

SENATE COMMUNITY AND URBAN
AFFAIRS COMMITTEE

A M E N D M E N T S

to

SENATE, No. 757

(Sponsored By Senator RICE)

REPLACE SECTION 2 TO READ:

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

6. a. Whenever any condemnor shall have determined to acquire property pursuant to law, including public property already devoted to public purpose, but cannot acquire title thereto or possession thereof by agreement with a prospective condemnee, whether by reason of disagreement concerning the compensation to be paid or for any other cause, the condemnation of such property and the compensation to be paid therefor, and to whom payable, and all matters incidental thereto and arising therefrom shall be governed, ascertained and paid by and in the manner provided by this act; provided, however, that no action to condemn shall be instituted unless the condemnor is unable to acquire such title or possession through bona fide negotiations with the prospective condemnee, which negotiations shall include an offer in writing by the condemnor to the prospective condemnee holding the title of record to the property being condemned, setting forth the property and interest therein to be acquired, the compensation offered to be paid and **【a reasonable disclosure of the manner in which the amount of such offered compensation has been calculated】** a copy of the appraisal upon which the offer has been based and which was approved by the condemnor, and such other matters as may be required by the rules.

b. Prior to such offer the taking agency shall appraise said property and the owner, his agents and consultants shall be given an opportunity to accompany the appraiser and any other non-real estate expert or consultant hired by the condemnor or redeveloper during inspection of the property. **【Such offer】** The owner, his agents and consultants may provide to the taking agency's appraiser, other expert or consultant, information or data, or otherwise raise issues of concern, including information concerning outstanding balances on bona fide mortgages that were valid liens encumbering the property at least 180

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days prior to the initiation of negotiations for the acquisition of that property, and otherwise raise issues relating to the valuation of the property and damages to the remainder arising from the proposed acquisition.

c. (1) The appraiser, redeveloper, and any other non-real estate experts or consultants hired by the redeveloper or taking agency shall transmit to the taking agency, in written form signed by the property owner, all information and issues of concern provided to those persons by the owner and his agents and consultants.

(2) The approved appraisal shall include any such information in the determination of the estimate of fair market value to the extent that it has an effect, if any, upon fair market value as permitted by law.

(3) If the owner declines to sign the written information and issues of concern, the appraiser, redeveloper, or other non-real estate experts or consultants, as appropriate, shall send a confirming letter to that effect to the taking agency, with a copy to the property owner by certified mail, return receipt requested. The confirming letter shall satisfy the requirements of this section.

d. The value of a location premium that will be lost due to dislocation shall be paid pursuant to the requirements of subsection d. of section 4 of P.L.1971, c.362 (C.20:4-4), if it was not included in the approved appraisal or compensation offer to acquire a property pursuant to a redevelopment plan. For the purposes of this subsection, "location premium" means the benefits that accrue to a business as a result of favorable pedestrian, mass transportation, or vehicular traffic peculiar to its location.

e. The written offer made by a condemnor to a prospective condemnee holding record title to the property shall be served by certified mail, return receipt requested, by a private courier or in person along with a copy of the approved appraisal. In no event shall such offer be less than the taking agency's approved appraisal [of the fair market value] of such property; provided, however, that when the condemnation is authorized under the "Local Redevelopment and Housing Law," P.L.1992, c.79 (C.40A:12A-1 et al.), if the amount of the approved appraisal is less than the amount of one or more bona fide mortgages, which were valid liens encumbering the property for not less than 180 days prior to the initiation of negotiations for the acquisition of such property, the amount of the written offer shall be no less than the payoff amount for those mortgage liens, calculated in accordance with the provision in section 5 of P.L.1971, c.362 (C.20:4-5). [A rejection of said offer or failure to accept the same within the period fixed in written offer, which shall in no case be less than 14 days from the mailing of the offer, shall]

f. (1) The prospective condemnee shall be afforded 45 calendar days from receipt of the written offer to review the offer and the approved appraisal upon which the offer was based, to seek clarification thereof as well as any other relevant information, to allow an opportunity to negotiate the compensation to be paid, and to request

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an opportunity to discuss the offer and the basis thereof with a representative of the condemnor in person.

(2) Prior to the expiration of this 45-day period, the prospective condemnee may request, in writing, an extension of this 45-day period for a period not exceeding an additional 25 days, for a total of 70 calendar days, which shall not be denied except for good cause shown by the condemnor. During this period, as it may be extended, the prospective condemnee may seek additional relevant information regarding the offer or regarding the project.

(3) Within the time period, as may be extended, the condemnor shall provide reasonable and timely responses to requests for information and for explanations and shall afford an opportunity for the condemnee to meet in person on at least one occasion with a representative of the condemnor to discuss the offer and the basis thereof.

(4) The prospective condemnee may also obtain its own appraisal and share it with the prospective condemnor and seek a review thereof by the prospective condemnor.

(5) If the prospective condemnee rejects the written offer of the condemnor or otherwise does not affirmatively respond to the offer, the condemnor may then send in writing by certified mail, private courier, or in person, a letter setting forth an intent to commence condemnation proceedings in the Superior Court. Such letter, upon receipt, shall conclude bona fide negotiations between the prospective condemnor and condemnee.

(6) A disagreement over the amount of the offer, how the offer was calculated, or the method or manner in which the property was appraised shall not constitute grounds to continue negotiations or prevent the condemnor from successfully acquiring the property through the commencement of a condemnation proceeding and the appointment of condemnation commissioners.

g. Nothing in this section shall be construed as requiring a condemnor to increase the amount of an offer during the review and negotiation period.

h. A condemnor may file a complaint for condemnation in the manner provided by the Rules of Court anytime after expiration of the initial review and negotiation period, including any extension thereof, all as provided for in this section, without the consent of the prospective condemnee, provided the condemnor is otherwise empowered to exercise the power of eminent domain and the condemnor has complied with the provisions of this section.

i. Proof of the delivery of a written offer and a copy of the approved appraisal and the delivery of a letter of intent at the expiration of the negotiation period as set forth above, shall be deemed to be conclusive proof **of the** that bona fide negotiations were, in fact, conducted by the condemnor with the prospective condemnee and that there was an inability on the part of the condemnor and prospective condemnee to agree to the compensation to **acquire the**

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property or possession thereof through negotiations] obtain title and possession to the property sought to be acquired other than by filing an action in condemnation.

j. When the holder of the title is unknown, resides out of the State, or for other good cause, the court, upon application ¹ ~~as a notice of~~ ¹ by ¹ motion ¹ ~~as provided by~~ ¹ pursuant to ¹ the Rules of Court, may dispense with the necessity of such negotiations.

k. Neither the offer or the amount thereof, nor the refusal thereof by the prospective condemnee shall be evidential in the determination of compensation.

l. A ¹ ~~complaint on the authority to use eminent domain to acquire a specific property or properties for redevelopment purposes~~ ¹ challenge to the designation of an area as in need of redevelopment ¹ pursuant to P.L.1992, c.79 (C.40A:12A-1 et al.) shall be heard on a priority basis with the goal of expediting the proceedings to the greatest extent possible.

