

**SENATE, No. 2092**

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**STATE OF NEW JERSEY**

**212th LEGISLATURE**

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INTRODUCED JUNE 26, 2006

**Sponsored by:**  
**Senator DIANE B. ALLEN**  
**District 7 (Burlington and Camden)**

**SYNOPSIS**

Revises procedures for the use of eminent domain and compensation for loss of business in municipal redevelopment programs.

**CURRENT VERSION OF TEXT**

As introduced.



1 AN ACT concerning redevelopment, amending various parts of the  
2 statutory law, and amending and supplementing P.L.1992, c.79.

3  
4 **BE IT ENACTED** *by the Senate and General Assembly of the State*  
5 *of New Jersey:*

6  
7 1. (New Section) The Legislature finds and declares that the  
8 procedure that a local government follows when it wants to  
9 redevelop or use eminent domain must be reformed to ensure that it  
10 is fair, ethical, and transparent, and that citizens have a meaningful  
11 opportunity for appeal and for fair compensation for their loss.

12  
13 2. Section 6 of P.L.1971, c.361 (C.20:3-6) is amended to read as  
14 follows:

15 6. Whenever any condemnor shall have determined to acquire  
16 property pursuant to law, including public property already devoted  
17 to public purpose, but cannot acquire title thereto or possession  
18 thereof by agreement with a prospective condemnee, whether by  
19 reason of disagreement concerning the compensation to be paid or  
20 for any other cause, the condemnation of such property and the  
21 compensation to be paid therefor, and to whom payable, and all  
22 matters incidental thereto and arising therefrom shall be governed,  
23 ascertained and paid by and in the manner provided by this act;  
24 provided, however, that no action to condemn shall be instituted  
25 unless the condemnor is unable to acquire such title or possession  
26 through bona fide negotiations with the prospective condemnee,  
27 which negotiations shall include an offer in writing by the  
28 condemnor to the prospective condemnee holding the title of record  
29 to the property being condemned, setting forth the property and  
30 interest therein to be acquired, the compensation offered to be paid  
31 and a reasonable disclosure of the manner in which the amount of  
32 such offered compensation has been calculated, and such other  
33 matters as may be required by the rules. In the case of a property  
34 upon which an ongoing business is being operated by an owner, the  
35 amount of compensation to be offered shall be calculated pursuant  
36 to the provisions of subsection b. of section 1 of P.L.1986, c.53  
37 (C.20:3-29.1) (pending before the Legislature as this bill). Prior to  
38 such offer the taking agency shall appraise said property and the  
39 owner shall be given an opportunity to accompany the appraiser  
40 during inspection of the property. Such offer shall be served by  
41 certified mail. In no event shall such offer be less than the taking  
42 agency's approved appraisal of the fair market value of such  
43 property. A rejection of said offer or failure to accept the same  
44 within the period fixed in written offer, which shall in no case be  
45 less than 14 days from the mailing of the offer, shall be conclusive

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

Matter underlined thus is new matter.

1 proof of the inability of the condemnor to acquire the property or  
2 possession thereof through negotiations. When the holder of the  
3 title is unknown, resides out of the State, or for other good cause,  
4 the court may dispense with the necessity of such negotiations.  
5 Neither the offer nor the refusal thereof shall be evidential in the  
6 determination of compensation.  
7 (cf: P.L.1971, c.361, s.6)

8  
9 3. Section 29 of P.L.1971, c.361 (C. 20:3-29) is amended to read  
10 as follows:

11 29. The condemnee shall be entitled to compensation for the  
12 property, and damages, if any, to any remaining property, together  
13 with such additional compensation as provided for herein, or as may  
14 be fixed according to law. In the case of a property upon which an  
15 ongoing business is being operated by an owner, the amount of  
16 compensation to be offered shall be calculated pursuant to the  
17 provisions of subsection b. of section 1 of P.L.1986, c.53 (C.20:3-  
18 29.1) (pending before the Legislature as this bill).  
19 (cf: P.L.1971, c.361, s.29)

20  
21 4. Section 1 of P.L.1986, c.53 (C. 20:3-29.1) is amended to read  
22 as follows:

23 1. a. The condemnor of agricultural or horticultural land which  
24 is eligible for valuation, assessment, and taxation under the  
25 "Farmland Assessment Act of 1964," P.L.1964, c.48 (C.54:4-23.1 et  
26 seq.), shall compensate the condemnee for any loss of income  
27 resulting from the interference of the condemnation proceeding with  
28 the harvesting of any standing crops or other agricultural  
29 commodities in an amount determined according to their  
30 appropriate time of harvest, and for the remainder of their average  
31 productive life, separate and apart from compensation for the fair  
32 market value of the land. This act shall apply to all actions  
33 instituted hereafter, and to all proceedings taken subsequent hereto  
34 in all actions pending on the effective date of this act; except that  
35 judgments heretofore entered or awards heretofore made pursuant to  
36 law from which no appeal is pending on the effective date of this  
37 act are not affected by the provisions hereof.

38 b. The condemnor of a property upon which an ongoing  
39 business is being operated by the condemnee shall compensate the  
40 condemnee for any loss of income resulting from the interference of  
41 the condemnation proceeding with the conduct of business in an  
42 amount determined in a manner consistent with the assessment of  
43 business income coverage in the insurance industry, separate and  
44 apart from compensation for the fair market value of the property.  
45 (cf: P.L.1986, c.53, s.1)

46  
47 5. Section 3 of P.L.1992, c.79 (C.40A:12A-3) is amended to  
48 read as follows:

1       3. As used in this act:

2       “Bonds” means any bonds, notes, interim certificates, debentures  
3 or other obligations issued by a municipality, county,  
4 redevelopment entity, or housing authority pursuant to this act.

5       “Comparable affordable replacement housing” means housing  
6 offered to households being displaced as a result of a  
7 redevelopment project, that is affordable to that household as  
8 defined by the Council on Affordable Housing in the Department of  
9 Community Affairs, and that is comparable to the household’s  
10 dwelling in the redevelopment area with respect to the size and  
11 amenities of the dwelling unit, the quality of the neighborhood, and  
12 the level of public services and facilities offered by the municipality  
13 in which the redevelopment area is located.

14       “Detrimental to the safety, health, or welfare of the community”  
15 means objective evidence of detriment, including, but not limited  
16 to, substantial building or health code violations, excessive police  
17 activity, a lack of structural integrity or a continuing exterior  
18 appearance that degrades the surrounding properties.

19       “Development” means the division of a parcel of land into two or  
20 more parcels, the construction, reconstruction, conversion,  
21 structural alteration, relocation, or enlargement of any building or  
22 other structure, or of any mining, excavation or landfill, and any use  
23 or change in the use of any building or other structure, or land or  
24 extension of use of land, for which permission may be required  
25 pursuant to the “Municipal Land Use Law,” P.L.1975, c.291  
26 (C.40:55D-1 et seq.).

27       “Governing body” means the body exercising general legislative  
28 powers in a county or municipality according to the terms and  
29 procedural requirements set forth in the form of government  
30 adopted by the county or municipality.

31       “Housing authority” means a housing authority created or  
32 continued pursuant to this act.

33       “Housing project” means a project, or distinct portion of a  
34 project, which is designed and intended to provide decent, safe and  
35 sanitary dwellings, apartments or other living accommodations for  
36 persons of low and moderate income; such work or undertaking  
37 may include buildings, land, equipment, facilities and other real or  
38 personal property for necessary, convenient or desirable  
39 appurtenances, streets, sewers, water service, parks, site  
40 preparation, gardening, administrative, community, health,  
41 recreational, educational, welfare or other purposes. The term  
42 “housing project” also may be applied to the planning of the  
43 buildings and improvements, the acquisition of property, the  
44 demolition of existing structures, the construction, reconstruction,  
45 alteration and repair of the improvements and all other work in  
46 connection therewith.

47       “Persons of low and moderate income” means persons or  
48 families who are, in the case of State assisted projects or programs,

1 so defined by the Council on Affordable Housing in the Department  
2 of Community Affairs, or in the case of federally assisted projects  
3 or programs, defined as of “low and very low income” by the  
4 United States Department of Housing and Urban Development.

5 “Public body” means the State or any county, municipality,  
6 school district, authority or other political subdivision of the State.

7 “Public housing” means any housing for persons of low and  
8 moderate income owned by a municipality, county, the State or the  
9 federal government, or any agency or instrumentality thereof.

10 “Publicly assisted housing” means privately owned housing  
11 which receives public assistance or subsidy, which may be grants or  
12 loans for construction, reconstruction, conservation, or  
13 rehabilitation of the housing, or receives operational or maintenance  
14 subsidies either directly or through rental subsidies to tenants, from  
15 a federal, State or local government agency or instrumentality.

16 “Real property” means all lands, including improvements and  
17 fixtures thereon, and property of any nature appurtenant thereto or  
18 used in connection therewith, and every estate, interest and right,  
19 legal or equitable, therein, including terms for years and liens by  
20 way of judgment, mortgage or otherwise, and indebtedness secured  
21 by such liens.

22 “Redeveloper” means any person, firm, corporation or public  
23 body that shall enter into or propose to enter into a contract with a  
24 municipality or other redevelopment entity for the redevelopment or  
25 rehabilitation of an area in need of redevelopment, or an area in  
26 need of rehabilitation, or any part thereof, under the provisions of  
27 this act, or for any construction or other work forming part of a  
28 redevelopment or rehabilitation project.

