

CHAPTER 435

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

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

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

Title amended.

An act relating to the financing of health care facilities, equipment and services; creating the New Jersey Health Care Facilities Financing Authority and prescribing its powers and duties; authorizing the issuance of bonds and notes of the authority and providing for the terms and security thereof, and making an appropriation therefor.

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

C.26:2I-1 Declaration of serious public emergency relative to health care facilities.

1. It is hereby declared that a serious public emergency exists affecting the health, safety and welfare of the people of the State resulting from the fact that many health care facilities throughout the State are no longer adequate to meet the needs of modern health care. Inadequate and outmoded facilities deny to the people of the State the benefits of health care of the highest quality, efficiently and promptly provided at a reasonable cost. As a result, health care providers are restructuring their organizations, facilities and operations in order to develop integrated health care delivery systems capable of providing a full range of health care services in the most cost-effective manner.

It is the purpose of this act to ensure that all health care institutions have access to financial resources to improve the health and welfare of the citizens of the State. It is hereby declared to be the policy of the State to encourage the provision of modern, well-equipped health care facilities, and such provision is hereby declared to be a public use and purpose.

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

C.26:2I-3 Terms defined.

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

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

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

"Commissioner" means the Commissioner of Health and Senior Services.

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

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

"Integrated delivery system" means a group of legally affiliated health care organizations.

"Public health care organization" means a State, county or municipal health care organization.

"Project" or "health care organization project" means the acquisition, construction, improvement, renovation or rehabilitation of lands, buildings, fixtures, equipment and articles of personal property, or other tangible or intangible assets that are necessary or useful in the development, establishment or operation of a health care organization pursuant to this act, and "project" or "health care organization project" may include: the financing, refinancing or consolidation of secured or unsecured debt, borrowings or obligations, or the provision of financing for any other expense incurred in the ordinary course of business, all of which lands, buildings, fixtures, equipment and articles of personal property are to be used or occupied by any person in the health care organization; the acquisition of an entity interest, including capital stock, in a corporation; or any combination thereof; and may include any combination of the foregoing undertaken jointly by any health care organization with one or more other health care organizations.

"Project cost" or "health care organization project cost" means the sum total of all or any part of costs incurred or estimated to be incurred by the authority or by a health care organization which are reasonable and necessary for carrying out all works and undertakings and providing all necessary equipment for the development of a project, exclusive of the amount of any private or federal, State or local financial assistance for and received by a health care organization for the payment of such project cost. Such costs shall include, but are not necessarily limited to: interest prior to, during and for a reasonable period after such development; start-up costs and costs of operation and maintenance during the construction period and for a reasonable additional period thereafter; organization, administration, operation and other expenses of the health care organization prior to and during construction; the cost of necessary studies, surveys, plans and specifications, architectural, engineering, legal or other special services; the cost of acquisition of land, buildings and improvements thereon (including payments for the relocation of persons displaced by such acquisition), site preparation and development, construction, reconstruction, equipment, including fixtures, equipment, and cost of demolition and removal, and articles of personal property required; the reasonable cost of financing incurred by a health care organization or the authority in the course of the development of the project; reserves for debt service; the fees imposed upon a health care organization by the commissioner and by the authority; other fees charged, and necessary expenses incurred in connection with the initial occupancy of the project; and the cost of such other items as may be reasonable and necessary for the development of a project; as well as provision or reserves for working capital, operating or maintenance or replacement expenses, or for payment or security of principal of, or interest on, bonds.

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

C.26:2I-4 "New Jersey Health Care Facilities Financing Authority."

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

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

c. Any member of the authority appointed by the Governor may be removed from office by

the Governor for cause after a public hearing.

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

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

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

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

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

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

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

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

C.26:2I-5 Powers of authority.

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

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

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

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

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

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

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

g. To acquire in the name of the authority by purchase or otherwise, on such terms and conditions and in such manner as it may deem proper, any land or interest therein and other property which it may determine is reasonably necessary for any project; and to hold and use the

same and to sell, convey, lease or otherwise dispose of property so acquired, no longer necessary for the authority's purposes, for fair consideration after public notice.