(cf: P.L.1971, c. 361, s. 6)

REPLACE SECTION 3 TO READ:

3. Section 3 of P.L.1971, c.362 (C.20:4-3) is amended to read as follows:

3. As used in this act the term:

a. "Taking agency" ¹ or "acquiring agency" ¹ means the entity, public or private, including the State of New Jersey, which is condemning or ¹ ~~has the power to condemn~~ ¹ otherwise acquiring ¹ private property for a public purpose under the power ¹ or the threat ¹ of eminent domain.

b. "Person" means any individual, partnership, corporation, or association.

c. "Displaced person" means any person who, on or after the effective date of this act, moves from real property, or moves his personal property from real property, as a result of the acquisition of such real property, in whole or in part, or as the result of the written order of the acquiring agency to vacate real property, for a program or project undertaken by a taking agency; and solely for the purposes of sections 4 a. and b. and section 7 of this act, as a result of the acquisition of or as the result of the written order of the acquiring agency to vacate other real property, on which such person conducts a business or farm operation, for such program or project.

d. "Business" means any lawful activity, excepting a farm operation, conducted primarily:

(1) for the purchase, sale, lease and rental of personal and real property, and for the manufacture, processing, or marketing of products, commodities, or any other personal property;

(2) for the sale of services to the public;

(3) by a nonprofit organization; or

(4) solely for the purposes of section 4 a. of this act for assisting in the purchase, sale, resale, manufacture, processing, or marketing of

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products, commodities, personal property, or services by the erection and maintenance of an outdoor advertising display or displays, whether or not such display or displays are located on the premises on which any of the above activities are conducted.

e. "Farm operation" means any activity conducted solely or primarily for the production of one or more agricultural products or commodities, including timber, for sale or home use, and customarily producing such products or commodities in sufficient quantity to be capable of contributing materially to the operator's support.

f. The term "commissioner" ~~shall mean~~ means the Commissioner of ~~the Department of~~ Community Affairs.

¹g. "Comparable dwelling" means a dwelling offered to a displaced person that is comparable to the person's dwelling that is being acquired with respect to the size and amenities of the dwelling unit, the quality of the neighborhood, and the level of public services and facilities offered by the municipality in which that dwelling unit is located.¹

(cf: P.L.1971, c.362, s.3)

REPLACE SECTION 6 TO READ:

6. Section 6 of P.L.1971, c.362 (C.20:4-6) is amended to read as follows:

6. In addition to amounts otherwise authorized by ~~this act~~ P.L.1971, c.362 (C.20:4-1 et seq.), a taking agency shall make a payment to or for any displaced person displaced from any dwelling not eligible to receive a payment under section 5 which dwelling was actually and lawfully occupied by such displaced person for not less than 90 days prior to the initiation of negotiations for acquisition of such dwelling. Such payment shall be either:

a. ~~the amount necessary to enable~~, that when added to the amount the displaced person pays to rent the dwelling he is being displaced from, would enable such displaced person to lease or rent for a period not to exceed ~~4~~ ¹five ~~seven~~¹ years, a decent, safe, ¹and¹ sanitary ¹, and comparable¹ dwelling of standards adequate to accommodate such person in areas not generally less desirable in regard to public utilities and public and commercial facilities, and reasonably accessible to his place of employment ~~], but not to exceed \$4,000.00~~]; or

b. the amount necessary to enable such person to make a downpayment (including incidental expenses described in section 5 a. (3) of P.L.1971, c.362 (C.20:4-5)) on the purchase of a decent, safe, and sanitary dwelling of standards adequate to accommodate such persons in areas not generally less desirable in regard to public utilities and public and commercial facilities, ~~but not to exceed \$4,000.00~~ up to \$6,000. On the first day of the 12th month next following enactment of P.L. , c. (C.) (pending before the Legislature as this bill), the maximum permitted amount shall be \$12,000. On the first day of the 24th month next following enactment of P.L. , c.

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(C. _____) (pending before the Legislature as this bill), the maximum permitted amount shall be \$18,000. Of those phased-in maximum amounts, the first ~~[\$2,000.00]~~ \$3,000, \$6,000, and \$9,000 respectively, ~~[of which is to]~~ shall be paid without contribution from the displaced person, but thereafter such payments will only be made on a matching dollar-for-dollar basis with the displaced person^{1,1} provided, however, all such amounts in this section shall be adjusted annually in accordance with section 7 of P.L. _____, c. (C. _____) (pending before the Legislature as this bill).

(cf: P.L.1971, c.362, s.6)

INSERT NEW SECTION 7.1 TO READ:

¹7.1. Section 7 of P.L.1971, c.362 (C.20:4-7) is amended to read as follows:

7. a. Whenever the acquisition of real property for a program or project undertaken by a taking agency will result in the displacement of any person on or after the effective date of this section, such agency shall provide a relocation assistance advisory program for displaced persons which shall offer the services prescribed herein. If the taking agency determines that any person occupying property immediately adjacent to the real property acquired is caused substantial economic injury because of the acquisition, it may offer such person relocation advisory services under such program.

b. Each relocation assistance program required by subsection a. shall include such measures, facilities, or services as may be necessary or appropriate in order (1) to determine the needs of displaced persons, business concerns, and nonprofit organizations for relocation assistance; (2) to assist owners of displaced business and farm operations in obtaining and becoming established in suitable business locations or replacement farms; (3) to supply information concerning programs of the Federal, State and local governments offering assistance to displaced persons and business concerns; (4) to assist in minimizing hardships to displaced persons in adjusting to relocation; and (5) to secure, to the greatest extent practicable, the coordination of relocation activities with other project activities and other planned or proposed governmental actions in the community or nearby areas which may affect the carrying out of the relocation program. The relocation assistance program shall specifically include provisions for free credit counseling, by credit counselors approved by the United States Department of Housing and Urban Development, for persons being displaced from residential units, and shall ensure that those persons being displaced from residential units receive adequate written notice of the availability of the credit counseling.¹

(cf: P.L.1971, c.362, s.7)

REPLACE SECTION 10 TO READ:

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

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3. As used in this act:

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

“Comparable¹,¹ affordable replacement housing” means housing offered to households being displaced as a result of a redevelopment project, that is affordable to that household as defined by the Council on Affordable Housing in the Department of Community Affairs, and that is comparable to the household’s dwelling in the redevelopment area with respect to the size and amenities of the dwelling unit, the quality of the neighborhood, and the level of public services and facilities offered by the municipality in which the redevelopment area is located.

“Condemnation redevelopment area” means an area ¹subject to a declaration of blight, pursuant to the criteria listed in subsection k. of section 5 of P.L.1992, c.79 (C.40A:12A-5), to permit¹ where¹ the use of eminent domain ¹is¹ authorized under Article VIII, Section III, paragraph 1 of the New Jersey Constitution, as well as the granting of tax exemptions.

“Contamination” means any discharged hazardous substance as defined pursuant to section 3 of P.L.1976, c.141 (C.58:10-23.11b), hazardous waste as defined pursuant to section 1 of P.L.1976, c.99 (C.13:1E-38), or pollutant as defined pursuant to section 3 of P.L.1977, c.74 (C.58:10A-3).

“Detrimental to the safety, health, or welfare of the community” means objective evidence of detriment, consisting of or similar to: substantial building or health code violations; ¹[a]¹ repeated ¹[need for]¹ and more intensive than average¹ police intervention over an extended period of time; or a lack of structural integrity. ¹[For commercial and industrial properties, the objective evidence of detriment also may include a lack of proper utilization of the land or structures resulting in conditions that are stagnant and not fully productive under zoning ordinances in effect at the time that the planning board performs its investigation pursuant to section 6 of P.L.1992, c.79 (C.40A:12A-6).]¹

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

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

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

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

“Major amendment” means a change in a redevelopment plan that (1) increases the number of properties that are subject to condemnation through eminent domain; (2) increases the residential density by 20 percent or more; (3) increases the non-residential square footage by 20 percent or more; or (4) increases the area subject to the redevelopment plan.

“Minor amendment” means a change in a redevelopment plan that does not (1) increase the number of properties subject to condemnation through eminent domain; (2) increase the residential density by 20 percent or more; or (3) increase the non-residential square footage by 20 percent or more.

“Oversight document” means “oversight document” as defined in section 4 of P.L.2006, c.65 (C.58:10B-24.4).

“Persons of low and moderate income” means persons or families who are, in the case of State assisted projects or programs, so defined by the Council on Affordable Housing in the Department of Community Affairs, or in the case of federally assisted projects or programs, defined as of “low and very low income” by the United States Department of Housing and Urban Development.

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

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

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

“Real property” means all lands, including improvements and fixtures thereon, and property of any nature appurtenant thereto or used in connection therewith, and every estate, interest and right, legal or equitable, therein, including terms for years and liens by way of

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judgment, mortgage or otherwise, and indebtedness secured by such liens.