29 “Redevelopment” means clearance, replanning, development and  
30 redevelopment; the conservation and rehabilitation of any structure  
31 or improvement, the construction and provision for construction of  
32 residential, commercial, industrial, public or other structures and  
33 the grant or dedication of spaces as may be appropriate or necessary  
34 in the interest of the general welfare for streets, parks, playgrounds,  
35 or other public purposes, including recreational and other facilities  
36 incidental or appurtenant thereto, in accordance with a  
37 redevelopment plan.

38 “Redevelopment agency” means a redevelopment agency created  
39 pursuant to subsection a. of section 11 of P.L.1992, c.79  
40 (C.40A:12A-11) or established heretofore pursuant to the  
41 “Redevelopment Agencies Law,” P.L.1949, c.306 (C.40:55C-1 et  
42 seq.), repealed by this act, which has been permitted in accordance  
43 with the provisions of this act to continue to exercise its  
44 redevelopment functions and powers.

45 “Redevelopment area” or “area in need of redevelopment” means  
46 an area determined to be in need of redevelopment pursuant to  
47 sections 5 and 6 of P.L.1992, c.79 (C.40A:12A-5 and 40A:12A-6)  
48 or determined heretofore to be a “blighted area” pursuant to

1 P.L.1949, c.187 (C.40:55-21.1 et seq.) repealed by this act, both  
2 determinations as made pursuant to the authority of Article VIII,  
3 Section III, paragraph 1 of the Constitution. [A redevelopment area  
4 may include lands, buildings, or improvements which of themselves  
5 are not detrimental to the public health, safety or welfare, but the  
6 inclusion of which is found necessary, with or without change in  
7 their condition, for the effective redevelopment of the area of which  
8 they are a part.]

9 “Redevelopment entity” means a municipality or an entity  
10 authorized by the governing body of a municipality pursuant to  
11 subsection c. of section 4 of P.L.1992, c.79 (C.40A:12A-4) to  
12 implement redevelopment plans and carry out redevelopment  
13 projects in an area in need of redevelopment, or in an area in need  
14 of rehabilitation, or in both.

15 “Redevelopment plan” means a plan adopted by the governing  
16 body of a municipality for the redevelopment or rehabilitation of all  
17 or any part of a redevelopment area, or an area in need of  
18 rehabilitation, which plan shall be sufficiently complete to indicate  
19 its relationship to definite municipal objectives as to appropriate  
20 land uses, public transportation and utilities, recreational and  
21 municipal facilities, and other public improvements; and to indicate  
22 proposed land uses and building requirements in the redevelopment  
23 area or area in need of rehabilitation, or both.

24 “Redevelopment project” means any work or undertaking  
25 pursuant to a redevelopment plan; such undertaking may include  
26 any buildings, land, including demolition, clearance or removal of  
27 buildings from land, equipment, facilities, or other real or personal  
28 properties which are necessary, convenient, or desirable  
29 appurtenances, such as but not limited to streets, sewers, utilities,  
30 parks, site preparation, landscaping, and administrative, community,  
31 health, recreational, educational, and welfare facilities.

32 “Rehabilitation” means an undertaking, by means of extensive  
33 repair, reconstruction or renovation of existing structures, with or  
34 without the introduction of new construction or the enlargement of  
35 existing structures, in any area that has been determined to be in  
36 need of rehabilitation or redevelopment, to eliminate substandard  
37 structural or housing conditions and arrest the deterioration of that  
38 area.

39 “Rehabilitation area” or “area in need of rehabilitation” means  
40 any area determined to be in need of rehabilitation pursuant to  
41 section 14 of P.L.1992, c.79 (C.40A:12A-14).

42 (cf: P.L.1992, c.79, s.3)

43  
44 6. Section 4 of P.L.1992, c.79 (C.40A:12A-4) is amended to  
45 read as follows:

46 4. In exercising the redevelopment and rehabilitation functions  
47 provided for in this act:

48 a. A municipal governing body shall have the power to:

- 1 (1) Cause a preliminary investigation to be made pursuant to  
2 subsection a. of section 6 of P.L.1992, c.79 (C.40A:12A-6) as to  
3 whether an area is in need of redevelopment;
- 4 (2) Determine pursuant to subsection b. of section 6 of  
5 P.L.1992, c.79 (C.40A:12A-6) that an area is in need of  
6 redevelopment;
- 7 (3) Adopt a redevelopment plan pursuant to section 7 of  
8 P.L.1992, c.79 (C.40A:12A-7);
- 9 (4) Determine pursuant to section 14 of P.L.1992, c.79  
10 (C.40A:12A-14) that an area is in need of rehabilitation.
- 11 b. A municipal planning board shall have the power to:
- 12 (1) Conduct, when authorized by the municipal governing body,  
13 a preliminary investigation and hearing and make a  
14 recommendation pursuant to subsection b. of section 6 of P.L.1992,  
15 c.79 (C.40A:12A-6) as to whether an area is in need of  
16 redevelopment;
- 17 (2) Make recommendations concerning a redevelopment plan  
18 pursuant to subsection e. of section 7 of P.L.1992, c.79  
19 (C.40A:12A-7), or prepare a redevelopment plan pursuant to  
20 subsection f. of that section.
- 21 (3) Make recommendations concerning the determination of an  
22 area in need of rehabilitation pursuant to section 14 of P.L.1992,  
23 c.79 (C.40A:12A-14).
- 24 c. (1) The municipality shall be responsible for implementing  
25 redevelopment plans and carrying out redevelopment projects  
26 pursuant to section 8 of P.L.1992, c.79 (C.40A:12A-8). The  
27 municipality may execute these responsibilities directly, or in  
28 addition thereto or in lieu thereof, **【through】** may designate by  
29 ordinance either a municipal redevelopment agency, or a municipal  
30 housing authority authorized to exercise redevelopment powers  
31 pursuant to section 21 of P.L.1992, c.79 (C.40A:12A-21), but there  
32 shall be only one redevelopment entity responsible for each  
33 redevelopment project. A county improvement authority authorized  
34 to undertake redevelopment projects pursuant to the “county  
35 improvement authorities law,” P.L.1960, c.183 (C.40:37A-44 et  
36 seq.) may also act as a redevelopment entity pursuant to this act.  
37 The redevelopment entity, so authorized, may contract with any  
38 other public body, in accordance with the provisions of section 8 of  
39 P.L.1992, c.79 (C.40A:12A-8), for the carrying out of a  
40 redevelopment project or any part thereof under its jurisdiction.  
41 Notwithstanding the above, the governing body of the municipality  
42 may, by ordinance, change or rescind the designation of the  
43 redevelopment **【entity responsible for implementing】** agency or  
44 housing authority designated to implement a redevelopment plan  
45 and **【carrying】** carry out a redevelopment project and may have the  
46 municipality assume this responsibility **【itself, but】** ; provided,  
47 however, that only the redevelopment entity authorized to undertake  
48 a particular redevelopment project shall remain authorized to

1 complete it, unless the redevelopment entity and redeveloper agree  
2 otherwise, or unless no obligations have been entered into by the  
3 redevelopment entity with parties other than the municipality. This  
4 shall not diminish the power of the municipality to dissolve a  
5 redevelopment entity pursuant to section 24 of P.L.1992, c.79  
6 (C.40A:12A-24), and section 20 of the “Local Authorities Fiscal  
7 Control Law,” P.L.1983, c.313 (C.40A:5A-20).

8 (2) In addition to complying with the applicable provisions of the  
9 State “Pay-to-Play” law, P.L.2005, c.51 (C.19:44A-20.13 et seq.),  
10 the municipal governing body shall not enter into a contract with a  
11 redevelopment entity if, between 36 months prior to the  
12 dissemination of the request for proposals and 36 months following  
13 the completion of any economic development activities undertaken  
14 pursuant to this section, the redevelopment entity has made a  
15 contribution that is reportable by the recipient under P.L.1973, c.83  
16 (C.19:44A-1 et seq.), to the candidate committee of any person  
17 serving as a member of the municipal governing body when the  
18 contract is awarded or to the State, county, or municipal committee  
19 of the political party to which any person serving as a member of  
20 the municipal governing body belongs when the contract is  
21 awarded.

22 (3) A redevelopment entity that has entered into a contract with  
23 the municipal governing body shall not make, during the duration of  
24 the contract, a contribution that is reportable by the recipient under  
25 P.L.1973, c.83 (C.19:44A-1 et seq.) to the candidate committee of  
26 any person serving as a member of the municipal governing body,  
27 to the State, county, or municipal committee of the political party to  
28 which any person serving as a member of the municipal governing  
29 body belongs, or to the candidate committee of any person who  
30 resides in the county in which any economic development activities  
31 established pursuant to this section have been undertaken.

32 (cf: P.L.1992, c.79, s.4)

33  
34 7. Section 5 of P.L.1992, c.79 (C.40A:12A-5) is amended to  
35 read as follows:

36 5. A delineated area may be determined to be in need of  
37 redevelopment if, after investigation, notice and hearing as provided  
38 in section 6 of P.L.1992, c.79 (C.40A:12A-6), the governing body  
39 of the municipality by **[resolution]** ordinance concludes that within  
40 the delineated area any of the following conditions is found:

41 a. The generality of buildings are **[substandard,]** unsafe,  
42 **[unsanitary,]** dilapidated, **[or obsolescent,** or possess any of such  
43 characteristics,**]** or are so lacking in light, air, or space, as to be  
44 conducive to unwholesome living or working conditions.

