

**SENATE, No. 1975**

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**STATE OF NEW JERSEY**  
**212th LEGISLATURE**

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INTRODUCED JUNE 12, 2006

**Sponsored by:**  
**Senator RONALD L. RICE**  
**District 28 (Essex)**

**SYNOPSIS**

Revises law concerning eminent domain and municipal redevelopment.

**CURRENT VERSION OF TEXT**

As introduced.



**S1975 RICE**

2

1 **AN ACT** concerning redevelopment and eminent domain, amending  
2 P.L.1971, c.361 and P.L.1975, c.291, and amending and  
3 supplementing P.L.1992, c.79.

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

7  
8 1. (New section) The Legislature finds and declares that:

9 a. Since 1949, New Jersey municipalities have been authorized  
10 by the Legislature to undertake programs of redevelopment,  
11 rehabilitation and to provide incentives to promote the expansion  
12 and improvement of commercial, industrial, residential and civic  
13 facilities in blighted areas and that such powers are set forth in the  
14 State Constitution.

15 b. Since 1949, municipalities have used these programs to  
16 arrest and reverse conditions of deterioration and inefficiency in  
17 housing, commercial and industrial facilities and to promote sound  
18 planning, revitalize their tax bases and improve the public safety,  
19 health, and welfare of their communities and in exercising their  
20 responsibilities and implementing such programs municipalities  
21 have, in certain circumstances, exercised the power to acquire  
22 property by eminent domain, also set forth in the State Constitution,  
23 to transfer such property to private interests to undertake projects in  
24 accordance with approved redevelopment plans and that such power  
25 of eminent domain has contributed to the overall effectiveness and  
26 success of such redevelopment programs.

27 c. Since 1949, the laws authorizing such redevelopment  
28 programs have been amended from time to time and were last  
29 codified in 1992 into one law designed to simplify and codify prior  
30 enactments and make the legal mechanisms for exercising such  
31 responsibilities and powers in undertaking such improvements more  
32 efficient to use and that such changes to the law, together with  
33 changing land use and development patterns, have resulted in  
34 redevelopment programs being undertaken by municipalities of  
35 urban, suburban and rural character.

36 d. The increase in redevelopment activity throughout the State,  
37 including the use of eminent domain, together with the 2005 United  
38 States Supreme Court decision in Kelo v. City of New London,  
39 Connecticut, have focused public attention and scrutiny on  
40 municipal redevelopment activities and merits legislative review of  
41 and amendment to the laws governing redevelopment programs and  
42 the process undertaken by municipalities for authorizing  
43 redevelopment programs.

44 e. The Legislature hereby declares that redevelopment remains  
45 a valid and important public purpose and public use; that the

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

**Matter underlined thus is new matter.**

**S1975 RICE**

1 implementation of redevelopment programs continues to be a vital  
2 tool for municipal officials that must be maintained to allow such  
3 officials to continue to meet their governmental responsibilities to  
4 arrest and reverse deleterious property conditions within their  
5 municipal borders; and that the power of eminent domain remains  
6 necessary to effectively implement such redevelopment  
7 responsibilities and powers.

8 f. The Legislature also declares that changes to the existing  
9 law are necessary: to ensure that affected property owners and the  
10 general public are provided adequate notice of a municipality's  
11 interest in developing a redevelopment program; to afford such  
12 stakeholders the opportunity to be heard during the process  
13 undertaken to develop such programs; to add transparency to the  
14 exercise of a legitimate governmental function; to create certainty  
15 that redevelopment programs are authorized and undertaken in a  
16 deliberative and open process; to ensure that the social and  
17 economic impacts of redevelopment are adequately addressed; to  
18 provide that redevelopment programs, once properly adopted, are  
19 implemented in a fair and certain manner; to provide a just measure  
20 of compensation to property owners who are subject to eminent  
21 domain; and to afford protection and finality to such redevelopment  
22 programs properly created under these heightened standards for  
23 enactment. These changes will restore public confidence in local  
24 redevelopment programs by assuring that interested parties are  
25 provided access into an open and deliberative process.