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

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

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

"Redevelopment area" or "area in need of redevelopment" means an area determined to be in need of redevelopment, whether for condemnation purposes or tax exemption purposes, as appropriate, pursuant to sections 5 and 6 of P.L.1992, c.79 (C.40A:12A-5 and 40A:12A-6) or determined heretofore to be a "blighted area" pursuant to P.L.1949, c.187 (C.40:55-21.1 et seq.) repealed by this act, both determinations as made pursuant to the authority of Article VIII, Section III, paragraph 1 of the Constitution. **【A redevelopment area may include lands, buildings, or improvements which of themselves are not detrimental to the public health, safety or welfare, but the inclusion of which is found necessary, with or without change in their condition, for the effective redevelopment of the area of which they are a part.】**

"Redevelopment area for tax exemption purposes" ¹or "non-condemnation redevelopment area"¹ means ¹【an area subject to a declaration of blight, pursuant to the criteria listed in subsection i. of section 5 of P.L.1992, c.79 (C.40A:12A-5), to permit tax exemptions authorized under Article VIII, Section III, paragraph 1 of the New Jersey Constitution】 a redevelopment area in which a redevelopment entity can exercise all of the powers set forth in section 8 of P.L.1992, c.79 (C.40A:12A-8) except for the power of condemnation as set forth in subsection c. of that section¹.

“Redevelopment entity” means a municipality or an entity authorized by the governing body of a municipality pursuant to subsection c. of section 4 of P.L.1992, c.79 (C.40A:12A-4) to

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implement redevelopment plans and carry out redevelopment projects in an area in need of redevelopment, or in an area in need of rehabilitation, or in both.

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

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

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

“Rehabilitation area” or “area in need of rehabilitation” means any area determined to be in need of rehabilitation pursuant to section 14 of P.L.1992, c.79 (C.40A:12A-14).
(cf: P.L.1992, c.79, s.3)

REPLACE SECTION 11 TO READ:

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

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

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

(1) Cause a preliminary investigation to be made pursuant to subsection a. of section 6 of P.L.1992, c.79 (C.40A:12A-6) as to whether an area is in need of redevelopment;

(2) Determine pursuant to subsection b. or subsection f. of section 6 of P.L.1992, c.79 (C.40A:12A-6) that an area is in need of redevelopment;

(3) Adopt a redevelopment plan pursuant to section 7 of P.L.1992, c.79 (C.40A:12A-7);

(4) Determine pursuant to section 14 of P.L.1992, c.79 (C.40A:12A-14) that an area is in need of rehabilitation.

b. A municipal planning board shall have the power to:

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(1) Conduct, when authorized by the municipal governing body, a preliminary investigation and hearing and make a recommendation pursuant to subsection b. or subsection f. of section 6 of P.L.1992, c.79 (C.40A:12A-6) as to whether an area is in need of redevelopment;

(2) Make recommendations concerning a redevelopment plan pursuant to subsection e. of section 7 of P.L.1992, c.79 (C.40A:12A-7), or prepare a redevelopment plan pursuant to subsection f. of that section.

(3) Make recommendations concerning the determination of an area in need of rehabilitation pursuant to section 14 of P.L.1992, c.79 (C.40A:12A-14).

c. The municipality shall be responsible for implementing redevelopment plans and carrying out redevelopment projects pursuant to section 8 of P.L.1992, c.79 (C.40A:12A-8). The municipality may execute these responsibilities directly, or in addition thereto or in lieu thereof, **through** may designate by ordinance either a municipal redevelopment agency, or a municipal housing authority authorized to exercise redevelopment powers pursuant to section 21 of P.L.1992, c.79 (C.40A:12A-21), but there shall be only one redevelopment entity responsible for each redevelopment project. A county improvement authority authorized to undertake redevelopment projects pursuant to the “county improvement authorities law,” P.L.1960, c.183 (C.40:37A-44 et seq.) ¹or the New Jersey Redevelopment Authority, established pursuant to section 4 of P.L.1996, c.62 (C.55:19-23)¹ may also act as a redevelopment entity pursuant to this act. The redevelopment entity, so authorized, may contract with any other public body, in accordance with the provisions of section 8 of P.L.1992, c.79 (C.40A:12A-8), for the carrying out of a redevelopment project or any part thereof under its jurisdiction. Notwithstanding the above, the governing body of the municipality may, by ordinance, change or rescind the designation of the redevelopment **entity responsible for implementing** ¹**agency or housing authority designated to implement** entity responsible for implementing¹ a redevelopment plan and **carrying** ¹**carry** carrying¹ out a redevelopment project and may have the municipality assume this responsibility **itself, but** ; provided, however, that only the redevelopment entity authorized to undertake a particular redevelopment project shall remain authorized to complete it, unless the redevelopment entity and redeveloper agree otherwise, or unless no obligations have been entered into by the redevelopment entity with parties other than the municipality. This shall not diminish the power of the municipality to dissolve a redevelopment entity pursuant to section 24 of P.L.1992, c.79 (C.40A:12A-24), and section 20 of the “Local Authorities Fiscal Control Law,” P.L.1983, c.313 (C.40A:5A-20). ¹For each redevelopment project, the New Jersey Redevelopment Authority, established pursuant to section 4 of P.L.1996, c.62 (C.55:19-23), shall have the authority to act as a redevelopment entity in order to expedite the project.¹

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d. (1) No municipality shall exercise the power of eminent domain in a condemnation redevelopment area for the acquisition of land subject to the protections provided under ¹any federal or State law, covenant, easement, or conservation restriction for the preservation of any natural resource, water supply, flood plain, or endangered species, and public access to and use thereof, including, without limitation,¹ section 12 of ¹the "Agriculture Retention and Development Act,"¹ P.L.1983, c.32 (C.4:1C-19) ¹, the "Freshwater Wetlands Protection Act," P.L.1987, c.156 (C.13:9B-1 et seq.), the "The Wetlands Act of 1970," P.L.1970, c.272 (C.13:9A-1 et seq.), the "Pinelands Protection Act," P.L.1979, c.111 (C.13:18A-1 et seq.), the "Highlands Water Protection and Planning Act," P.L.2004, 120 (C.13:20-1 et seq.),¹ or for the acquisition of environmentally contaminated property subject to a bona fide oversight document with the Department of Environmental Protection for the remediation of that property.

(2) (a) A municipality, either for itself or on behalf of a redevelopment entity or redeveloper, may request the compliance status of a property located within the municipality with regard to a Department of Environment Protection oversight document.

(b) The Department of Environmental Protection shall provide to the clerk of a municipality requesting information under subparagraph (a) of this paragraph, information as to whether the property in question is in compliance with an oversight document, including whether a notice of violation concerning the failure of the person responsible for the remediation of that property has been issued.

e. A municipal governing body, a municipal planning board, or a redevelopment entity may exercise any power and carry out any responsibility under P.L.1992, c.79 (40A:12A-1 et seq.), notwithstanding that the municipality's master plan does not contain a redevelopment plan element as set forth in paragraph (15) of subsection b. of section 19 of P.L.1975, c.291 (C.40:55D-28) (pending before the Legislature as section 9 of this bill).