45 b. The discontinuance of the use of buildings previously used  
46 for commercial, manufacturing, or industrial purposes; the  
47 abandonment of such buildings; or the same being allowed to fall  
48 into so great a state of disrepair as to be untenable.



- 1 c. (1) Land that is owned by the municipality, the county, a  
2 local housing authority, redevelopment agency or redevelopment  
3 entity, or  
4 (2) unimproved vacant land that has remained so for a period of  
5 ten years prior to adoption of the [resolution] ordinance, and that  
6 by reason of its location, remoteness, lack of means of access to  
7 developed sections or portions of the municipality, or topography,  
8 or nature of the soil,  
9 is not likely to be developed through the instrumentality of  
10 private capital and is determined to be detrimental to the safety,  
11 health, or welfare of the community.
- 12 d. Areas with buildings or improvements [which, by reason of  
13 dilapidation, obsolescence, overcrowding, faulty arrangement or  
14 design, lack of ventilation, light and sanitary facilities, excessive  
15 land coverage, deleterious land use or obsolete layout, or any  
16 combination of these or other factors,] whose conditions are  
17 determined to be detrimental to the safety, health, [morals,] or  
18 welfare of the community.
- 19 e. A [growing lack or total] lack of proper utilization of areas  
20 caused by the condition of the title, diverse ownership of the real  
21 property therein or other conditions, [resulting in a stagnant or not  
22 fully productive condition of land potentially useful and valuable  
23 for contributing to and serving the public health, safety and  
24 welfare] which, by virtue of these factors are determined to be  
25 detrimental to the safety, health, or welfare of the community.
- 26 f. Areas, in excess of five contiguous acres, whereon buildings  
27 or improvements have been destroyed, consumed by fire,  
28 demolished or altered by the action of storm, fire, cyclone, tornado,  
29 earthquake or other casualty in such a way that the aggregate  
30 assessed value of the area has been materially depreciated.
- 31 g. [In any municipality in which an enterprise zone has been  
32 designated pursuant to the “New Jersey Urban Enterprise Zones  
33 Act,” P.L.1983, c.303 (C.52:27H-60 et seq.) the execution of the  
34 actions prescribed in that act for the adoption by the municipality  
35 and approval by the New Jersey Urban Enterprise Zone Authority  
36 of the zone development plan for the area of the enterprise zone  
37 shall be considered sufficient for the determination that the area is  
38 in need of redevelopment pursuant to sections 5 and 6 of P.L.1992,  
39 c.79 (C.40A:12A-5 and 40A:12A-6) for the purpose of granting tax  
40 exemptions within the enterprise zone district pursuant to the  
41 provisions of P.L.1991, c.431 (C.40A:20-1 et seq.) or the adoption  
42 of a tax abatement and exemption ordinance pursuant to the  
43 provisions of P.L.1991, c.441 (C.40A:21-1 et seq.). The  
44 municipality shall not utilize any other redevelopment powers  
45 within the urban enterprise zone unless the municipal governing  
46 body and planning board have also taken the actions and fulfilled  
47 the requirements prescribed in P.L.1992, c.79 (C.40A:12A-1 et al.)

1 for determining that the area is in need of redevelopment or an area  
2 in need of rehabilitation and the municipal governing body has  
3 adopted a redevelopment plan ordinance including the area of the  
4 enterprise zone.】 (Deleted by amendment, P.L. , c. .) (pending  
5 before the Legislature as this bill)

6 h. 【The designation of the delineated area is consistent with  
7 smart growth planning principles adopted pursuant to law or  
8 regulation.】 (Deleted by amendment, P.L. , c. .) (pending before  
9 the Legislature as this bill)

10 i. Parcels, either vacant or developed, which historically have  
11 been used in an industrial or commercial manner and which have  
12 remained vacant or substantially underutilized for a period of 24  
13 consecutive months due to environmental issues associated with  
14 such parcels' historic use; provided, however, that this subsection  
15 shall not apply when the owner is making a good-faith effort to  
16 utilize the parcel, as evidenced by an application pending before, or  
17 approved by, the Department of Environmental Protection for  
18 permits to rehabilitate the parcel.

19 (cf: P.L.2003, c.125, s.3)

20  
21 8. Section 6 of P.L.1992, c.79 (C.40A:12A-6) is amended to  
22 read as follows:

23 6. a. No area of a municipality shall be determined a  
24 redevelopment area unless the governing body of the municipality  
25 shall, by resolution, authorize the planning board to undertake a  
26 preliminary investigation to determine whether the proposed area is  
27 a redevelopment area according to the criteria set forth in section 5  
28 of P.L.1992, c.79 (C.40A:12A-5). A redeveloper shall not conduct  
29 or fund any part of the investigation. Such determination shall be  
30 made after public notice and public hearing as provided in  
31 subsection b. of this section. The governing body of a municipality  
32 shall assign the conduct of the investigation and hearing to the  
33 planning board of the municipality.

34 b. (1) Before proceeding to a public hearing on the matter, the  
35 planning board shall prepare a map showing the boundaries of the  
36 proposed redevelopment area and the location of the various parcels  
37 of property included therein. There shall be appended to the map a  
38 statement setting forth the basis for the investigation.

39 (2) The planning board shall specify a date for and give notice  
40 of a hearing for the purpose of hearing persons who are interested in  
41 or would be affected by a determination that the delineated area is a  
42 redevelopment area.

43 (3) (a) The hearing notice shall set forth the general boundaries  
44 of the area to be investigated and state that a map has been prepared  
45 and can be inspected at the office of the municipal clerk. The  
46 notice shall be written in a simple, clear, understandable, and easily  
47 readable way. The notice shall state that the governing body is  
48 considering designating the area as a redevelopment area and that a

1 consequence of this designation is that the governing body would  
2 have the authority to condemn property located within the area  
3 pursuant to the procedures in the "Eminent Domain Act of 1971,"  
4 P.L.1971, c.361 (C.20:3-1 et seq.). A copy of the notice shall be  
5 published in a newspaper of general circulation in the municipality  
6 once each week for two consecutive weeks, and the last publication  
7 shall be not less than ten days prior to the date set for the hearing.  
8 If the municipality has an Internet web site, the notice shall be  
9 posted thereon. A copy of the notice shall also be posted in such  
10 other places within or proximate to the proposed redevelopment  
11 area as may be available and appropriate. A copy of the notice shall  
12 be [mailed] sent by certified or regular mail by the municipal clerk  
13 at least [ten] 14 days prior to the date set for the hearing to the last  
14 owner, if any, of each parcel of property, and to any legal tenant of  
15 a residential rental dwelling unit within the area according to the  
16 assessment records of the municipality. The municipal clerk shall  
17 make a diligent effort to ascertain the names and addresses of legal  
18 tenants of rental dwelling units by contacting the legal owner of the  
19 rental property or a management company identified by such owner,  
20 but if unable to do so shall have a copy of the notice posted on  
21 properties known to be rental dwelling units. A notice shall also be  
22 sent by the municipal clerk to all persons at their last known  
23 address, if any, whose names are noted on the assessment records as  
24 claimants of an interest in any such parcel. The assessor of the  
25 municipality shall make a notation upon the records when requested  
26 to do so by any person claiming to have an interest in any parcel of  
27 property in the municipality. The notice shall be published and  
28 mailed by the municipal clerk[, or by such clerk or official as the  
29 planning board shall otherwise designate]. Failure to mail any such  
30 notice shall not invalidate the investigation or determination  
31 thereon.

32 (b) Prior to the hearing, a copy of all documents relevant to the  
33 determination that an area is in need of redevelopment shall be  
34 available for public inspection, and if the municipality has an  
35 Internet web site, they shall be posted thereon.

36 (4) At the hearing, which may be adjourned from time to time,  
37 the planning board shall hear all persons who are interested in or  
38 would be affected by a determination that the delineated area is a  
39 redevelopment area. All testimony provided at the hearing shall be  
40 under oath or affirmation. The hearing shall be recorded and  
41 transcription of the full content of the hearing shall be made  
42 available to the public. All objections to such a determination and  
43 evidence in support of those objections, given orally or in writing,  
44 shall be received and considered and made part of the public record.  
45 All persons who would be affected by a determination that the  
46 delineated area is a redevelopment area shall be allowed to bring  
47 witnesses to provide evidence relevant to the determination that the  
48 area is in need of redevelopment, and shall be allowed to submit

1 written questions which shall be posed by the planning board to the  
2 witness or witnesses to whom they are directed if the planning  
3 board deems the question relevant.

4 (5) (a) After completing its hearing on this matter, the planning  
5 board shall recommend that the delineated area, or any part thereof,  
6 be determined, or not be determined, by the municipal governing  
7 body to be a redevelopment area. Prior to making any  
8 determination that an area is in need of redevelopment, the planning  
9 board shall review, in light of the conditions of the area and the  
10 purposes of the redevelopment, whether designation of the area as  
11 an area in need of rehabilitation, or some other strategy of  
12 rehabilitation, preservation, or neighborhood improvement, may  
13 represent a more appropriate means of addressing the conditions of  
14 the area and the purposes of the redevelopment. The report of the  
15 planning board shall set forth explicitly the reasons for its  
16 determination that such other strategies are less appropriate, and  
17 that the area should be designated in need of redevelopment. The  
18 report shall also include an inventory of the environmental,  
19 historical, and cultural assets in the delineated area.