26 g. The Legislature also recognizes that local redevelopment  
27 programs are necessary to promote State policies that encourage:

28 (1) the reuse of existing property, as opposed to the loss of  
29 agricultural property and open space to development; and

30 (2) construction in areas already serviced by public utilities, so  
31 that existing infrastructure can be maintained and used in the  
32 furtherance of the public good.

33

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

36 3. As used in this act:

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

40 "Comparable affordable replacement housing" means housing  
41 offered to households being displaced as a result of a  
42 redevelopment project, that is affordable to that household as  
43 defined by the Council on Affordable Housing in the Department of  
44 Community Affairs, and that is comparable to the household's  
45 dwelling in the redevelopment area with respect to the size and  
46 amenities of the dwelling unit, the quality of the neighborhood, and  
47 the level of public services and facilities offered by the municipality  
48 in which the redevelopment area is located.

**S1975 RICE**

1       “Detrimental to the safety, health, or welfare of the community”  
2 means objective evidence of detriment, including but not limited to,  
3 substantial building or health code violations, repeated need for  
4 police intervention over an extended period of time, environmental  
5 contamination, a lack of structural integrity or a continuing exterior  
6 appearance that degrades the surrounding properties, and for  
7 commercial properties may include objective evidence of a lack of  
8 proper utilization of land or structures resulting in conditions that  
9 are incompatible with surrounding activities and land uses,  
10 impairing the use and productivity of adjacent properties, or  
11 impairing the ability of the municipality to pursue economic growth  
12 objectives set forth in the municipal master plan.

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

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

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

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

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

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

**S1975 RICE**

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

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

10       “Real property” means all lands, including improvements and  
11 fixtures thereon, and property of any nature appurtenant thereto or  
12 used in connection therewith, and every estate, interest and right,  
13 legal or equitable, therein, including terms for years and liens by  
14 way of judgment, mortgage or otherwise, and indebtedness secured  
15 by such liens.

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

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

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

39       “Redevelopment area” or “area in need of redevelopment” means  
40 an area determined to be in need of redevelopment pursuant to  
41 sections 5 and 6 of P.L.1992, c.79 (C.40A:12A-5 and 40A:12A-6)  
42 or determined heretofore to be a “blighted area” pursuant to  
43 P.L.1949, c.187 (C.40:55-21.1 et seq.) repealed by this act, both  
44 determinations as made pursuant to the authority of Article VIII,  
45 Section III, paragraph 1 of the Constitution. [A redevelopment area  
46 may include lands, buildings, or improvements which of themselves  
47 are not detrimental to the public health, safety or welfare, but the  
48 inclusion of which is found necessary, with or without change in

**S1975 RICE**

6

1 their condition, for the effective redevelopment of the area of which  
2 they are a part.】