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

OMIT SECTION 12 IN ITS ENTIRETY

INSERT NEW SECTION 12 TO READ:

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

5. A delineated area may be determined to be in need of redevelopment if, after investigation, notice and hearing as provided in section 6 of P.L.1992, c.79 (C.40A:12A-6), the governing body of the municipality **【by resolution】** concludes that: (1) the deterioration or stagnation of the delineated area negatively affects surrounding properties because of any of the conditions described below, (2) the condition or conditions of blight described below are the prevailing characteristics of the delineated area, (3) each non-blighted parcel included within the delineated area is necessary for the effective

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redevelopment of the area and is an integral part of that area, and (4) within the delineated area any of the following conditions is found:

a. The generality of buildings are substandard, unsafe, unsanitary, dilapidated, or obsolescent, or possess any of such characteristics, or are so lacking in light, air, or space, as to be **【conducive to unwholesome living or working conditions】** detrimental to the safety, health, or welfare of the community.

b. The discontinuance of the use of buildings previously used for commercial, manufacturing, or industrial purposes; the abandonment of such buildings; or the same being allowed to fall into so great a state of disrepair as to be untenable or detrimental to the safety, health, or welfare of the community.

c. **【Land that is owned by the municipality, the county, a local housing authority, redevelopment agency or redevelopment entity, or unimproved】** Unimproved vacant land that has remained so for a period of ten years prior to adoption of the resolution or ordinance, as appropriate, and causes conditions that are detrimental to the safety, health, or welfare of the community. **【by reason of its location, remoteness, lack of means of access to developed sections or portions of the municipality, or topography, or nature of the soil, is not likely to be developed through the instrumentality of private capital.】**

d. Areas with buildings or improvements which, by reason of dilapidation, obsolescence, overcrowding, **【faulty arrangement or design,】** lack of ventilation, light and sanitary facilities, excessive land coverage, deleterious land use **【or obsolete layout,】** or any combination of these or other similar factors, are detrimental to the safety, health, **【morals,】** or welfare of the community.

e. A growing lack or total lack of proper utilization of areas caused by the condition of the title, diverse ownership of the real property therein or other similar conditions, resulting in a stagnant **【or】** and **【not fully productive】** unproductive condition of land **【potentially useful and valuable for contributing to and serving the public health, safety and welfare】.**

f. Areas, in excess of five contiguous acres, whereon buildings or improvements have been destroyed, consumed by fire, demolished or altered by the action of storm, fire, cyclone, tornado, earthquake or other casualty in such a way that the aggregate assessed value of the area has been materially depreciated.

g. In any municipality in which an enterprise zone has been designated pursuant to the "New Jersey Urban Enterprise Zones Act," P.L.1983, c.303 (C.52:27H-60 et seq.) the execution of the actions prescribed in that act for the adoption by the municipality and approval by the New Jersey Urban Enterprise Zone Authority of the zone development plan for the area of the enterprise zone shall be considered sufficient for the determination that the area is in need of redevelopment pursuant to sections 5 and 6 of P.L.1992, c.79 (C.40A:12A-5 and 40A:12A-6) for the purpose of granting tax

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exemptions within the enterprise zone district pursuant to the provisions of P.L.1991, c.431 (C.40A:20-1 et seq.) or the adoption of a tax abatement and exemption ordinance pursuant to the provisions of P.L.1991, c.441 (C.40A:21-1 et seq.). The municipality shall not utilize any other redevelopment powers within the urban enterprise zone unless the municipal governing body and planning board have also taken the actions and fulfilled the requirements prescribed in P.L.1992, c.79 (C.40A:12A-1 et al.) for determining that the area is in need of redevelopment or an area in need of rehabilitation and the municipal governing body has adopted a redevelopment plan ordinance including the area of the enterprise zone.

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

i. Property, either improved or unimproved, that has remained vacant or substantially underutilized for at least 24 consecutive months because of environmental contamination.¹

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

REPLACE SECTION 13 TO READ:

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

6. a. ¹(1)¹ No area of a municipality shall be determined a redevelopment area for tax exemption purposes unless the governing body of the municipality shall, by resolution, authorize the planning board to undertake a preliminary investigation to determine whether the proposed area is a redevelopment area for tax exemption purposes according to the criteria set forth in ¹【subsection i. of】¹ section 5 of P.L.1992, c.79 (C.40A:12A-5) (pending before the Legislature as section 12 of this bill). Such determination shall be made after public notice and public hearing as provided in subsection b. of this section. The governing body of a municipality shall assign the conduct of the investigation and hearing to the planning board of the municipality.

¹(2) A redeveloper shall not conduct or fund any part of the investigation unless that fact has been clearly disclosed in the authorizing resolution adopted pursuant to this subsection, or any amendment thereto. A redeveloper in violation of this paragraph is disqualified from entering into a redevelopment agreement pursuant to section 20 of P.L. , c. (C.) (pending before the Legislature as this bill).¹

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

(2) The planning board shall specify a date for and give notice of a hearing for the purpose of hearing persons who are interested in or

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would be affected by a determination that the delineated area is a redevelopment area.

(3) (a) The hearing notice shall set forth the general boundaries of the area to be investigated and state that a map has been prepared and can be inspected at the office of the municipal clerk. The notice shall identify the office in which the public may inspect documents relevant to the determination that an area is in need of redevelopment for tax exemption purposes. The notice shall be written in simple, clear, understandable, and easily readable language. The notice shall include the following statement in bold typeface:

THE GOVERNING BODY OF _____ IS CONSIDERING DESIGNATING PART OF THE MUNICIPALITY AS A "REDEVELOPMENT AREA FOR TAX EXEMPTION PURPOSES." THIS DOES NOT ALLOW PRIVATE PROPERTIES LOCATED WITHIN THAT REDEVELOPMENT AREA TO BE TAKEN BY CONDEMNATION 'FOR REDEVELOPMENT PURPOSES'. NO PRIVATE PROPERTY WILL BE TAKEN BY CONDEMNATION 'FOR REDEVELOPMENT PURPOSES' UNLESS IT IS LOCATED IN AN AREA DESIGNATED AS A "CONDEMNATION REDEVELOPMENT AREA" AND THE OWNER IS PROVIDED WITH SPECIFIC NOTICE.

(b) A copy of the notice shall be published in a newspaper of general circulation in the municipality once each week for two consecutive weeks, and the last publication shall be not less than ten days prior to the date set for the hearing. If the municipality has an Internet web site, the notice shall be posted thereon. A copy of the notice also shall be posted in such other places within or proximate to the proposed redevelopment area for tax exemption purposes as may be available and appropriate. A copy of the notice shall be mailed at least ten days prior to the date set for the hearing to the last owner, if any, of each parcel of property within the area according to the assessment records of the municipality. A notice shall also be sent to all persons at their last known address, if any, whose names are noted on the assessment records as claimants of an interest in any such parcel. The assessor of the municipality shall make a notation upon the records when requested to do so by any person claiming to have an interest in any parcel of property in the municipality. The notice shall be published and mailed by the municipal clerk, or by such clerk or official as the planning board shall otherwise designate. Failure to mail any such notice shall **not invalidate the investigation or determination thereon** be governed by the provisions of section 22 of P.L. _____, c. (C. _____) (pending before the Legislature as this bill).

(c) Prior to the hearing, a copy of all documents relevant to the determination that an area is in need of redevelopment for tax exemption purposes shall be available for public inspection during

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regular business hours at a location set forth in the notice, and if the municipality has an Internet web site, they shall be posted thereon.

(4) At the hearing, which may be adjourned from time to time, the planning board shall hear all persons who are interested in or would be affected by a determination that the delineated area is a redevelopment area for tax exemption purposes. All objections to such a determination and evidence in support of those objections, given orally or in writing, shall be received and considered and made part of the public record.