20 (b) After receiving the recommendation of the planning board,  
21 the municipal governing body may adopt **[a resolution]** an  
22 ordinance determining that the delineated area, or any part thereof,  
23 is a redevelopment area. **[Upon the]** Prior to final adoption of **[a**  
24 **resolution]** the ordinance, the clerk of the municipality shall,  
25 forthwith, transmit a copy of the **[resolution]** ordinance to the  
26 Commissioner of Community Affairs for review. If the area in need  
27 of redevelopment is not situated in an area in which development or  
28 redevelopment is to be encouraged pursuant to any State law or  
29 regulation promulgated pursuant thereto, the **[determination]**  
30 ordinance shall not **[take effect]** be finally adopted without first  
31 receiving the review and the approval of the commissioner. If the  
32 commissioner does not issue an approval or disapproval within 30  
33 calendar days of transmittal by the clerk, the determination shall be  
34 deemed to be approved and the ordinance may be finally adopted.  
35 If the area in need of redevelopment is situated in an area in which  
36 development or redevelopment is to be encouraged pursuant to any  
37 State law or regulation promulgated pursuant thereto, then the  
38 determination shall take effect after the clerk has transmitted a copy  
39 of the **[resolution]** ordinance to the commissioner. The  
40 determination, if supported by substantial evidence and, if required,  
41 approved by the commissioner, shall be binding and conclusive  
42 upon all persons affected by the determination. **[Notice of the**  
43 **determination shall be served, within 10 days after the**  
44 **determination, upon each person who filed a written objection**  
45 **thereto and stated, in or upon the written submission, an address to**  
46 **which notice of determination may be sent.]**

1 (6) **【If written objections were filed in connection with the**  
2 **hearing, the municipality shall, for 45 days next following its**  
3 **determination to which the objections were filed, take no further**  
4 **action to acquire any property by condemnation within the**  
5 **redevelopment area.】** (Deleted by amendment, P.L. , c. .)  
6 (pending before the Legislature as this bill)

7 (7) **【If a person who filed a written objection to a determination**  
8 **by the municipality pursuant to this subsection shall, within 45 days**  
9 **after the adoption by the municipality of the determination to which**  
10 **the person objected, apply to the Superior Court, the court may**  
11 **grant further review of the determination by procedure in lieu of**  
12 **prerogative writ; and in any such action the court may make any**  
13 **incidental order that it deems proper.】** (Deleted by amendment,  
14 P.L. , c. .) (pending before the Legislature as this bill)

15 (8) Notice of final adoption of an ordinance making a  
16 determination shall be served, within 10 days after the final  
17 adoption of the ordinance making such determination, upon each  
18 person who received notice of the public hearing in accordance with  
19 paragraph (3) of subsection b. of this section in the same manner as  
20 provided therein. The notice shall inform the recipient of the right  
21 to appeal the designation and shall provide the recipient with the  
22 relevant deadlines for filing an appeal. Additionally, notice of final  
23 adoption of an ordinance making a determination shall be published  
24 in the official newspaper of the municipality, together with the date  
25 of the first publication of such notice and also a statement that any  
26 action or proceeding of any kind or nature in any court questioning  
27 the validity of the adoption of the ordinance or the determination  
28 contained therein, shall be commenced within 45 days after the first  
29 publication of such notice.

30 (9) The municipality shall not finally adopt an ordinance  
31 adopting a redevelopment plan in accordance with section 7 of  
32 P.L.1992, c.79 (C.40A:12A-7) until 60 days have passed since the  
33 ordinance making a determination under this section has been  
34 finally adopted.

35 c. An area determined to be in need of redevelopment pursuant  
36 to this section shall be deemed to be a “blighted area” for the  
37 purposes of Article VIII, Section III, paragraph 1 of the  
38 Constitution. If an area is determined to be a redevelopment area  
39 and a redevelopment plan is adopted for that area in accordance  
40 with the provisions of this act, the municipality is authorized to  
41 utilize all those powers provided in section 8 of P.L.1992, c.79  
42 (C.40A:12A-8).

43 (cf: P.L.2003, c.125, s.4)

44  
45 9. Section 7 of P.L.1992, c.79 (C.40A:12A-7) is amended to  
46 read as follows:

47 7. a. Following the determination of an area in need of  
48 redevelopment pursuant to section 6 of P.L.1992, c.79 (C.40A:12A-

6) or a determination of an area in need of rehabilitation pursuant to section 14 of P.L.1992, c.79 (C.40A:12A-14), the municipality may undertake the preparation of a redevelopment plan for all or some part of the area determined to be in need of redevelopment or rehabilitation, directly in accordance with subsection e. of this section, or, by resolution, may direct the municipal planning board to develop such plan in accordance with subsection f. of this section. No redevelopment project shall be undertaken or carried out except in accordance with a redevelopment plan [adopted by ordinance of the municipal governing body, upon its finding that the] relating to a specifically delineated project area that is located in an area in need of redevelopment or in an area in need of rehabilitation, or in both, according to criteria set forth in section 5 or section 14 of P.L.1992, c.79 (C.40A:12A-5 or 40A:12A-14), as appropriate.

[The] A redevelopment plan shall include an outline for the planning, development, redevelopment, or rehabilitation of the project area sufficient to indicate:

(1) [Its] The relationship of the plan to [definite] local objectives as set forth in the municipal master plan or other official documents with respect to [appropriate] land uses, density of population, [and improved] improvements or changes to traffic circulation, pedestrian circulation and public transportation, public utilities, recreational and community facilities and other public improvements.

(2) Proposed land uses and building requirements in the project area, including the character, intensity and scale of proposed redevelopment activities, and the design and planning standards and guidelines to govern those activities.

(3) [Adequate provision for] A relocation study adequate to identify available units suitable to the temporary and permanent relocation, as necessary, of residents and businesses in the project area, as required by the "Relocation Assistance Act," P.L.1971, c.362 (C.20:4-1 et seq.), including, for residents, an estimate of the extent to which [decent, safe and sanitary dwelling units affordable to displaced residents] comparable, affordable replacement housing will be available [to them] in the existing local housing market, an assessment of the disparity between the availability of comparable, affordable replacement housing and the needs of the residents in the project area, an estimate of the amount and type of replacement housing that will have to be provided within or without the redevelopment area in order to meet the relocation needs of residents in the project area, and a plan setting forth the manner and timetable in which that housing, if needed, will be provided.

(4) An identification, by block and lot and street address, if any, of any property within the redevelopment area which is proposed to be acquired in accordance with the redevelopment plan, including

1 an identification for each parcel of the objectives of the  
2 redevelopment plan which cannot be realistically achieved without  
3 the taking of such property, a consideration of alternatives to the  
4 proposed taking, and the reasons that such alternatives do not  
5 provide for realistic achievement of the objectives of the  
6 redevelopment plan.

7 (5) Any significant relationship of the redevelopment plan to (a)  
8 the master plans of contiguous municipalities, (b) the master plan of  
9 the county in which the municipality is located, and (c) the State  
10 Development and Redevelopment Plan adopted pursuant to the  
11 "State Planning Act," P.L.1985, c.398 (C.52:18A-196 et al.).

12 (6) The social and economic impact of the redevelopment area,  
13 including its effect on those parts of the municipality adjacent to the  
14 redevelopment area, and on the low and moderate income residents  
15 of the area.

16 (7) An explanation of how any development controls contained  
17 in the redevelopment plan are consistent with smart growth  
18 planning principles adopted pursuant to law or regulation.

19 (8) An estimate of the number of dwelling units for low and  
20 moderate income households that may be required as a result of  
21 implementing the redevelopment plan in order to meet the  
22 municipality's obligations under the "Fair Housing Act," P.L.1985,  
23 c. 222 (C.52:27D-301 et al.), which shall be no less than the full  
24 "growth share" as defined pursuant to law or regulation adopted  
25 pursuant thereto and the municipality's plan for meeting these  
26 obligations within or outside the redevelopment area.

27 (9) Provision for the replacement of any housing constructed for  
28 low and moderate income households under the provisions of any  
29 State or federal housing subsidy program which is to be removed as  
30 a result of the redevelopment plan; provided that any such  
31 replacement units shall not be counted toward the municipal  
32 obligation under paragraph (8) of this subsection. Any rental  
33 housing constructed under this subsection shall remain affordable to  
34 low and moderate income households for a period of no less than 45  
35 years or such other period established in State or federal financing  
36 programs.

37 (10) Preservation or conservation strategies and goals for the  
38 assets contained in the inventory of environmental, historical and  
39 cultural assets in the delineated project area.

40 b. **[A]** In addition to that housing provided pursuant to  
41 paragraph (8) of subsection a. of this section, a redevelopment plan  
42 may include the provision of affordable housing in accordance with  
43 the "Fair Housing Act," P.L.1985, c.222 (C.52:27D-301 et al.) and  
44 the housing element of the municipal master plan.