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

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

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

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

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

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

37

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

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

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

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

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

S1975 RICE

1 (3) Adopt a redevelopment plan pursuant to section 7 of  
2 P.L.1992, c.79 (C.40A:12A-7);  
3 (4) Determine pursuant to section 14 of P.L.1992, c.79  
4 (C.40A:12A-14) that an area is in need of rehabilitation.  
5 b. A municipal planning board shall have the power to:  
6 (1) Conduct, when authorized by the municipal governing body,  
7 a preliminary investigation and hearing and make a  
8 recommendation pursuant to subsection b. of section 6 of P.L.1992,  
9 c.79 (C.40A:12A-6) as to whether an area is in need of  
10 redevelopment;  
11 (2) Make recommendations concerning a redevelopment plan  
12 pursuant to subsection e. of section 7 of P.L.1992, c.79  
13 (C.40A:12A-7), or prepare a redevelopment plan pursuant to  
14 subsection f. of that section.  
15 (3) Make recommendations concerning the determination of an  
16 area in need of rehabilitation pursuant to section 14 of P.L.1992,  
17 c.79 (C.40A:12A-14).  
18 c. The municipality shall be responsible for implementing  
19 redevelopment plans and carrying out redevelopment projects  
20 pursuant to section 8 of P.L.1992, c.79 (C.40A:12A-8). The  
21 municipality may execute these responsibilities directly, or in  
22 addition thereto or in lieu thereof, **【through】** may designate by  
23 ordinance either a municipal redevelopment agency, or a municipal  
24 housing authority authorized to exercise redevelopment powers  
25 pursuant to section 21 of P.L.1992, c.79 (C.40A:12A-21), but there  
26 shall be only one redevelopment entity responsible for each  
27 redevelopment project. A county improvement authority authorized  
28 to undertake redevelopment projects pursuant to the “county  
29 improvement authorities law,” P.L.1960, c.183 (C.40:37A-44 et  
30 seq.) may also act as a redevelopment entity pursuant to this act.  
31 The redevelopment entity, so authorized, may contract with any  
32 other public body, in accordance with the provisions of section 8 of  
33 P.L.1992, c.79 (C.40A:12A-8), for the carrying out of a  
34 redevelopment project or any part thereof under its jurisdiction.  
35 Notwithstanding the above, the governing body of the municipality  
36 may, by ordinance, change or rescind the designation of the  
37 redevelopment **【entity responsible for implementing】** agency or  
38 housing authority designated to implement a redevelopment plan  
39 and **【carrying】** carry out a redevelopment project and may have the  
40 municipality assume this responsibility **【itself, but】**; provided,  
41 however, that only the redevelopment entity authorized to undertake  
42 a particular redevelopment project shall remain authorized to  
43 complete it, unless the redevelopment entity and redeveloper agree  
44 otherwise, or unless no obligations have been entered into by the  
45 redevelopment entity with parties other than the municipality. This  
46 shall not diminish the power of the municipality to dissolve a  
47 redevelopment entity pursuant to section 24 of P.L.1992, c.79

1 (C.40A:12A-24), and section 20 of the “Local Authorities Fiscal  
2 Control Law,” P.L.1983, c.313 (C.40A:5A-20).

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

4

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

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

12 a. The generality of buildings are substandard, unsafe,  
13 unsanitary, dilapidated, or obsolescent, or possess any of such  
14 characteristics, or are so lacking in light, air, or space, as to be  
15 conducive to unwholesome living or working conditions.

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

20 c. (1) Land that is owned by the municipality, the county, a  
21 local housing authority, redevelopment agency or redevelopment  
22 entity, or

23 (2) unimproved vacant land that has remained so for a period of  
24 ten years prior to adoption of the **【resolution】 ordinance**, and that  
25 by reason of its location, remoteness, lack of means of access to  
26 developed sections or portions of the municipality, or topography,  
27 or nature of the soil,

28 is not likely to be developed through the instrumentality of  
29 private capital and is determined to be detrimental to the safety,  
30 health, or welfare of the community.

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

38 e. A **【growing lack or total】** lack of proper utilization of areas  
39 caused by the condition of the title, diverse ownership of the real  
40 property therein or other conditions, **【resulting in a stagnant or not**  
41 **fully productive condition of land potentially useful and valuable**  
42 **for contributing to and serving the public health, safety and**  
43 **welfare】** which, by virtue of these factors are determined to be  
44 detrimental to the safety, health, or welfare of the community.

45 f. Areas, in excess of five contiguous acres, whereon buildings  
46 or improvements have been destroyed, consumed by fire,  
47 demolished or altered by the action of storm, fire, cyclone, tornado,



1 earthquake or other casualty in such a way that the aggregate  
2 assessed value of the area has been materially depreciated.