(5) After completing its hearing on this matter, the planning board shall recommend that the delineated area, or any part thereof, be determined, or not be determined, by the municipal governing body to be a redevelopment area for tax exemption purposes. After receiving the recommendation of the planning board, the municipal governing body may adopt a resolution determining that the delineated area, or any part thereof, is a redevelopment area for tax exemption purposes. Upon the adoption of a resolution, the clerk of the municipality shall, forthwith, transmit a copy of the resolution to the Commissioner of Community Affairs for review. If the area in need of redevelopment for tax exemption purposes is not situated in an area in which development or redevelopment is to be encouraged pursuant to any State law or regulation promulgated pursuant thereto, the determination shall not take effect without first receiving the review and the approval of the commissioner. If the commissioner does not issue an approval or disapproval within 30 calendar days of transmittal by the clerk, the determination shall be deemed to be approved. If the area in need of redevelopment is situated in an area in which development or redevelopment is to be encouraged pursuant to any State law or regulation promulgated pursuant thereto, then the determination shall take effect after the clerk has transmitted a copy of the resolution to the commissioner. The determination, if supported by substantial evidence and, if required, approved by the commissioner, shall be binding and conclusive upon all persons affected by the determination. Notice of the determination shall be served, within 10 days after the determination, ¹upon each person who filed a written objection thereto and stated, in or upon the written submission, an address to which notice of determination may be sent. in accordance with paragraph (3)(b) of subsection b. of this section and shall include the following statement in boldface type:

THE GOVERNING BODY OF _____ HAS DESIGNATED PART OF THE MUNICIPALITY AS A "REDEVELOPMENT AREA FOR TAX EXEMPTION PURPOSES." THIS DOES NOT ALLOW PRIVATE PROPERTIES LOCATED WITHIN THAT REDEVELOPMENT AREA TO BE TAKEN BY CONDEMNATION ¹FOR REDEVELOPMENT PURPOSES¹. NO PRIVATE PROPERTY WILL BE TAKEN BY CONDEMNATION ¹FOR

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REDEVELOPMENT PURPOSES¹ UNLESS IT IS LOCATED IN AN AREA DESIGNATED AS A "CONDEMNATION REDEVELOPMENT AREA" AND THE OWNER IS PROVIDED WITH SPECIFIC NOTICE. A LAWSUIT TO CHALLENGE THE DETERMINATION THAT AN AREA IS A REDEVELOPMENT AREA FOR TAX EXEMPTION PURPOSES MUST BE FILED WITHIN 60 DAYS FOLLOWING THE DATE OF THIS NOTICE OR A CHALLENGE TO THE DETERMINATION MAY BE FOREVER BARRED, UNLESS OTHERWISE PERMITTED BY THE COURT.¹

(6) ¹【If written objections were filed in connection with the hearing, the municipality shall, for 45 days next following its determination to which the objections were filed, take no further action to】¹ 【acquire any property by condemnation】¹The municipality may not¹ grant tax exemptions within the redevelopment area for tax exemption purposes¹until 60 days next following the final adoption of the ordinance adopting the determination¹.

(7) If a person who ¹【filed a written objection to a determination by the municipality pursuant to this subsection】 received the notice specified in paragraph (5) of subsection b. of this section¹ shall, within ¹【45】 60¹ days after the adoption by the municipality of the determination to which the person objected, apply to the Superior Court, the court may grant further review of the determination by procedure in lieu of prerogative writ; and in any such action the court may make any incidental order that it deems proper.

c. An area determined to be in need of redevelopment for tax exemption purposes pursuant to subsections a. and b. of this section shall be deemed to be a "blighted area" for all of the purposes of Article VIII, Section III, paragraph 1 of the Constitution except for the purpose of acquiring property through the exercise of the power of eminent domain. If an area is determined to be a redevelopment area for tax exemption purposes and a redevelopment plan is adopted for that area in accordance with the provisions of this act, the municipality is authorized to utilize all those powers provided in section 8 of P.L.1992, c.79 (C.40A:12A-8), except that the power of condemnation shall be exercised only in an area declared to be a condemnation redevelopment area pursuant to subsection e. of this section.

d. Designation of an area as a redevelopment area shall lapse ¹【10】 seven¹ years following: (1) the adoption of the resolution or ordinance, as appropriate, making the determination if the municipality has not adopted a redevelopment plan for that redevelopment area and made substantial progress on implementing the plan, or (2) the final adoption of the original redevelopment plan if no projects have been commenced pursuant to the redevelopment plan, or one or more projects have been commenced but ¹【substantial progress is not being made towards implementing the plan】 cumulative stoppages of

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construction work that are attributable to the action or inaction of the developer or redeveloper have totaled more than 365 days¹. For the purposes of this subsection, a bona fide agreement for project financing shall constitute commencement of a project or substantial progress on implementing the plan.

e. (1) No area of a municipality shall be determined a condemnation redevelopment area unless the governing body of the municipality shall, by ¹~~['ordinance'] resolution¹~~, authorize the planning board to undertake a preliminary investigation to determine whether the proposed area is a condemnation redevelopment area according to the criteria set forth in ¹~~['subsection k. of']¹~~ section 5 of P.L.1992, c.79 (C.40A:12A-5). The determination shall be made after public notice and public hearing as provided in subsection f. of this section. ¹~~['The notice required under R.S.40:49-2 for final passage of the ordinance shall clearly state that final passage of the ordinance will begin the process through which private property may be taken by condemnation.']¹~~

(2) (a) The governing body of a municipality shall assign the conduct of the investigation and hearing required by this subsection to the planning board of the municipality.

(b) In the case of any proposed condemnation redevelopment area of a municipality that is more than 10 acres in area, or that contains more than 100 occupied dwelling units or more than 50 operating business premises, the governing body shall hold a public informational meeting prior to adoption of the ¹~~['ordinance'] resolution¹~~ authorizing the planning board to undertake a preliminary investigation as set forth in this subsection. Notice of the public informational meeting shall be as in subparagraph (b) of paragraph (3) of subsection f. of this section, except that notice to individual property owners and tenants shall not be required.

(3) A redeveloper shall not conduct or fund any part of the investigation unless that fact has been clearly disclosed in the authorizing ¹~~['ordinance'] resolution¹~~ adopted pursuant to this subsection, or any amendment thereto. A redeveloper in violation of this paragraph is disqualified from entering into a redevelopment agreement pursuant to section 20 of P.L. , c. (C.) (pending before the Legislature as this bill).

f. (1) Before proceeding to a public hearing on the matter, the planning board shall prepare a map showing the boundaries of the proposed condemnation redevelopment area and the location, by block, lot, and street address, of the various parcels of property included therein. There shall be appended to the map a report setting forth the factual and legal basis for the investigation.

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

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(3) (a) The public hearing notice shall be written in simple, clear, understandable, and easily readable language¹, following the guidelines set forth in section 10 of P.L.1980, c.125 (C.56:12-10). The notice shall clearly state that the public hearing will begin the process through which private property may be taken by condemnation for redevelopment purposes¹. It shall set forth the general boundaries of the area to be investigated and state that a map and report have been prepared and can be inspected during regular business hours at a location identified in the notice. ¹【The hearing notice also shall include the following statement in bold typeface:

THE GOVERNING BODY OF _____ IS CONSIDERING DESIGNATING PART OF THE MUNICIPALITY AS A "CONDEMNATION REDEVELOPMENT AREA." THIS WOULD ALLOW PRIVATE PROPERTIES LOCATED WITHIN THE CONDEMNATION AREA TO BE TAKEN BY CONDEMNATION. NO PRIVATE PROPERTY WILL BE TAKEN BY CONDEMNATION UNLESS THE OWNER IS PROVIDED WITH SPECIFIC NOTICE.

The hearing notice shall further recommend that anyone with an interest in any property within that area retain legal counsel and that any indigent property owner contact the Office of the Public Advocate for legal assistance.】¹

(b) (i) A copy of the public hearing notice shall be published in a newspaper of general circulation in the municipality once each week for two consecutive weeks, and the last publication shall be not less than 10 days prior to the date set for the public hearing.

(ii) If the municipality has an Internet web site, the notice shall be posted thereon.

(iii) A copy of the notice also shall be posted within or proximate to each property within the proposed condemnation redevelopment area.