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

i. To prepare or cause to be prepared plans, specifications, designs and estimates of costs for the construction and equipment of health care organization projects for health care organizations under the provisions of this act, and from time to time to modify such plans, specifications, designs or estimates.

j. By contract or contracts with and for health care organizations only, to construct, acquire, reconstruct, rehabilitate and improve, and furnish and equip health care organization projects. The authority, in the exercise of its authority to make and enter into contracts and agreements necessary or incidental to the performance of its duties and the execution of its powers, shall adopt standing rules and procedures providing that, except as hereinafter provided, no contract on behalf of the authority shall be entered into for the doing of any work, or for the hiring of equipment or vehicles, where the sum to be expended exceeds the sum of \$7,500.00 or the amount determined as provided in this subsection, unless the authority shall first publicly advertise for bids therefor, and shall award the contract to the lowest responsible bidder; provided, however, that such advertising shall not be required where the contract to be entered into is one for the furnishing or performing of services of a professional nature or for the supplying of any product or the rendering of any service by a public utility subject to the jurisdiction of the Board of Public Utilities, and tariffs and schedules of the charges, made, charged, or exacted by the public utility for any such products to be supplied or services to be rendered are filed with said board. The Governor, in consultation with the Department of the Treasury, shall, no later than March 1 of each odd-numbered year, adjust the threshold amount set forth in this subsection, or subsequent to 1985 the threshold amount resulting from any adjustment under this subsection or section 17 of P.L.1985, c.469, in direct proportion to the rise or fall of the Consumer Price Index for all urban consumers in the New York City and the Philadelphia areas as reported by the United States Department of Labor. The Governor shall, no later than June 1 of each odd-numbered year, notify the authority of the adjustment. The adjustment shall become effective July 1 of each odd-numbered year.

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

l. To establish rules and regulations for the use of a project or any portion thereof and to designate a health care organization as its agent to establish rules and regulations for the use of a project undertaken by such a health care organization.

m. Generally to fix and revise from time to time and to charge and collect rates, rents, fees and other charges for the use of and for the services furnished or to be furnished by a project or any portion thereof and to contract with holders of its bonds and with any other person, party, association, corporation or other body, public or private, in respect thereof.

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

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

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

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

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

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

C.26:2I-10 Additional powers of authority.

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

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

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

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

Such rates, rents, fees and charges shall not be subject to supervision or regulation by any department, commission, board, body, bureau or agency of this State other than the authority. A sufficient amount of the revenues derived in respect of a project, except such part of such revenues as may be necessary to pay the cost of maintenance, repair and operation and to provide reserves for renewals, replacements, extensions, enlargements and improvements as may be provided for in the resolution authorizing the issuance of any bonds of the authority or in the trust agreement securing the same, shall be set aside at such regular intervals as may be provided in such resolution or trust agreement in a sinking or other similar fund which is hereby pledged to, and charged with, the payment of the principal of and the interest on such bonds as the same shall become due, and the redemption price or the purchase price of bonds retired by call or purchase as therein provided. Such pledge shall be valid and binding from the time when the pledge is made; the rates, rents, fees and charges and other revenues or other moneys or securities so pledged and thereafter received by the authority shall immediately be subject to the lien of such pledge without any physical delivery thereof or further act, and the lien of any such pledge shall be valid and binding as against all parties having claims of any kind in tort, contract or otherwise against the authority, irrespective of whether such parties have notice thereof. Neither the resolution nor any trust agreement by which a pledge is created need be filed or recorded except in the records of the authority. The use and disposition of moneys to the credit of such sinking or other similar fund shall be subject to the provisions of the resolution

authorizing the issuance of such bonds or of such trust agreement. Except as may otherwise be provided in such resolution or such trust agreement, such sinking or other similar fund shall be a fund for all such bonds issued to finance projects of a health care organization without distinction or priority of one over another; provided the authority in any such resolution or trust agreement may provide that such sinking or other similar fund shall be the fund for a particular project at a health care organization and for the bonds issued to finance a particular project and may, additionally, permit and provide for the issuance of bonds having a subordinate lien in respect of the security herein authorized to other bonds of the authority and, in such case, the authority may create separate sinking or other similar funds in respect to such subordinate lien bonds.