45 c. The redevelopment plan shall describe its relationship to  
46 pertinent municipal development regulations as defined in the  
47 "Municipal Land Use Law," P.L.1975, c.291 (C.40:55D-1 et seq.).  
48 The redevelopment plan shall supersede applicable provisions of the

1 development regulations of the municipality or constitute an  
2 overlay zoning district within the redevelopment area. When the  
3 redevelopment plan supersedes any provision of the development  
4 regulations, the ordinance adopting the redevelopment plan shall  
5 contain an explicit amendment to the zoning district map included  
6 in the zoning ordinance. The zoning district map as amended shall  
7 indicate the redevelopment area to which the redevelopment plan  
8 applies. [Notwithstanding the provisions of the “Municipal Land  
9 Use Law,” P.L.1975, c.291 (C.40:55D-1 et seq.) or of other law, no  
10 notice beyond that required for adoption of ordinances by the  
11 municipality shall be required for the hearing on or adoption of the  
12 redevelopment plan or subsequent amendments thereof.]

13 d. All provisions of the redevelopment plan shall be either  
14 substantially consistent with the municipal master plan or designed  
15 to effectuate the master plan; but the municipal governing body may  
16 adopt a redevelopment plan which is inconsistent with or not  
17 designed to effectuate the master plan by affirmative vote of a  
18 majority of its full authorized membership with the reasons for so  
19 acting set forth in the redevelopment plan.

20 e. [Prior to the adoption of a redevelopment plan, or revision or  
21 amendment thereto, the] If a municipality prepares a redevelopment  
22 plan directly, the municipal governing body shall refer the proposed  
23 redevelopment plan to the municipal planning board for review.  
24 Such referral may be by resolution. The municipal planning board  
25 shall transmit to the governing body, within 45 days after referral, a  
26 report containing its recommendation concerning the redevelopment  
27 plan. This report shall include an identification of any provisions in  
28 the proposed redevelopment plan which are inconsistent with the  
29 master plan and recommendations concerning these inconsistencies  
30 and any other matters as the board deems appropriate. The  
31 governing body, when considering the adoption of a redevelopment  
32 plan or revision or amendment thereof, shall review the report of  
33 the planning board and may approve or disapprove or change any  
34 recommendation by a vote of a majority of its full authorized  
35 membership and shall record in its minutes the reasons for not  
36 following the recommendations. Failure of the planning board to  
37 transmit its report within the required 45 days shall relieve the  
38 governing body from the requirements of this subsection with  
39 regard to the pertinent proposed redevelopment plan [or revision or  
40 amendment thereof]. Nothing in this subsection shall diminish the  
41 applicability of the provisions of subsection d. of this section with  
42 respect to any redevelopment plan or revision or amendment  
43 thereof.

44 f. The governing body of a municipality may direct the planning  
45 board to prepare a redevelopment plan [or an amendment or  
46 revision to a redevelopment plan] for a designated redevelopment  
47 area. After completing the redevelopment plan, the planning board



1 shall transmit the proposed plan to the governing body for its  
2 adoption. The governing body, when considering the proposed  
3 plan, may amend or revise any portion of the proposed  
4 redevelopment plan by an affirmative vote of the majority of its full  
5 authorized membership and shall record in its minutes the reasons  
6 for each amendment or revision. When a redevelopment plan [or  
7 amendment to a redevelopment plan] is referred to the governing  
8 body by the planning board under this subsection, the governing  
9 body shall be relieved of the referral requirements of subsection e.  
10 of this section.

11 g. Within 60 days after the governing body or planning board  
12 begins preparation of the redevelopment plan, the governing body  
13 or planning board shall conduct a public hearing on the goals and  
14 content of the redevelopment plan. Notice of the public hearing  
15 shall state the date, time, and location of the public hearing, shall  
16 identify the borders of the area for which a plan is being developed.  
17 A copy of the notice of the public hearing shall be published in a  
18 newspaper of general circulation in the municipality once each  
19 week for two consecutive weeks, and the last publication shall be  
20 not less than 10 days prior to the date set for the hearing, and shall  
21 be posted on the municipality's Internet web site, if any, and in such  
22 other public places within or proximate to the proposed  
23 redevelopment area as may be available and appropriate. A copy of  
24 the notice shall be mailed by the municipal clerk at least ten days  
25 prior to the date set for the hearing to the last owner, if any, of each  
26 parcel of property and any legal tenant of a residential rental  
27 dwelling unit, within the area according to the assessment records  
28 of the municipality. The municipal clerk shall make a diligent  
29 effort to ascertain the names and addresses of legal tenants of rental  
30 dwelling units by contacting the legal owner of the rental property  
31 or a management company identified by such owner, but if unable  
32 to do so shall have a copy of the notice posted on properties known  
33 to be rental dwelling units. At such public hearing, the municipal  
34 governing body shall hear all persons who are interested in or  
35 would be affected by the redevelopment plan, although the planning  
36 board or governing body may, by vote of its majority, restrict or  
37 limit the amount of time afforded each such person to speak. A  
38 record of the public hearing shall be kept by the municipal clerk.

39 h. Amendments to redevelopment plans shall be prepared and  
40 adopted in the same manner provided for a redevelopment plan.

41 i. The redevelopment plan shall be adopted by ordinance of the  
42 municipal governing body. Prior to final adoption of the ordinance,  
43 the municipal governing body shall conduct a public hearing on the  
44 ordinance and all interested persons shall be allowed to speak.  
45 Notice of the public hearing shall state the date, time, and location  
46 of the public hearing, shall identify where the proposed  
47 redevelopment plan is available for examination and shall identify,  
48 by block and lot and street address, if any, the parcels that may be

1 subject to eminent domain under the proposed redevelopment plan.  
2 The full text of the redevelopment plan to be considered by the  
3 governing body along with any maps or other exhibits thereto, shall  
4 be made available to the public in the municipal building and shall  
5 be posted on the municipality's Internet web site, if any, at the time  
6 such notice to such hearing is to be provided. Copies of the  
7 proposed redevelopment plan shall be available for purchase by any  
8 interested party. A copy of the notice of the public hearing shall be  
9 published in a newspaper of general circulation in the municipality  
10 once each week for two consecutive weeks, and the last publication  
11 shall be not less than 10 days prior to the date set for the hearing,  
12 and shall be posted on the municipality's Internet web site and in  
13 such other public places within or proximate to the proposed  
14 redevelopment area as may be available and appropriate. A copy of  
15 the notice shall be mailed by the municipal clerk at least 10 days  
16 prior to the date set for the hearing to the last owner, if any, of each  
17 parcel of property and any legal tenant of a residential rental  
18 dwelling unit, within the area according to the assessment records  
19 of the municipality. The municipal clerk shall make a diligent  
20 effort to ascertain the names and addresses of legal tenants of  
21 residential rental dwelling units by contacting the legal owner of the  
22 rental property or a management company identified by such owner,  
23 but if unable to do so shall have a copy of the notice posted on  
24 properties known to contain residential rental dwelling units. For  
25 property owners whose properties do not exhibit conditions of  
26 blight and are proposed to be acquired under the redevelopment  
27 plan, the notice shall specify the reason why acquiring the property  
28 is necessary for the redevelopment of the area. A notice shall also  
29 be sent by the municipal clerk to all persons at their last known  
30 address, if any, whose names are noted on the assessment records as  
31 claimants of an interest in any such parcel. The assessor of the  
32 municipality shall make a notation upon the records when requested  
33 to do so by any person claiming to have an interest in any parcel of  
34 property in the municipality. The notice shall be published and  
35 mailed by the municipal clerk. Failure to mail any such notice shall  
36 not invalidate the redevelopment plan. At such public hearing, the  
37 municipal governing body shall hear all persons who are interested  
38 in or would be affected by the provisions of the redevelopment  
39 plan, although the governing body may, by vote of its majority,  
40 restrict or limit the amount of time afforded each such person to  
41 speak. A record of the public hearing shall be kept by the  
42 municipal clerk. Upon the close of the public hearing, the  
43 municipal governing body may vote to finally adopt the ordinance.  
44 j. Notice of final adoption of an ordinance adopting a  
45 redevelopment plan shall be served, within 10 days after the final  
46 adoption of the ordinance making such determination, upon each  
47 person who received notice of the public hearing in accordance with  
48 subsection h. of this section in the same manner as provided therein.

1 Additionally, notice of final adoption of an ordinance making a  
2 determination shall be published in the official newspaper of the  
3 municipality, together with the date of the first publication of such  
4 notice and also a statement that any action or proceeding of any  
5 kind or nature in any court questioning the validity of the adoption  
6 of the ordinance or the determination contained therein, shall be  
7 commenced within 45 days after the first publication of such notice.

8 k. The municipality may not finally authorize and execute an  
9 agreement with a redeveloper until 60 days next following the final  
10 adoption of the ordinance adopting a redevelopment plan pursuant  
11 to this section.

12 (cf: P.L.1992, c.79, s.7)

13  
14 10. Section 8 of P.L.1992, c.79 (C.40A:12A-8) is amended to  
15 read as follows:

16 8. Upon the adoption of a redevelopment plan pursuant to  
17 section 7 of P.L.1992, c.79 (C.40A:12A-7), the municipality or  
18 redevelopment entity designated by the governing body may  
19 proceed with the clearance, replanning, development and  
20 redevelopment of the area designated in that plan. In order to carry  
21 out and effectuate the purposes of this act and the terms of the  
22 redevelopment plan, the municipality or designated redevelopment  
23 entity may:

24 a. Undertake redevelopment projects, and for this purpose issue  
25 bonds in accordance with the provisions of section 29 of P.L.1992,  
26 c.79 (C.40A:12A-29).

27 b. Acquire property pursuant to subsection i. of section 22 of  
28 P.L.1992, c.79 (C.40A:12A-22).

