not be considered gross debt of the municipality on any debt statement filed in accordance with the "Local Bond Law," N.J.S.40A:2-1, and the provisions of chapter 27 of Title 52 of the Revised Statutes shall not apply to such bonds.

e. The proceeds from the sale of the bonds and any funds provided by any department of the State, authority created by the State or bi-state authority, shall not require compliance with public bidding laws, including the "Local Public Contracts Law," P.L.1971, c.198 (C.40A:11-1 et seq.), or any other statute where the redeveloper shall undertake the landfill closure, remediation, redevelopment and construction of the infrastructure improvements. The use of these funds shall be subject to public accountability and oversight by the municipality or agency providing the funds.

C.40A:12A-58 Payments in lieu of taxes continuous lien; recording of ordinance; termination of lien.

10. a. Payments required to be made in accordance with an agreement for payments in lieu of taxes entered into under section 8 of this amendatory and supplementary act, P.L.1996, c.73 (C.40A:12A-56) shall be a continuous lien on the land against which the ordinance is recorded on and after the date of recordation of both the ordinance and the agreement, whether simultaneously or not, all subsequent payments in lieu of taxes thereunder, interest, penalties and costs of collection which thereafter fall due or accrue shall be added and relate back to and be a part of initial lien. Upon recordation of the ordinance and agreement, payments in lieu of taxes shall constitute a municipal lien within the meaning, and for all purposes, of law.

b. If revenue bonds or other obligations are issued by the authority in order to finance or refinance the construction, reconstruction, repair, alteration, improvement, and development of any infrastructure, or parking or transportation facilities, or work that reduces, abates or prevents environmental pollution, or other improvements that provide a public benefit within or to a landfill reclamation improvement district in accordance with section 9 of P.L.1996, c.73 (C.40A:12A-57), the municipality or the redeveloper may record, either simultaneously or at different times, any ordinance enacted by the municipality relating to the payment in lieu of taxes agreement or special assessments and, either simultaneously with the ordinance or at different times, a copy of the agreement or agreements. The ordinance, when recorded, shall contain a legend at the top of the front page substantially as follows:

"THIS ORDINANCE SECURES BONDS OR OTHER OBLIGATIONS ISSUED IN ACCORDANCE WITH THE PROVISIONS OF THE "LARGE SITE LANDFILL RECLAMATION AND IMPROVEMENT LAW" AND THE LIEN HEREOF IN FAVOR OF THE OWNERS OF SUCH BONDS OR OTHER OBLIGATIONS IS A MUNICIPAL LIEN SUPERIOR TO ALL OTHER NON-MUNICIPAL LIENS HEREAFTER RECORDED."

c. Notwithstanding any law to the contrary, upon recordation of both the ordinance and any accompanying agreement and upon the issuance of bonds or other obligations, the lien thereof shall be perfected for all purposes in accordance with law and the lien shall thereafter be superior to all non-municipal liens thereafter recorded or otherwise arising, without any additional notice, recording, filing, continuation filing or action, until the payment in full of the bonds or other obligations. The lien thereby established shall apply not only to the bonds and other obligations initially issued, but also to any refinancing or refunding thereof, as well as to any additional bonds and other obligations thereafter issued on a parity therewith in accordance with the provisions of the original documents securing the initial bonds and other obligations; provided, however, that in the event any ordinance or agreement is amended or supplemented in a way which increases the amount of payment in lieu of taxes or special assessments, the lien as to that increase shall be perfected and apply upon the recordation of the amended or supplemented ordinance and agreement (including the above-recited legend). Except as set forth in this section, no amendment or supplement to the ordinance or agreement thereafter recorded shall affect the perfection or priority of the lien established upon original recordation thereof.

d. Upon the final payment in full of any bonds or other obligations secured as provided in this section and section 9 of this amendatory and supplementary act, P.L.1996, c.73 (C.40A:12A-57), the lien established hereby shall terminate, and the municipality shall record a notice to that effect.

C.40A:12A-59 Payment in lieu of taxes may be secured by mortgage.