(iv) A copy of the notice shall be mailed at least 15 days prior to the date of the public hearing to the last owner, if any, of each parcel of property within the proposed condemnation redevelopment area as shown on the most recent assessment records of the municipality, and to any legal tenant or lessee of any of those properties. The municipal clerk or other clerk or official designated by the planning board shall ¹【make a diligent effort to ascertain the names and addresses of the legal tenants and lessees by contacting the legal owner of the rental property, or a management company identified by such owner. If the municipal clerk or other clerk or official designated by the planning board is still unable to ascertain the names and addresses of the legal tenants and lessees, then those notices shall be mailed, by regular mail only, addressed to "occupant," and a copy of the notice shall be posted on properties known to contain rental units.】 contact, by certified mail,

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the legal owner of each rental property to request the names and addresses of the legal tenants and lessees. If the legal owner of the rental property refers the clerk or other official to a management company for such information, the clerk or other official shall contact, by certified mail, that management company to request the names and addresses of legal tenants and lessees. If the municipal clerk or other clerk or official designated by the planning board does not receive the names and addresses of the legal tenants and lessees within 20 days of such request being mailed, then those notices shall be mailed, by regular mail only, to each rental unit in such rental property shown in the records of the municipality, addressed to "occupant." A copy of the notice shall be posted on each such rental property at least 15 days prior to the date of the public hearing, and a municipal employee shall execute an affidavit that such notice was duly posted and shall attach a true and correct copy of the notice to the affidavit.¹ A notice also shall be sent to all persons at their last known address, if any, whose names are noted on the assessment records as claimants of an interest in any such parcel. The assessor of the municipality shall make a notation upon the records when requested to do so by any person claiming to have an interest in any parcel of property in the municipality. The notice required by this paragraph shall be published, posted, and mailed by the municipal clerk, or by such clerk or official as the planning board shall otherwise designate. Mailing shall be by regular mail and by certified mail, return receipt requested. Failure to mail any such notice shall be governed by the provisions of section 22 of P.L. , c. (C.) (pending before the Legislature as this bill).

(c) Prior to the public hearing, a copy of all documents relevant to the determination that an area is a condemnation redevelopment area shall be available for public inspection during regular business hours at a location identified in the notice, and if the municipality has an Internet web site, they shall be posted thereon.

(4) At the public hearing, which may be adjourned from time to time, the planning board shall hear all persons who are interested in, or would be affected by, a determination that the delineated area is a condemnation redevelopment area. All objections to such a determination and evidence in support of those objections, given orally or in writing, shall be received and considered, and made part of the public record.

(5) (a) After completing its hearing on this matter, the planning board shall recommend that the delineated area, or any part thereof, be determined, or not be determined, by the municipal governing body to be a condemnation redevelopment area.

(b) After receiving the recommendation of the planning board, the municipal governing body may adopt an ordinance determining that the delineated area, or any part thereof, is a condemnation redevelopment area. Prior to final adoption of the ordinance the clerk of the municipality shall forthwith transmit a copy of the ordinance to the Commissioner of Community Affairs and to the Office of the

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Public Advocate for informational purposes only. No parcel shall be included in the condemnation redevelopment area that was not recommended for inclusion by the planning board.

(6) (a) Notice of final adoption of an ordinance making a determination that an area is a condemnation redevelopment area shall be served, within 10 days after the final adoption of the ordinance making the determination, upon each person who received notice of the public hearing in accordance with paragraph (3) of this subsection in the same manner as provided therein. Additionally, notice of final adoption of an ordinance making a determination of a condemnation redevelopment area shall be published in the official newspaper of the municipality, together with the date of the first publication of such notice and also a statement that any action or proceeding of any kind or nature in any court questioning the validity of the adoption of the ordinance or the determination contained therein, shall be commenced within 60 days after the first publication of such notice.

(b) In any action or proceeding before the court questioning the validity of the determination of a property to be within a condemnation redevelopment area, the municipality, redevelopment entity, or redeveloper shall have the burden of ¹going forward to prove, by producing¹ substantial evidence ¹that at least one of the conditions listed in ¹subsection k. of¹ section 5 of P.L.1992, c.79 ¹(C.40A:12A-6) ¹(C.40A:12A-5)¹ existed on the property at the time of the investigation by the planning board and of the adoption of the ordinance delineating the condemnation area, or that the municipality, redevelopment entity, or redeveloper, as the case may be, is entitled to include the property in the condemnation redevelopment area.

(7) Upon finding that any property is not necessary for the completion of a redevelopment project, the municipal governing body shall adopt a resolution to omit that property from the redevelopment plan and shall not have to take further action to amend the plan.

g. An area determined to be a condemnation redevelopment area pursuant to subsections e. and f. of this section shall be deemed to be a "blighted area" for all of the purposes of Article VIII, Section III, paragraph 1 of the Constitution. If an area is determined to be a condemnation redevelopment area and a redevelopment plan is adopted for that area in accordance with the provisions of P.L.1992, c.79 (C.40A:12A-1 et al.), the municipality is authorized to utilize all those powers provided in section 8 of P.L.1992, c.79 (C.40A:12A-8). (cf: P.L.2003, c.125, s.4)

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

7. a. Following the determination of a redevelopment area for tax exemption or condemnation purposes 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

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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.), and any other applicable law, 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) (a) An identification, by block and lot and street address, if any, of **【any】** every property within the redevelopment area **【which】**. The redevelopment plan shall indicate whether ¹**【a】** each¹ property ¹so identified¹ is proposed to be acquired **【in accordance with the redevelopment plan】** ¹**【and whether that property will be subject to demolition or infill】**¹.

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(b) With regard to properties located within a condemnation redevelopment area, the redevelopment plan shall indicate each property's relationship to the objectives of the redevelopment plan that cannot be realistically achieved without the acquisition of that property, any alternatives that were considered to the proposed acquisition, and the reasons that such alternatives would not provide for realistic achievement of the objectives of the redevelopment plan, if adopted. The allocation of the cost of this assessment shall be negotiated and agreed upon between the municipality and the redevelopment entity.

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

(6) The social and economic impact of the redevelopment area, including its effect on those parts of the municipality adjacent to the redevelopment area, and on the low and moderate income residents of the area, further including estimates of the number of temporary and permanent jobs that will be available to the low and moderate income residents of the area.

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

(8) An estimate of the number of dwelling units for low and moderate income households that may be required as a result of implementing the redevelopment plan, in order to meet the municipality's obligations under the "Fair Housing Act," P.L.1985, c.222 (C.52:27D-301 et al.), and the municipality's plan for meeting those obligations within or outside the redevelopment area.

(9) Provisions for the replacement of any housing that was constructed for low and moderate income households under the terms of any State or federal housing subsidy program, which housing is to be removed as a result of the redevelopment plan; provided that any such replacement unit shall not be counted toward the municipal obligation under paragraph (8) of this subsection if the housing which is removed had previously counted toward an obligation. Any rental housing constructed under this paragraph shall remain affordable to low and moderate income households, in the same manner as the removed housing, for a period of at least 45 years, unless another period is established under an applicable State or federal financing program. In addition, displaced residents of housing units provided under any State or federal housing subsidy program or the "Fair Housing Act," P.L.1985, c.222 (C.52:27D-301 et al.) shall have first priority for those replacement units provided.

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

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(11) A statement setting forth the municipal planning board's ability, if any, to grant relief to applicants from elements of the redevelopment plan when reviewing and approving development applications, including, but not limited to, variances, exceptions, and waivers as defined in the "Municipal Land Use Law," P.L.1975, c.291 (C.40:55D-1 et seq.).

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

c. The redevelopment plan shall describe its relationship to pertinent municipal development regulations as defined in the "Municipal Land Use Law," P.L.1975, c.291 (C.40:55D-1 et seq.). The redevelopment plan shall supersede applicable provisions of the development regulations of the municipality or constitute an overlay zoning district within the redevelopment area. When the redevelopment plan supersedes any provision of the development regulations, the ordinance adopting the redevelopment plan shall contain an explicit amendment to the zoning district map included in the zoning ordinance. The zoning district map as amended shall indicate the redevelopment area to which the redevelopment plan applies. Notwithstanding the provisions of the "Municipal Land Use Law," P.L.1975, c.291 (C.40:55D-1 et seq.) or of other law, no notice beyond that required for adoption of ordinances by the municipality shall be required for the hearing on or adoption of the redevelopment plan or subsequent amendments thereof.