3 g. In any municipality in which an enterprise zone has been  
4 designated pursuant to the “New Jersey Urban Enterprise Zones  
5 Act,” P.L.1983, c.303 (C.52:27H-60 et seq.) the execution of the  
6 actions prescribed in that act for the adoption by the municipality  
7 and approval by the New Jersey Urban Enterprise Zone Authority  
8 of the zone development plan for the area of the enterprise zone  
9 shall be considered sufficient for the determination that the area is  
10 in need of redevelopment pursuant to sections 5 and 6 of P.L.1992,  
11 c.79 (C.40A:12A-5 and 40A:12A-6) for the purpose of granting tax  
12 exemptions within the enterprise zone district pursuant to the  
13 provisions of P.L.1991, c.431 (C.40A:20-1 et seq.) or the adoption  
14 of a tax abatement and exemption ordinance pursuant to the  
15 provisions of P.L.1991, c.441 (C.40A:21-1 et seq.). The  
16 municipality shall not utilize any other redevelopment powers  
17 within the urban enterprise zone unless the municipal governing  
18 body and planning board have also taken the actions and fulfilled  
19 the requirements prescribed in P.L.1992, c.79 (C.40A:12A-1 et al.)  
20 for determining that the area is in need of redevelopment or an area  
21 in need of rehabilitation and the municipal governing body has  
22 adopted a redevelopment plan ordinance including the area of the  
23 enterprise zone.

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

28 i. Parcels, either vacant or developed, which historically have  
29 been used in an industrial or commercial manner and which have  
30 remained vacant or substantially underutilized for a period of 24  
31 consecutive months due to environmental issues associated with  
32 such parcels’ historic use.

33 In addition to parcels included in a delineated area under this  
34 section, an area in need of redevelopment may include other parcels  
35 containing lands, buildings, or improvements which of themselves  
36 are not detrimental to the safety, health, or welfare of the  
37 community, but the inclusion of which is found necessary, with or  
38 without change in their condition, for the effective redevelopment  
39 of the area of which they are a part; provided, however that such  
40 parcels, in the aggregate, shall not comprise in excess of 20% of the  
41 land mass of such area to be designated as available for private  
42 ownership.

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

44

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

47 6. a. (1) No area of a municipality shall be determined a  
48 redevelopment area unless the governing body of the municipality

1 shall, by resolution, authorize the planning board to undertake a  
2 preliminary investigation to determine whether the proposed area is  
3 a redevelopment area according to the criteria set forth in section 5  
4 of P.L.1992, c.79 (C.40A:12A-5). Such determination shall be  
5 made after public notice and public hearing as provided in  
6 subsection b. of this section. The governing body of a municipality  
7 shall assign the conduct of the investigation and hearing to the  
8 planning board of the municipality.

9 (2) In the case of any area of a municipality that is more than 10  
10 acres in area, or that contains more than 100 occupied dwelling  
11 units or more than 50 operating business premises, the governing  
12 body shall hold a public informational meeting prior to adoption of  
13 the resolution authorizing the planning board to undertake a  
14 preliminary investigation as set forth in this section. Notice of the  
15 public informational meeting shall be as in paragraph (3) of  
16 subsection b. of this section, except that notice to individual  
17 property owners and tenants shall not be required.

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

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

27 (3) The hearing notice shall set forth the general boundaries of  
28 the area to be investigated and state that a map has been prepared  
29 and can be inspected at the office of the municipal clerk. A copy of  
30 the notice shall be published in a newspaper of general circulation  
31 in the municipality once each week for two consecutive weeks, and  
32 the last publication shall be not less than ten days prior to the date  
33 set for the hearing. If the municipality has an Internet web site, the  
34 notice shall be posted thereon. A copy of the notice shall also be  
35 posted in such other places within or proximate to the proposed  
36 redevelopment area as may be available and appropriate. A copy of  
37 the notice shall be mailed by the municipal clerk at least ten days  
38 prior to the date set for the hearing to the last owner, if any, of each  
39 parcel of property, and to any legal tenant of a residential rental  
40 dwelling unit within the area according to the assessment records of  
41 the municipality. The municipal clerk shall make a diligent effort  
42 to ascertain the names and addresses of legal tenants of rental  
43 dwelling units by contacting the legal owner of the rental property  
44 or a management company identified by such owner, but if unable  
45 to do so shall have a copy of the notice posted on properties known  
46 to be rental dwelling units. A notice shall also be sent by the  
47 municipal clerk to all persons at their last known address, if any,  
48 whose names are noted on the assessment records as claimants of an