11. In lieu of the provisions of section 10 of P.L.1996, c.73 (C.40A:12A-50a et al.), the municipality may provide in the agreement that the payment in lieu of taxes, if any, is to be secured by a mortgage. In that event the mortgage may also be assigned and pledged to the repayment of the bonds authorized herein.

The assignment of any mortgage that secures a payment in lieu of taxes, if any, may also be an absolute assignment of all or part of the municipality's right, title, and interest in the mortgage and, to the extent assigned, any moneys realized from the foreclosure of the mortgaged property shall not be included in the general funds of the municipality.

After the bonds or other obligations are paid and no longer deemed to be outstanding, the assignment of the mortgage shall terminate.

C.40A:12A-60 Bonds exempt from taxation; exceptions.

12. All bonds issued pursuant to this act are hereby declared to be issued by a political subdivision of this State and for an essential public and governmental purpose and the bonds, and the interest thereon and the income therefrom, and all facility charges, funds, revenues and other moneys pledged or available to pay or secure the payment of the bonds, or interest thereon, shall at all times be exempt from taxation except for transfer inheritance and estate taxes.

C.40A:12A-61 Pledge, covenant, agreement with bond holders.

13. The State of New Jersey does hereby pledge to and covenant and agree with the holders of any bonds issued pursuant to this act that the State will not limit or alter the terms of any agreement, ordinance or resolution made in connection with the security for and the issuance and sale of any bonds, so as to in any way impair the rights or remedies of such holders, and will not modify in any way the exemption from taxation provided for in this act, until the bonds, together with interest thereon, with interest on any unpaid installments of interest, and all costs and expenses in connection with any action or proceeding by or on behalf of such holders, are fully met and discharged or provided for.

C.40A:12A-62 Severability.

14. If any section, subsection, clause or provision of this act shall be adjudged to be unconstitutional or ineffective in whole or in part, to the extent that it is not adjudged unconstitutional or is not ineffective, it shall be valid and effective and no other section, subsection, clause or provision of this act shall on account thereof be deemed invalid or ineffective, and the inapplicability or invalidity of any section, subsection, clause or provision of this act in any one or more instances or under any one or more circumstances shall not be taken to affect or prejudice in any way its applicability or validity in any other instance or under any other circumstance.

C.40A:12A-63 Bonds, notes, obligations presumed fully authorized, issued.

15. After issuance, pursuant to this act, all bonds, notes or other obligations shall be conclusively presumed to be fully authorized and issued by all courts and officers of this State, and any person shall be estopped from questioning their sale, execution or delivery.

16. N.J.S.40A:4-39 is amended to read as follows:

Anticipation of dedicated revenues.

40A:4-39. a. In the budget of any local unit, dedicated revenues anticipated during the fiscal year from any dog tax, dog license, revenues collected pursuant to N.J.S.18A:39-1.2, solid fuel license, sinking fund for term bonds, bequest, escheat, federal grant, motor vehicle fine dedicated to road repairs, relocation costs deposited into a revolving relocation assistance fund established pursuant to section 2 of P.L.1987, c.98 (C.20:4-4.1a), receipts from franchise assessments levied pursuant to section 4 of P.L.1995, c.173 (C.40A:12A-53) to be retained by the municipality and, subject to the prior written consent of the director, other items of like character when the revenue is not subject to reasonably accurate estimate in advance, may be included in said budget by annexing to said budget a statement in substantially the following form:

"The dedicated revenues anticipated during the year from (here insert one or more of the sources above, as the case may be) are hereby anticipated as revenue and are hereby appropriated for the purposes to which said revenue is dedicated by statute or other legal requirement."

b. Dedicated revenues included in accordance with this section shall be available for expenditure by the local unit as and when received in cash during the fiscal year. The inclusion of such dedicated revenues shall be subject to the approval of the director, who may require such explanatory statements or data in connection therewith as the director deems advisable for the information and protection of the public.

Repealer.

17. Section 6 of P.L.1995, c.173 (C.40A:12A-55) is repealed.

18. This act shall take effect immediately.

Approved July 22, 1996.