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

C.26:2I-17 State will not limit, alter, restrict rights of authority.

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

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

C.26:2I-21 Department may visit, examine, inspect authority, require reports.

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

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

C.26:2I-23 Powers of State departments, agencies.

23. In order to provide new health care organizations and to enable the construction and financing thereof, to refinance indebtedness hereafter created by the authority for the purpose of providing one or more health care organizations or additions or improvements thereto or modernization thereof or for any one or more of said purposes but for no other purpose unless authorized by law, each of the following bodies shall have the powers hereafter enumerated to be exercised upon such terms and conditions, including the fixing of fair consideration or rental to be paid or received, as it shall determine by resolution as to such property and each shall be subject to the performance of the duties hereafter enumerated, that is to say, the Department of Health and Senior Services as to such as are located on land owned by, or owned by the State and held for, any State institution or on lands of the institutions under the jurisdiction of the Department of Health and Senior Services or of the Department of Human Services, or by the authority, the Commissioner of Human Services as to State institutions operated by that department, the board of trustees or governing body of any public health care organization, the board of trustees of the University of Medicine and Dentistry of New Jersey, as to such as are located on land owned by the university, or by the State for the university, the State or by the particular public health care organization, respectively, namely:

a. The power to sell and to convey to the authority title in fee simple in any such land and any existing health care facility thereon owned by the State and held for any department thereof or of any of the institutions under the jurisdiction of the Department of Health and Senior Services or the power to sell and to convey to the authority such title as the State or the public health care organization, respectively, may have in any such land and any existing health care facility thereon.

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

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

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

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

C.26:2I-24 Additional powers, duties relative to institutions, facilities.

24. In addition thereto the Commissioner of Human Services as to institutions operated by that department, the chief executive officer and the board of trustees of other State institutions, and the board of trustees or governing body of county and municipal public health care organizations shall have the following powers and shall be subject to the following duties as to their lands and health care facilities:

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

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

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

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

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

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

C.26:2I-25 Powers relative to revenue producers facilities.

25. In addition to the powers and duties with respect to health care organizations given under sections 23 and 24 of P.L.1972, c.29 (C.26:2I-23 and C.26:2I-24, respectively), the board of trustees or governing body of any State institution or public health care organization and the board of trustees of the University of Medicine and Dentistry of New Jersey shall also have the same powers and be subject to the same duties in relation to any conveyance, lease or sublease

made under subsection a., b., or c. of section 24 of P.L.1972, c.29 (C.26:2I-24), with respect to revenue producing facilities; that is to say, structures or facilities which produce revenues sufficient to pay the rentals due and to become due under any lease or sublease made under subsection c. of section 24 of P.L.1972, c.29 (C.26:2I-24), including, without limitation, extended care and parking facilities.

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

C.26:2I-27 Powers exercised by resolution of governing body, trustees.

27. To the extent not otherwise expressly provided under existing law, all powers and duties conferred upon any State institution or the University of Medicine and Dentistry of New Jersey or any county, city or municipal health care organization pursuant to this act shall be exercised and performed by resolution of its governing body and all powers and duties conferred upon any of these health care organizations pursuant to this act shall be exercised and performed by resolution of its board of trustees or governing body.

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

C.26:2I-28 Additional powers of authority relative to health care organizations.

28. In addition to the foregoing powers, the authority with respect to health care organizations shall have power:

a. Upon application of the health care organization to construct, acquire or otherwise provide projects for the use and benefit of the health care organization and the patients, employees and staff of the health care organization. The health care organization for which such a project is undertaken by the authority shall approve the plans and specifications of such project.

b. To operate and manage any project provided pursuant to this section, or the authority may lease any such project to the health care organization for which such project is provided. At such time as the liabilities of the authority incurred for any such project have been met and the bonds of the authority issued therefor have been paid, or such liabilities and bonds have otherwise been discharged, the authority shall transfer title to all the real and personal property of such project vested in the authority, to the health care organization in connection with which such project is then being operated, or to which such project is then leased; provided, however, that if at any time prior thereto the health care organization ceases to offer health services, then such title shall vest in the State of New Jersey.