29 c. Acquire, by condemnation, any land or building in or upon  
30 which a condition set forth in section 5 of P.L.1992, c.79  
31 (C.40A:12A-5) is present and which is necessary for the  
32 redevelopment project, pursuant to the provisions of the "Eminent  
33 Domain Act of 1971," P.L.1971, c.361 (C.20:3-1 et seq.); provided,  
34 however, that for properties to be acquired under the terms of an  
35 agreement entered into pursuant to a redevelopment plan adopted  
36 after the effective date of P.L. , c. (C. ) (pending before the  
37 Legislature as this bill), the valuation of such properties shall take  
38 into account the uses permitted for such property under the  
39 redevelopment plan and shall be based on the date the municipality  
40 files the declaration of taking or the date of adoption of the  
41 redevelopment plan, whichever yields the higher valuation. For  
42 residential properties, if neither of these two valuations is equal to  
43 or more than the "replacement value" of the home, then the  
44 valuation of such properties must be at least the "replacement  
45 value" of the home, which shall be defined as the approximate value  
46 of a home of similar size and quality under comparable conditions,  
47 within the municipality and within a reasonable distance of the  
48 property being condemned. Furthermore, persons displaced

1 pursuant to implementation of a redevelopment plan shall be  
2 entitled to all rights and benefits provided under the Uniform  
3 Transportation Replacement Housing and Relocation Act, P.L.1972,  
4 c.47 (C.27:7-72 et seq.), and rules and regulations adopted in  
5 accordance thereof.

6 d. Clear any area owned or acquired and install, construct or  
7 reconstruct streets, facilities, utilities, and site improvements  
8 essential to the preparation of sites for use in accordance with the  
9 redevelopment plan.

10 e. Prepare or arrange by contract for the provision of  
11 professional services and the preparation of plans by registered  
12 architects, licensed professional engineers or planners, or other  
13 consultants for the carrying out of redevelopment projects.

14 f. Arrange or contract with public agencies or redevelopers for  
15 the planning, replanning, construction, or undertaking of any  
16 project or redevelopment work, or any part thereof; negotiate and  
17 collect revenue from a redeveloper to defray the costs of the  
18 redevelopment entity, including where applicable the costs incurred  
19 in conjunction with bonds, notes or other obligations issued by the  
20 redevelopment entity, and to secure payment of such revenue; as  
21 part of any such arrangement or contract, provide for extension of  
22 credit, or making of loans, to redevelopers to finance any project or  
23 redevelopment work, or upon a finding that the project or  
24 redevelopment work would not be undertaken but for the provision  
25 of financial assistance, or would not be undertaken in its intended  
26 scope without the provision of financial assistance, provide as part  
27 of an arrangement or contract for capital grants to redevelopers; and  
28 arrange or contract with public agencies or redevelopers for the  
29 opening, grading or closing of streets, roads, roadways, alleys, or  
30 other places or for the furnishing of facilities or for the acquisition  
31 by such agency of property options or property rights or for the  
32 furnishing of property or services in connection with a  
33 redevelopment area.

34 g. **【Lease or convey property or improvements to any other**  
35 **party pursuant to this section, without public bidding and at such**  
36 **prices and upon such terms as it deems reasonable, provided that**  
37 **the lease or conveyance is made in conjunction with a**  
38 **redevelopment plan, notwithstanding the provisions of any law,**  
39 **rule, or regulation to the contrary.】** (Deleted by amendment,  
40 P.L. , c. .) (pending before the Legislature as this bill)

41 h. Enter upon any building or property in any redevelopment  
42 area in order to conduct investigations or make surveys, sounding or  
43 test borings necessary to carry out the purposes of this act.

44 i. Arrange or contract with a public agency for the relocation,  
45 pursuant to the "Relocation Assistance Law of 1967," P.L.1967,  
46 c.79 (C.52:31B-1 et seq.) and the "Relocation Assistance Act,"  
47 P.L.1971, c.362 (C.20:4-1 et seq.), of residents, industry or  
48 commerce displaced from a redevelopment area.

1       j. Make, consistent with the redevelopment plan: (1) plans for  
2 carrying out a program of voluntary repair and rehabilitation of  
3 buildings and improvements; and (2) plans for the enforcement of  
4 laws, codes, and regulations relating to the use and occupancy of  
5 buildings and improvements, and to the compulsory repair,  
6 rehabilitation, demolition, or removal of buildings and  
7 improvements.

8       k. Request that the planning board recommend and governing  
9 body designate particular areas as being in need of redevelopment  
10 or rehabilitation in accordance with the provisions of this act and  
11 make recommendations for the redevelopment or rehabilitation of  
12 such areas.

13       l. Study the recommendations of the planning board or  
14 governing body for redevelopment of the area.

15       m. Publish and disseminate information concerning any  
16 redevelopment area, plan or project.

17       n. Do all things necessary or convenient to carry out its powers.  
18 (cf: P.L.1992, c.79, s.8)

19

20       11. Section 14 of P.L.1992, c.79 (C.40A:12A-14) is amended to  
21 read as follows:

22       14. a. A delineated area may be determined to be in need of  
23 rehabilitation if the governing body of the municipality determines  
24 by resolution that a program of rehabilitation, as defined in section  
25 3 of P.L.1992, c.79 (C.40A:12A-3), may be expected to prevent  
26 further deterioration and promote the overall development of the  
27 community and that there exist in that area conditions such that:

28       (1) a significant portion of structures therein are in a  
29 deteriorated or substandard condition and there is a continuing  
30 pattern of vacancy, abandonment or underutilization of properties in  
31 the area, **[with]** which may be reflected in a persistent arrearage of  
32 property tax payments thereon; **[or]**

33       (2) **[more than half]** a significant amount of the housing stock  
34 **[in the delineated area is at least 50 years old, or a majority of the**  
35 **water and sewer]** or infrastructure in the delineated area, or both, is  
36 **[at least 50 years old and is]** in need of repair or substantial  
37 maintenance; **[and]**

38       (3) **[a program of rehabilitation, as defined in section 3 of**  
39 **P.L.1992, c.79 (C.40A:12A-3), may be expected to prevent further**  
40 **deterioration and promote the overall development of the**  
41 **community]** (Deleted by amendment, P.L. , c. .) (pending before  
42 the Legislature as this bill);

43       (4) areas with buildings or improvements evidencing  
44 dilapidation, obsolescence, overcrowding, faulty arrangement or  
45 design, lack of ventilation, light and sanitary facilities, excessive  
46 land coverage, deleterious land use or obsolete layout, or any  
47 combination of these or other factors; or

1     (5) a growing lack or total lack of proper utilization of areas  
2     resulting in a stagnant or not fully productive condition of land  
3     potentially useful and valuable for contributing to and serving the  
4     public health, safety, and welfare.

5     The resolution determining that the area is in need of  
6     rehabilitation shall be based upon a written report documenting the  
7     conditions that provide the basis for the determination that the area  
8     is in need of rehabilitation. Where warranted by consideration of  
9     the overall conditions and requirements of the community, a finding  
10    of need for rehabilitation may extend to the entire area of a  
11    municipality. Prior to adoption of the resolution, the governing  
12    body shall submit **【it】** the proposed resolution together with the  
13    report that provides the basis for the determination to the municipal  
14    planning board for its review. Within 45 days of its receipt of the  
15    proposed resolution, the municipal planning board shall submit its  
16    recommendations regarding the proposed resolution, including any  
17    modifications which it may recommend, to the governing body for  
18    its consideration. Thereafter, or after the expiration of the 45 days  
19    if the municipal planning board does not submit recommendations,  
20    the governing body may adopt the resolution, with or without  
21    modification. The resolution shall not become effective without the  
22    approval of the commissioner pursuant to section 6 of P.L.1992,  
23    c.79 (C.40A:12A-6), if otherwise required pursuant to that section.

24    b. A delineated area shall be deemed to have been determined to  
25    be an area in need of rehabilitation in accordance with the  
26    provisions of this act if it has heretofore been determined to be an  
27    area in need of rehabilitation pursuant to P.L.1975, c.104 (C.54:4-  
28    3.72 et seq.), P.L.1977, c.12 (C.54:4-3.95 et seq.) or P.L.1979,  
29    c.233 (C.54:4-3.121 et seq.).

30    (cf: P.L.2003, c.125, s.5)

31  
32    12. Section 15 of P.L.1992, c.79 (C40A:12A-15) is amended to  
33    read as follows:

34    15. In accordance with the provisions of a redevelopment plan  
35    adopted pursuant to section 7 of P.L.1992, c.79 (C.40A:12A-7), a  
36    municipality or redevelopment entity may proceed with clearance,  
37    replanning, conservation, development, redevelopment and  
38    rehabilitation of an area in need of rehabilitation. **【With respect to**  
39    **a redevelopment project in】** In an area in need of rehabilitation, the  
40    municipality or redevelopment entity, upon the adoption of a  
41    redevelopment plan for the area, may perform any of the actions set  
42    forth in section 8 of P.L.1992, c.79 (C.40A:12A-8), except that  
43    **【with respect to such a project】** the municipality shall not have the  
44    power to use eminent domain to take or acquire private property by  
45    condemnation in furtherance of a redevelopment plan, unless **【:** a.  
46    the area is within an area determined to be in need of

1 redevelopment pursuant to this act; or b.】 exercise of that power is  
2 authorized under any other law of this State.