1 interest in any such parcel. The assessor of the municipality shall  
2 make a notation upon the records when requested to do so by any  
3 person claiming to have an interest in any parcel of property in the  
4 municipality. The notice shall be published and mailed by the  
5 municipal clerk, or by such clerk or official as the planning board  
6 shall otherwise designate. Failure to mail any such notice shall not  
7 invalidate the investigation or determination thereon.

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

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

30 (b) After receiving the recommendation of the planning board,  
31 the municipal governing body may adopt ~~【a resolution】~~ an  
32 ordinance determining that the delineated area, or any part thereof,  
33 is a redevelopment area. ~~【Upon the】~~ Prior to final adoption of ~~【a~~  
34 ~~resolution】~~ the ordinance, the clerk of the municipality shall,  
35 forthwith, transmit a copy of the ~~【resolution】~~ ordinance to the  
36 Commissioner of Community Affairs for review. The clerk shall  
37 also transmit a copy of the ordinance to the Office of the Public  
38 Advocate. If the area in need of redevelopment is not situated in an  
39 area in which development or redevelopment is to be encouraged  
40 pursuant to any State law or regulation promulgated pursuant  
41 thereto, the ~~【determination】~~ ordinance shall not ~~【take effect】~~ be  
42 finally adopted without first receiving the review and the approval  
43 of the commissioner. If the commissioner does not issue an  
44 approval or disapproval within 30 calendar days of transmittal by  
45 the clerk, the determination shall be deemed to be approved and the  
46 ordinance may be finally adopted. If the area in need of  
47 redevelopment is situated in an area in which development or

1 redevelopment is to be encouraged pursuant to any State law or  
2 regulation promulgated pursuant thereto, then the determination  
3 shall take effect after the clerk has transmitted a copy of the  
4 **【resolution】 ordinance** to the commissioner. The determination, if  
5 supported by substantial evidence and, if required, approved by the  
6 commissioner, shall be binding and conclusive upon all persons  
7 affected by the determination. **【Notice of the determination shall**  
8 **be served, within 10 days after the determination, upon each person**  
9 **who filed a written objection thereto and stated, in or upon the**  
10 **written submission, an address to which notice of determination**  
11 **may be sent.】**

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

18 (7) **【If a person who filed a written objection to a determination**  
19 **by the municipality pursuant to this subsection shall, within 45 days**  
20 **after the adoption by the municipality of the determination to which**  
21 **the person objected, apply to the Superior Court, the court may**  
22 **grant further review of the determination by procedure in lieu of**  
23 **prerogative writ; and in any such action the court may make any**  
24 **incidental order that it deems proper.】** (Deleted by amendment,  
25 P.L. \_\_\_\_\_, c. \_\_\_\_\_) (pending before the Legislature as this bill)

26 (8) Notice of final adoption of an ordinance making a  
27 determination shall be served, within 10 days after the final  
28 adoption of the ordinance making such determination, upon each  
29 person who received notice of the public hearing in accordance with  
30 paragraph (3) of subsection b. of this section in the same manner as  
31 provided therein. Additionally, notice of final adoption of an  
32 ordinance making a determination shall be published in the official  
33 newspaper of the municipality, together with the date of the first  
34 publication of such notice and also a statement that any action or  
35 proceeding of any kind or nature in any court questioning the  
36 validity of the adoption of the ordinance or the determination  
37 contained therein, shall be commenced within 45 days after the first  
38 publication of such notice.

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

44 c. An area determined to be in need of redevelopment pursuant  
45 to this section shall be deemed to be a “blighted area” for the  
46 purposes of Article VIII, Section III, paragraph 1 of the  
47 Constitution. If an area is determined to be a redevelopment area

1 and a redevelopment plan is adopted for that area in accordance  
2 with the provisions of this act, the municipality is authorized to  
3 utilize all those powers provided in section 8 of P.L.1992, c.79  
4 (C.40A:12A-8).