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

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

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

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

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

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

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

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

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

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

C.26:2I-29 Additional powers of authority in respect to loans.

29. The authority also shall have power:

a. To make loans to any health care organization for the construction or acquisition of projects in accordance with a loan agreement. No such loan shall exceed the total cost of such project. Each such loan shall be promised upon an agreement between the authority and the health care organization as to payment, security, maturity, redemption, interest and other appropriate matters.

b. To make loans to any health care organization to refund existing bonds, mortgages or advances given or made by the health care organization for the construction of projects to the extent that this will enable the health care organization to offer greater security for loans for new project construction.

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

C.26:2I-30 Power of health care organization to mortgage, pledge property, income.

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

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

C.26:2I-31 Deposit of moneys received from health care organizations.

31. Moneys of the authority received from any health care organization in payment of any sum due to the authority pursuant to the terms of any loan or other agreement or any bond, note or other evidence of indebtedness, shall be deposited in an account in which only moneys received from health care organizations shall be deposited and shall be kept separate and apart from and not commingled with any other moneys of the authority. Moneys deposited in such account shall be paid out on checks signed by the chairman of the authority or by such other person or persons as the authority may authorize, and countersigned by one other member of the authority.

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

C.26:2I-32 Responsibility of authority relative to projects.

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

b. Whenever the authority under section 28 of P.L.1972, c.29 (C.26:2I-28) undertakes to construct, acquire or otherwise provide a project and to lease the same to a health care organization, the lessee shall be responsible for the direct operation and maintenance costs of

such project and, in addition, shall be responsible for the overall supervision of each project, for the overhead and general administrative costs of the lessee which are incurred because of such project and for the integration of each project operation into the lessee's health care program.

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

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

C.26:2I-33 Pledges of health care organizations.

33. Any pledge of moneys, earnings, income or revenues authorized with respect to health care organizations, pursuant to the provisions of this act, shall be valid and binding from the time when the pledge is made. The moneys, earnings, income or revenues so pledged and thereafter received by the pledgor shall immediately be subject to the lien of such pledge without any physical delivery thereof or further act. The lien of any such pledge shall be valid and binding as against all parties having claims of any kind in tort, contract or otherwise against the pledgor irrespective of whether such parties have notice thereof. No instrument by which such a pledge is created need be filed or recorded in any manner.

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

C.26:2I-34 Participation in or acquisition of existing projects.

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

b. Acquisition of health care facilities from counties or municipalities. Notwithstanding the provisions of any law to the contrary, the authority may authorize the acquisition, and any county or municipality by resolution or ordinance may authorize a private sale and conveyance or leasing to the authority, of any interest of the county or municipality in any lands and existing health care facilities which are then being operated by a health care organization upon such terms and conditions as may be agreed upon by the authority and the county and municipality. The authority may use its funds for the acquisition by providing for the retirement of obligations incurred for the acquisition of the land, and for the acquisition and construction of the existing health care facilities, provided that the amount of the purchase price shall not exceed the project costs. Upon acquisition of the lands and existing health care facilities, the authority may convey or lease the lands and existing health care facilities to a health care organization under such terms and conditions as the authority and health care organization may agree.

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

C.26:2I-38 Inapplicability of inconsistent laws.

38. All laws, or parts thereof, inconsistent with this act are hereby declared to be inapplicable to the provisions of this act, except as otherwise provided.

C.26:2I-5.1 Authority financing not required.

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

C.26:2I-5.2 HCFFA, EDA powers relative to for profit projects.

22. Notwithstanding the provisions of P.L.1972, c.29 (C.26:2I-1 et seq.) to the contrary, nothing in that act shall be construed to provide the New Jersey Health Care Facilities Financing Authority with greater authority to finance a project undertaken by a for-profit health care organization than the New Jersey Economic Development Authority has under P.L.1974, c.80 (C.34:1B-1 et seq.).

Repealer.

23. Sections 6 and 26 of P.L.1972, c.29 (C.26:2I-6 and C.26:2I-26, respectively) are repealed.

24. This act shall take effect immediately.

Approved January 19, 1998.