3 (cf: P.L.1992, c.79, s.15)  
4

5 13. Section 19 of P.L.1975, c.291 (C.40:55D-28) is amended to  
6 read as follows:

7 19. 【Preparation; contents; modification.】 a. The planning  
8 board may prepare and, after public hearing, adopt or amend a  
9 master plan or component parts thereof, to guide the use of lands  
10 within the municipality in a manner which protects public health  
11 and safety and promotes the general welfare.

12 b. The master plan shall generally comprise a report or  
13 statement and land use and development proposals, with maps,  
14 diagrams and text, presenting, at least the following elements (1)  
15 and (2) and, where appropriate, the following elements (3) through  
16 (【14】 15):

17 (1) A statement of objectives, principles, assumptions, policies  
18 and standards upon which the constituent proposals for the physical,  
19 economic and social development of the municipality are based;

20 (2) A land use plan element (a) taking into account and stating  
21 its relationship to the statement provided for in paragraph (1)  
22 hereof, and other master plan elements provided for in paragraphs  
23 (3) through (【14】 15) hereof and natural conditions, including, but  
24 not necessarily limited to, topography, soil conditions, water  
25 supply, drainage, flood plain areas, marshes, and woodlands; (b)  
26 showing the existing and proposed location, extent and intensity of  
27 development of land to be used in the future for varying types of  
28 residential, commercial, industrial, agricultural, recreational,  
29 educational and other public and private purposes or combination of  
30 purposes; and stating the relationship thereof to the existing and any  
31 proposed zone plan and zoning ordinance; and (c) showing the  
32 existing and proposed location of any airports and the boundaries of  
33 any airport safety zones delineated pursuant to the "Air Safety and  
34 Zoning Act of 1983," P.L.1983, c.260 (C.6:1-80 et seq.); and (d)  
35 including a statement of the standards of population density and  
36 development intensity recommended for the municipality;

37 (3) A housing plan element pursuant to section 10 of P.L.1985,  
38 c.222 (C.52:27D-310), including, but not limited to, residential  
39 standards and proposals for the construction and improvement of  
40 housing;

41 (4) A circulation plan element showing the location and types of  
42 facilities for all modes of transportation required for the efficient  
43 movement of people and goods into, about, and through the  
44 municipality, taking into account the functional highway  
45 classification system of the Federal Highway Administration and  
46 the types, locations, conditions and availability of existing and  
47 proposed transportation facilities, including air, water, road and rail;

1       (5) A utility service plan element analyzing the need for and  
2 showing the future general location of water supply and distribution  
3 facilities, drainage and flood control facilities, sewerage and waste  
4 treatment, solid waste disposal and provision for other related  
5 utilities, and including any storm water management plan required  
6 pursuant to the provisions of P.L.1981, c.32 (C.40:55D-93 et seq.).  
7 If a municipality prepares a utility service plan element as a  
8 condition for adopting a development transfer ordinance pursuant to  
9 subsection c. of section 4 of P.L.2004, c.2 (C.40:55D-140), the plan  
10 element shall address the provision of utilities in the receiving zone  
11 as provided thereunder;

12       (6) A community facilities plan element showing the existing  
13 and proposed location and type of educational or cultural facilities,  
14 historic sites, libraries, hospitals, firehouses, police stations and  
15 other related facilities, including their relation to the surrounding  
16 areas;

17       (7) A recreation plan element showing a comprehensive system  
18 of areas and public sites for recreation;

19       (8) A conservation plan element providing for the preservation,  
20 conservation, and utilization of natural resources, including, to the  
21 extent appropriate, energy, open space, water supply, forests, soil,  
22 marshes, wetlands, harbors, rivers and other waters, fisheries,  
23 endangered or threatened species wildlife and other resources, and  
24 which systemically analyzes the impact of each other component  
25 and element of the master plan on the present and future  
26 preservation, conservation and utilization of those resources;

27       (9) An economic plan element considering all aspects of  
28 economic development and sustained economic vitality, including  
29 (a) a comparison of the types of employment expected to be  
30 provided by the economic development to be promoted with the  
31 characteristics of the labor pool resident in the municipality and  
32 nearby areas and (b) an analysis of the stability and diversity of the  
33 economic development to be promoted;

34       (10) A historic preservation plan element: (a) indicating the  
35 location and significance of historic sites and historic districts; (b)  
36 identifying the standards used to assess worthiness for historic site  
37 or district identification; and (c) analyzing the impact of each  
38 component and element of the master plan on the preservation of  
39 historic sites and districts;

40       (11) Appendices or separate reports containing the technical  
41 foundation for the master plan and its constituent elements;

42       (12) A recycling plan element which incorporates the State  
43 Recycling Plan goals, including provisions for the collection,  
44 disposition and recycling of recyclable materials designated in the  
45 municipal recycling ordinance, and for the collection, disposition  
46 and recycling of recyclable materials within any development  
47 proposal for the construction of 50 or more units of single-family  
48 residential housing or 25 or more units of multi-family residential



1 housing and any commercial or industrial development proposal for  
2 the utilization of 1,000 square feet or more of land;

3 (13) A farmland preservation plan element, which shall include:  
4 an inventory of farm properties and a map illustrating significant  
5 areas of agricultural land; a statement showing that municipal  
6 ordinances support and promote agriculture as a business; and a  
7 plan for preserving as much farmland as possible in the short term  
8 by leveraging monies made available by P.L.1999, c.152 (C.13:8C-  
9 1 et al.) through a variety of mechanisms including, but not limited  
10 to, utilizing option agreements, installment purchases, and  
11 encouraging donations of permanent development easements; [and]

12 (14) A development transfer plan element which sets forth the  
13 public purposes, the locations of sending and receiving zones and  
14 the technical details of a development transfer program based on the  
15 provisions of section 5 of P.L.2004, c.2 (C.40:55D-141); and

16 (15) A redevelopment plan element identifying all areas that  
17 have been designated in need of redevelopment or rehabilitation in  
18 the municipality as well as additional areas that may be so  
19 designated in the future, the goals and objectives of projected  
20 redevelopment activities in those areas during the time period  
21 covered by the master plan, the manner in which those activities  
22 further the social, economic, and physical improvement of the  
23 municipality, and the manner in which redevelopment activities are  
24 linked to other activities being carried out by the municipality  
25 pursuant to the municipal master plan, including improvements to  
26 infrastructure, transportation improvements, and the construction of  
27 public and community facilities.

28 c. The master plan and its plan elements may be divided into  
29 subplans and subplan elements projected according to periods of  
30 time or staging sequences.

31 d. The master plan shall include a specific policy statement  
32 indicating the relationship of the proposed development of the  
33 municipality, as developed in the master plan to (1) the master plans  
34 of contiguous municipalities, (2) the master plan of the county in  
35 which the municipality is located, (3) the State Development and  
36 Redevelopment Plan adopted pursuant to the "State Planning Act,"  
37 sections 1 through 12 of P.L.1985, c.398 (C.52:18A-196 et seq.)  
38 and (4) the district solid waste management plan required pursuant  
39 to the provisions of the "Solid Waste Management Act," P.L.1970,  
40 c.39 (C.13:1E-1 et seq.) of the county in which the municipality is  
41 located.

42 In the case of a municipality situated within the Highlands  
43 Region, as defined in section 3 of P.L.2004, c.120 (C.13:20-3), the  
44 master plan shall include a specific policy statement indicating the  
45 relationship of the proposed development of the municipality, as  
46 developed in the master plan, to the Highlands regional master plan  
47 adopted pursuant to section 8 of P.L.2004, c.120 (C.13:20-8).

48 (cf: P.L.2004, c.120, s.60)

- 1       14. (New section) a. Whenever a redevelopment project or  
2 projects involve the conveyance of land owned by the municipality,  
3 or any project, 20% or more of which will be constructed upon land  
4 subject to acquisition by the municipality or redevelopment entity  
5 pursuant to the redevelopment plan, the municipality shall approve,  
6 by ordinance, a written agreement designating a redeveloper  
7 selected in accordance with this section.
- 8       b. The municipality or redevelopment entity shall prepare or  
9 have prepared request for proposal documentation, which shall  
10 include: all requirements deemed appropriate and necessary to  
11 allow for full and free competition between potential redevelopers;  
12 information necessary for potential redevelopers to submit a  
13 proposal, including a copy of the redevelopment plan, a general  
14 description of the project or projects, and such municipal public  
15 records relating to buildings and improvements within the  
16 redevelopment area, including, but not limited to, services provided  
17 by public utilities, building permit, and assessment records; and a  
18 methodology by which the municipality will evaluate and rank  
19 proposals received from potential redevelopers.
- 20       c. The methodology for selecting a redeveloper shall be based  
21 on an evaluation and ranking which may include overall design,  
22 technical expertise, demonstrated experience on projects similar to  
23 the proposed project, the ability to finance the proposed project, and  
24 such other stated criteria as the municipality shall deem relevant.
- 25       d. At no time during the proposal solicitation process shall the  
26 municipality or redevelopment entity, or any employee or agent  
27 thereof, convey information to the public or any potential  
28 redeveloper which could confer an unfair advantage upon that  
29 potential redeveloper over any other potential redeveloper. If the  
30 municipality or redevelopment entity desires to change proposal  
31 documentation, the municipality or redevelopment entity shall  
32 notify only those potential redevelopers who received the proposal  
33 documentation of any and all changes in writing, and all existing  
34 documentation shall be changed appropriately.
- 35       e. All proposals shall be required to contain a statement of  
36 corporate ownership in accordance with the provisions of section 1  
37 of P.L.1977, c.33 (C.52:25-24.2) and specifications concerning  
38 equal employment opportunity and affirmative action pursuant to  
39 P.L.1975, c.127 (C.10:5-31 et seq.)
- 40       f. A notice of the availability of request for proposal  
41 documentation shall be published in an official newspaper of the  
42 municipality at least 30 days prior to the date established for the  
43 submission of proposals. Such notice shall provide the name,  
44 address, and phone number of the person who can provide  
45 additional information and a proposal document to an interested  
46 party. The municipality or redevelopment entity shall promptly  
47 reply to any request by an interested party by providing a copy of  
48 the request for proposals. The municipality or redevelopment entity

1 may charge a fee for the proposal documentation that shall not  
2 exceed \$50 or the cost of reproducing the documentation,  
3 whichever is greater.