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

e. **[Prior to the adoption of a redevelopment plan, or revision or amendment thereto, the]** If a municipality prepares a redevelopment plan directly, the municipal governing body shall refer the proposed redevelopment plan to the municipal planning board for review. Such referral may be by resolution. The municipal planning board shall transmit to the governing body, within 45 days after referral, a report containing its recommendation concerning the redevelopment plan. This report shall include an identification of any provisions in the proposed redevelopment plan which are inconsistent with the master plan and recommendations concerning these inconsistencies and any other matters as the board deems appropriate. The governing body, when considering the adoption of a redevelopment plan or revision or amendment thereof, shall review the report of the planning board and may approve or disapprove or change any recommendation by a vote

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of a majority of its full authorized membership and shall record in its minutes the reasons for not following the recommendations. Failure of the planning board to transmit its report within the required 45 days shall relieve the governing body from the requirements of this subsection with regard to the pertinent proposed redevelopment plan **【or revision or amendment thereof】**. Nothing in this subsection shall diminish the applicability of the provisions of subsection d. of this section with respect to any redevelopment plan or revision or major amendment thereof.

f. The governing body of a municipality may direct the planning board to prepare a redevelopment plan **【or an amendment or revision to a redevelopment plan】** for a designated redevelopment area. After completing the redevelopment plan, the planning board shall transmit the proposed plan to the governing body for its adoption. The governing body, when considering the proposed plan, may amend or revise any portion of the proposed redevelopment plan by an affirmative vote of the majority of its full authorized membership and shall record in its minutes the reasons for each amendment or revision. When a redevelopment plan **【or amendment to a redevelopment plan】** is referred to the governing body by the planning board under this subsection, the governing body shall be relieved of the referral requirements of subsection e. of this section.

g. (1) The redevelopment plan for a redevelopment area for tax exemption purposes shall be adopted by ordinance of the municipal governing body ¹in accordance with the procedures for the passage of ordinances set forth in chapter 49 of Title 40 of the Revised Statutes¹.

(2) (a) The redevelopment plan for a condemnation redevelopment area shall be adopted by ordinance of the municipal governing body.

(b) ¹【Prior to final adoption of the ordinance, the municipal governing body shall conduct a public hearing on the ordinance and all interested persons shall be allowed to speak.

(c) ¹ Notice of the public hearing shall state the date, time, and location of the public hearing, shall identify where the proposed redevelopment plan is available for examination and shall identify, by block and lot and street address, if any, the parcels that may be included in a condemnation area and subject to eminent domain under the proposed redevelopment plan.

(3) (a) The full text of the redevelopment plan to be considered by the governing body along with any maps or other exhibits thereto, shall be made available to the public in the municipal building and shall be posted on the municipality's Internet web site, if any, at the time such notice to such hearing is to be provided.

(b) Copies of the proposed redevelopment plan shall be available for purchase by any interested party. A copy of the notice of the public hearing in the case of a redevelopment plan for a condemnation redevelopment area shall be published in a newspaper of general circulation in the municipality once each week for two consecutive weeks, and the last publication shall be not less than 10 days prior to

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the date set for the hearing, and shall be posted on the municipality's Internet web site, if any, and in a reasonable number of public places within or proximate to the proposed condemnation redevelopment area as may be available and appropriate. A copy of the notice¹, including bolded language specifying that the owner's property is subject to condemnation,¹ shall be mailed by the municipal clerk, by regular mail, at least 10 days prior to the date set for the hearing to the last owner, if any, of each parcel of property within the area according to the assessment records of the municipality and to any legal tenant or lessee. The municipal clerk shall¹ ~~make a diligent effort to ascertain the names and addresses of legal tenants and lessees by contacting the legal owner of the rental property or a management company identified by such owner, but if unable to do so shall have a copy of the notice posted on properties known to contain rental units.~~ contact, by certified mail, the legal owner of each rental property to request the names and addresses of the legal tenants and lessees. If the legal owner of the rental property refers the clerk to a management company for such information, the clerk shall contact, by certified mail, that management company to request the names and addresses of legal tenants and lessees. If the municipal clerk designated by the planning board does not receive the names and addresses of the legal tenants and lessees within 20 days of such request being mailed, then those notices shall be mailed, by regular mail only, to each rental unit in such rental property shown in the records of the municipality, addressed to "occupant." A copy of the notice shall be posted on each such rental property at least 15 days prior to the date of the public hearing, and a municipal employee shall execute an affidavit that such notice was duly posted and shall attach a true and correct copy of the notice to the affidavit.¹

(c) (i) For property owners whose properties do not exhibit conditions of blight and are proposed to be acquired under the redevelopment plan for a condemnation redevelopment area, the notice shall specify the reason why acquiring the property is necessary for the redevelopment of the area.

(ii) A notice shall also be sent by the municipal clerk to all persons at their last known address, if any, whose names are noted on the assessment records as claimants of an interest in any such parcel. The assessor of the municipality shall make a notation upon the records when requested to do so by any person claiming to have an interest in any parcel of property in the municipality.

(iii) The notice shall be published and mailed by the municipal clerk. Failure to mail any such notice shall be governed by the provisions of section 22 of P.L. , c. (C.) (pending before the Legislature as this bill).

(iv) At such public hearing, the municipal governing body shall hear all persons who are interested in or would be affected by the provisions of the redevelopment plan¹, and such persons shall be allowed to ask questions concerning the plan, although the governing

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body may, by vote of its majority, restrict or limit the amount of time afforded each such person to speak and adopt reasonable procedures for preventing repetitive or dilatory questioning¹. A record of the public hearing shall be kept by the municipal clerk. Upon the close of the public hearing, the municipal governing body may vote to finally adopt the ordinance.

h. Notice of final adoption of an ordinance adopting a redevelopment plan for a condemnation redevelopment area shall be mailed, within 10 days after the final adoption of the ordinance making such determination, to each person who received notice of the public hearing in accordance with subsection g. of this section, in the same manner as provided therein. Additionally, notice of final adoption of an ordinance making a determination shall be published in the official newspaper of the municipality, together with the date of the first publication of such notice and also a statement that any action or proceeding of any kind or nature in any court questioning the validity of the adoption of the ordinance or the determination contained therein, shall be commenced within ¹[45] ⁶⁰¹ days after the first publication of such notice. ¹The notice that is mailed pursuant to this subsection shall contain the following bolded language:

THE GOVERNING BODY OF _____ HAS IDENTIFIED THE PROPERTY YOU OWN OR RENT FOR POSSIBLE ACQUISITION THROUGH EMINENT DOMAIN. IF YOU WISH TO CONTEST THE DESIGNATION OF THE "CONDEMNATION REDEVELOPMENT AREA" WHEREIN YOUR PROPERTY IS LOCATED, OR ANY PROVISION OF THE REDEVELOPMENT PLAN, YOU MUST FILE YOUR LAWSUIT WITHIN 60 DAYS OF THE DATE OF THIS NOTICE, OR YOUR RIGHT TO CHALLENGE THE DESIGNATION AND THE PLAN MAY BE BARRED FOREVER, UNLESS OTHERWISE PERMITTED BY THE COURTS.¹

i. The municipality may not finally authorize and execute an agreement with a redeveloper until 60 days next following the final adoption of the ordinance adopting a redevelopment plan for a condemnation redevelopment area pursuant to this section, unless the redeveloper is the owner of the property that is the subject of the redevelopment agreement.

j. Amendments to redevelopment plans shall be prepared and adopted as follows:

(1) A minor amendment shall be adopted by ordinance to comply with the procedural provisions of subsections g. and h. of this section.

(2) A major amendment shall be adopted in the same manner as provided for a redevelopment plan.

(3) A question over the determination of an amendment as minor or major may be filed with the New Jersey Superior Court for a

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declaratory judgment determining that the amendment is minor or major.

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

REPLACE SECTION 15 TO READ:

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

8. Upon the adoption of a redevelopment plan pursuant to section 7 of P.L.1992, c.79 (C.40A:12A-7), the municipality or redevelopment entity designated by the governing body may proceed with the clearance, replanning, development and redevelopment of the area designated in that plan. 1Prior to the exercise of any power granted pursuant to this section that will result in a substantial negative environmental impact on, or safety risk to, other persons or businesses remaining in the redevelopment area, the municipality or redeveloper, or a designee, shall offer them relocation assistance in accordance with the "Relocation Assistance Law of 1967," P.L.1967, c.79 (C.52:31B-1 et seq.) and the "Relocation Assistance Act," P.L.1971, c.362 (C.20:4-1 et seq.). The Commissioner of Community Affairs, in consultation with the Commissioner of Environmental Protection, shall promulgate rules and regulations to clarify the circumstances requiring the offer of relocation assistance to persons or businesses under this section.¹ In order to carry out and effectuate the purposes of this act and the terms of the redevelopment plan, the municipality or designated redevelopment entity may:

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

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

c. Acquire, by condemnation, any land or building which is in a condemnation redevelopment area pursuant to ¹[subsection k. of] section 5 of P.L.192, c.79 (C.40A:12A-5) and necessary for the redevelopment project, pursuant to the provisions of the "Eminent Domain Act of 1971," P.L.1971, c.361 (C.20:3-1 et seq.) and the "Local Redevelopment and Housing Law," P.L.1992, c.79 (C.40A:12A-1 et al.).

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

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

f. Arrange or contract with public agencies or redevelopers for the planning, replanning, construction, or undertaking of any project or redevelopment work, or any part thereof; negotiate and collect revenue

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from a redeveloper to defray the costs of the redevelopment entity, including where applicable the costs incurred in conjunction with bonds, notes or other obligations issued by the redevelopment entity, and to secure payment of such revenue; as part of any such arrangement or contract, provide for extension of credit, or making of loans, to redevelopers to finance any project or redevelopment work, or upon a finding that the project or redevelopment work would not be undertaken but for the provision of financial assistance, or would not be undertaken in its intended scope without the provision of financial assistance, provide as part of an arrangement or contract for capital grants to redevelopers; and arrange or contract with public agencies or redevelopers for the opening, grading or closing of streets, roads, roadways, alleys, or other places or for the furnishing of facilities or for the acquisition by such agency of property options or property rights or for the furnishing of property or services in connection with a redevelopment area.

g. Lease or convey property or improvements to any other party pursuant to this section, without public bidding and at such prices and upon such terms as it deems reasonable, provided that the lease or conveyance is made in conjunction with a redevelopment plan, notwithstanding the provisions of any law, rule, or regulation to the contrary.

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

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

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

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

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

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

n. Do all things necessary or convenient to carry out its powers.

o. Request expedited permit application reviews and approval, in accordance with P.L.2004, c.89 (C.52:27D-10.2 et al.), for projects in

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a redevelopment area, and utilize the New Jersey Redevelopment Authority for these purposes.

(cf: P.L.1992, c.79, s.8)

REPLACE SECTION 17 TO READ:

17. (New section) a. When a redevelopment entity seeks to acquire property in a condemnation redevelopment area, the written offer of just compensation required under section 6 of P.L.1971, c.361 (C.20:3-6) shall include the amount of the approved appraisal, the amounts required pursuant to section 26 of P.L.1971, c.361 (C.20:3-26), plus:

(1) reimbursement for reasonable costs to verify the appraisal on residential and small business property;

(2) reimbursement for reasonable legal costs of the prospective condemnee to review the basis for condemnation on residential and small business property, up to \$500;

(3) lost rents for period of time between declaration of the condemnation area and date of taking date of possession by the redevelopment entity;

(4) the amount of relocation assistance that the prospective condemnee would be entitled; and

(5) with regard to a prospective condemnee who has an approved application for development under the "Municipal Land Use Law," P.L.1975, c.291 (C.40:55D-1 et seq.), restitution damages and expectancy damages related to the approved development, unless the condemnor can demonstrate that the prospective condemnee is unable or unwilling to complete the development.

b. When the amount of the approved appraisal is less than the amount of one or more bona fide mortgages, which were valid liens encumbering the property for not less than 180 days prior to the initiation of negotiations for the acquisition of such property, the amount of the written offer shall be no less than the payoff amount for those mortgage liens, calculated in accordance with the provision in section 5 of P.L.1971, c.362 (C.20:4-5).

c. Notwithstanding the requirements of section 30 of P.L.1971, c.361 (C.20:3-30) concerning the date for the determination of just compensation, if applicable, the approved appraisal for the property shall be calculated on the basis of the date set forth below that results in the highest appraisal:

(1) the date on which action is taken by the condemnor which substantially affects the ¹~~use and enjoyment~~ value¹ of the property ¹~~by~~ of¹ the condemnee; or (2) the date on which the property is determined to be in a condemnation redevelopment area by the governing body.

d. If an offer is not accepted and the award of the condemnation commissioners is increased on appeal pursuant to section 13 of P.L.1971, c.361 (C.20:3-13), then the condemnor also shall pay the

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condemnee's reasonable legal fees expended by the condemnee to appeal the commissioners' award.

e. No property shall be subject to condemnation unless it has been identified for acquisition in the redevelopment plan or any amendment thereto, pursuant to paragraph (4), subsection a. of section 7 of P.L.1992, c.79 (C.40A:12A-7).

f. When a non-blighted property is included in a condemnation redevelopment area, the property shall not be condemned unless the condemnor is able to certify in its condemnation complaint that it has exhausted all avenues to acquire the property, that acquisition of the property cannot be negotiated despite its best efforts, and that the property is necessary to the viability of the redevelopment project.

g. Every resident and small business operator displaced as a result of a redevelopment project shall have a limited right of first refusal to purchase or lease a dwelling unit or business space subsequently constructed within the redevelopment project as set forth in this section:

(1) At such time residents and small business operators are provided notice under a workable relocation assistance program pursuant to law or regulation, they shall be provided with the opportunity to have their names entered into a registry of residents or a registry of small business operators, as the case may be, seeking the opportunity to purchase or lease a dwelling unit or business space, as the case may be, in the redevelopment project. The registry shall be maintained by the municipal relocation officer designated under the workable relocation assistance program, a copy of which shall be forwarded to, and also maintained by, the Department of Community Affairs.

(2) At such time that any residential development containing more than 10 dwelling units, or any nonresidential or mixed use development containing more than 18,000 square feet of floor area, shall be constructed in any redevelopment area as a redevelopment project, the developer shall notify each individual on the appropriate registry, by registered mail and by e-mail to their last known mailing or e-mail address, as may be available, of their opportunity to purchase or lease a dwelling unit or business space, as applicable. It shall be the sole responsibility of the individual to maintain a current mailing address with the registry, and the developer shall be under no obligation to provide notice except as set forth in this subsection.

(3) From the date of mailing of the notice, the individuals on the registry shall have 20 business days before the units in such development are offered to the general public in order to enter into a contract of purchase or a lease for a unit in the development. Such contract or lease shall be on the same terms and at the same price as those on which the unit is initially offered to the general public.

REPLACE SECTION 21 TO READ:

21. (New section) a. If any agreement between a redevelopment entity and a redeveloper shall provide for the use or potential use of

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eminent domain by the redevelopment entity, such agreement shall contain:

(1) a block and lot identification of all parcels which may be subject to eminent domain at the request of the redeveloper;

(2) a schedule of acquisition by the redeveloper; and

(3) a provision stating that the ability of the redeveloper to request acquisition by eminent domain shall lapse within five years of the effective date of the agreement, which provision may only be further extended by an ordinance adopted by the governing body after notice to any property owner whose rights will be directly affected by such an extension ¹, and only if construction has begun and has continued without cumulative stoppages, attributable to action or inaction of redeveloper, of more than 365 days¹.

b. All mandatory schedules and time limitations within the provisions set forth in subsection a. of this section may be subject to tolling for any contingencies set forth in the agreement.

REPLACE SECTION 22 TO READ:

22. (New section) If a court finds that any notice required to be sent by mail under the "Local Redevelopment and Housing Law," P.L.1992, c.79 (C.40A:12A-1 et al.), was defective, the court may order all or certain redevelopment activities to be suspended until the defective notices have been remedied and the interests of the parties accommodated to the court's satisfaction. ¹An affidavit executed by a municipal employee affirming that notices required to be posted under P.L. , c. (C.) (pending before the Legislature as this bill) were duly posted shall protect a municipality from any challenge to the sufficiency of the posting of notices.¹

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