4 g. Each interested potential redeveloper shall submit a proposal  
5 which shall include all the information required by the request for  
6 proposals. Failure to meet the requirements of the request for  
7 proposals may result in the municipality or redevelopment entity  
8 disqualifying the potential redeveloper from further consideration.

9 h. The municipality or redevelopment entity shall review and  
10 evaluate all proposals only in accordance with the methodology  
11 described in the request for proposals. The review shall be  
12 conducted in a manner that avoids disclosure of the contents of any  
13 proposal prior to the selection of a redeveloper. The municipality  
14 or redevelopment entity may conduct discussions with a potential  
15 redeveloper submitting a proposal for the purpose of clarifying the  
16 information submitted in the proposal. The municipality or  
17 redevelopment entity may at any time revise its proposal document  
18 after the review of the submitted proposals if it notifies  
19 simultaneously, and in writing, each potential redeveloper that  
20 submitted a proposal of the revision and provides a uniform time  
21 within which the potential redevelopers may submit a revised  
22 proposal for review.

23 i. The municipality or redevelopment entity shall select the  
24 proposal that received the highest evaluation and shall negotiate an  
25 agreement with the potential redeveloper that submitted the selected  
26 proposal. If the municipality or redevelopment entity is unable to  
27 negotiate a satisfactory agreement with the potential redeveloper  
28 that submitted the selected proposal, it may select the proposal that  
29 received the second highest evaluation from among those submitted  
30 and proceed to negotiate a satisfactory contract with the potential  
31 redeveloper that submitted that proposal. The process shall  
32 continue until a redeveloper is selected or the process is abandoned  
33 by the municipality or redevelopment entity. The decision to  
34 abandon the proposal process shall be by a resolution adopted by  
35 the governing body of the municipality or redevelopment entity.

36 j. After a redeveloper has been selected and a satisfactory  
37 agreement has been negotiated, but prior to the execution of the  
38 agreement by the governing body or redevelopment entity, the  
39 municipality or redevelopment entity shall prepare a report  
40 concerning the proposal selection process. The report shall list the  
41 names of all potential redevelopers who submitted a proposal and  
42 shall summarize the proposals of each potential redeveloper. The  
43 report shall (1) rank the potential redevelopers in order of  
44 evaluation; (2) summarize, in general terms, any unsuccessful  
45 negotiations with potential redevelopers that submitted proposals  
46 which were ranked higher than the proposal of the selected  
47 redeveloper; (3) recommend the selected redeveloper; and (4)  
48 summarize the project to be undertaken and the relevant terms of

1 the proposed agreement. The report shall be made available to the  
2 public at least 48 hours prior to the introduction of an ordinance  
3 authorizing an agreement with the redeveloper.

4 k. The governing body of the municipality or redevelopment  
5 entity shall have the right to reject all proposals for any reason, but  
6 such reason must be given and the municipality shall not authorize  
7 another request for proposals concerning the same project or  
8 projects for a period of 30 days after the date of rejection or  
9 abandonment by the governing body.

10 l. Nothing in this section shall limit the authority of a  
11 municipality to convey property within a redevelopment area for  
12 nominal consideration to any of the entities designated in section 21  
13 of the "Local Lands and Buildings Law," P.L.1971, c.199  
14 (C.40A:12-21) for any of the uses set forth therein, and to enter into  
15 redevelopment agreements with such entities for such uses without  
16 complying with the provisions of this section.

17

18 15. (New section) If any agreement between a redevelopment  
19 entity and a redeveloper shall provide for the use or potential use of  
20 eminent domain by the redevelopment entity, such agreement shall  
21 contain:

22 a. a block and lot identification of all parcels which may be  
23 subject to eminent domain at the request of the redeveloper;

24 b. a schedule of acquisition by the redeveloper; and

25 c. a provision stating that the ability of the redeveloper to  
26 request acquisition by eminent domain shall lapse within five years  
27 of the effective date of the agreement, which provision may only be  
28 further extended by an ordinance enacted by the governing body  
29 after notice to any property owner whose rights will be directly  
30 affected by such an extension.

31 All mandatory schedules and time limitations within these  
32 provisions may be subject to tolling for any contingencies set forth  
33 in the agreement.

34

35 16. (New section) Every resident displaced as a result of a  
36 redevelopment project shall have a limited right of first refusal to  
37 purchase or lease a dwelling unit subsequently constructed within  
38 the redevelopment project as set forth in this section:

39 a. At such time residents are provided notice pursuant to the  
40 Workable Relocation Assistance Plan pursuant to law or regulation  
41 adopted pursuant thereto, they shall be provided with the  
42 opportunity to have their names entered into a registry of residents  
43 seeking the opportunity to purchase or lease a dwelling unit in the  
44 redevelopment project. The registry shall be maintained by the  
45 municipal relocation officer designated under the Workable  
46 Relocation Assistance Plan.

47 b. At such time that any residential development containing  
48 more than 10 dwelling units shall be constructed in any

1 redevelopment area as a redevelopment project, the developer shall  
2 notify each individual on the registry, by registered mail and by e-  
3 mail to their last known mailing or e-mail address, as may be  
4 available, of their opportunity to purchase or lease a dwelling unit.  
5 It shall be the sole responsibility of the individual to maintain a  
6 current mailing address with the registry, and the developer shall be  
7 under no obligation to provide notice except as set forth in this  
8 subsection.

9 c. From the date of mailing of the notice, the individuals on the  
10 registry shall have 14 business days before the units in such  
11 development are offered to the general public in order to enter into  
12 a contract of purchase or a lease for a unit in the development. Such  
13 contract or lease shall be on the same terms and at the same price as  
14 those on which the unit is initially offered to the general public.  
15

16 17. (New section) a. For all areas determined to be in need of  
17 redevelopment, the municipality shall submit to the Department of  
18 Community Affairs a map outlining the physical boundaries of the  
19 redevelopment area, the preliminary investigation report, and a  
20 copy of the ordinance making the determination. This information  
21 shall be transmitted within 60 days of the effective date of this act  
22 for areas determined to be in need of redevelopment on or prior to  
23 the effective date of this act, or within 10 days after the area is  
24 determined to be in need of redevelopment after the effective date  
25 of this act.

26 b. For all condemnations of properties that occur pursuant to  
27 subsection c. of section 8 of P.L.1992, c.79 (C.40A:12A-8), the  
28 municipality shall submit to the Department of Community Affairs  
29 record of the condemnation and the compensation provided to the  
30 property owner within 10 days of the taking.

31 c. Each year the Department of Community Affairs shall issue a  
32 report that lists the location of all areas currently determined to be  
33 in need of redevelopment in New Jersey; basic data for each area  
34 about its size, and population, the status of the redevelopment plan  
35 implementation, and the length of time the area has been designated  
36 as an area in need of redevelopment; and the number of times  
37 eminent domain has been used in each redevelopment area, and data  
38 on compensation received by property owners, where available.  
39 This report shall be made available to the general public upon  
40 request and on the Department of Community Affairs Internet web  
41 site.  
42

43 18. This act shall take effect on the first day of the fourth month  
44 next following enactment. Any final action taken by a municipality  
45 or redevelopment entity with respect to: a determination that an area  
46 is in need of redevelopment or in need of rehabilitation; adoption of  
47 a redevelopment plan; or designation of a redeveloper, prior to the  
48 effective date of this act shall have full force and effect, but any

1 subsequent official action by the municipality or redevelopment  
2 entity after the effective date of this act shall be subject to its  
3 provisions.

4

5

6

STATEMENT

7

8 This bill provides a reform of current eminent domain law as it  
9 pertains to municipal redevelopment programs. The bill ensures  
10 that affected property owners and the general public are provided  
11 adequate notice of a municipality's interest in inaugurating a  
12 redevelopment program; affords such stakeholders the opportunity  
13 to be heard during the process undertaken to develop such  
14 programs; adds transparency to the exercise of eminent domain;  
15 creates certainty that redevelopment programs are authorized and  
16 undertaken in a deliberative and open process, free of "pay-to-play"  
17 deals; provides that such programs, once properly adopted, are  
18 implemented in a fair and certain manner, including a public  
19 process, where appropriate, for the selection of redevelopers  
20 seeking the assistance of municipal officials in constructing a  
21 redevelopment project on municipally owned or acquired property;  
22 provides a just measure of compensation to owners of homes and  
23 operating businesses, including compensation for loss of business  
24 income, who are subject to eminent domain; and affords protection  
25 and finality to such redevelopment programs properly created under  
26 these heightened standards for enactment.