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

6  
7 6. Section 7 of P.L.1992, c.79 (C.40A:12A-7) is amended to  
8 read as follows:

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

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

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

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

40 (3) [Adequate provision for] A relocation study adequate to  
41 identify available units suitable to the temporary and permanent  
42 relocation, as necessary, of residents and businesses in the project  
43 area, as required by the "Relocation Assistance Act," P.L.1971,  
44 c.362 (C.20:4-1 et seq.), including, for residents, an estimate of the  
45 extent to which [decent, safe and sanitary dwelling units affordable  
46 to displaced residents] comparable, affordable replacement housing  
47 will be available [to them] in the existing local housing market, an

1 assessment of the disparity between the availability of comparable,  
2 affordable replacement housing and the needs of the residents in the  
3 project area, an estimate of the amount and type of replacement  
4 housing that will have to be provided within or without the  
5 redevelopment area in order to meet the relocation needs of  
6 residents in the project area, and a plan setting forth the manner and  
7 timetable in which that housing, if needed, will be provided.

8 (4) An identification, by block and lot and street address, if any,  
9 of any property within the redevelopment area which is proposed to  
10 be acquired in accordance with the redevelopment plan, including  
11 an identification for each parcel of the objectives of the  
12 redevelopment plan which cannot be realistically achieved without  
13 the taking of such property, a consideration of alternatives to the  
14 proposed taking, and the reasons that such alternatives do not  
15 provide for realistic achievement of the objectives of the  
16 redevelopment plan.

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

22 (6) The social and economic impact of the redevelopment area,  
23 including its effect on those parts of the municipality adjacent to the  
24 redevelopment area, and on the low and moderate income residents  
25 of the area.

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

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

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

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

- 1       (11) A statement setting forth the municipal planning board’s  
2 ability, if any, to grant relief to applicants from elements of the  
3 redevelopment plan when reviewing and approving development  
4 applications.
- 5       b. **【A】** In addition to that housing provided pursuant to  
6 paragraph (8) of subsection a. of this section, a redevelopment plan  
7 may include the provision of affordable housing in accordance with  
8 the “Fair Housing Act,” P.L.1985, c.222 (C.52:27D-301 et al.) and  
9 the housing element of the municipal master plan.
- 10       c. The redevelopment plan shall describe its relationship to  
11 pertinent municipal development regulations as defined in the  
12 “Municipal Land Use Law,” P.L.1975, c.291 (C.40:55D-1 et seq.).  
13 The redevelopment plan shall supersede applicable provisions of the  
14 development regulations of the municipality or constitute an  
15 overlay zoning district within the redevelopment area. When the  
16 redevelopment plan supersedes any provision of the development  
17 regulations, the ordinance adopting the redevelopment plan shall  
18 contain an explicit amendment to the zoning district map included  
19 in the zoning ordinance. The zoning district map as amended shall  
20 indicate the redevelopment area to which the redevelopment plan  
21 applies. **【Notwithstanding the provisions of the “Municipal Land**  
22 **Use Law,” P.L.1975, c.291 (C.40:55D-1 et seq.) or of other law, no**  
23 **notice beyond that required for adoption of ordinances by the**  
24 **municipality shall be required for the hearing on or adoption of the**  
25 **redevelopment plan or subsequent amendments thereof.】**
- 26       d. All provisions of the redevelopment plan shall be either  
27 substantially consistent with the municipal master plan or designed  
28 to effectuate the master plan; but the municipal governing body may  
29 adopt a redevelopment plan which is inconsistent with or not  
30 designed to effectuate the master plan by affirmative vote of a  
31 majority of its full authorized membership with the reasons for so  
32 acting set forth in the redevelopment plan.
- 33       e. **【Prior to the adoption of a redevelopment plan, or revision or**  
34 **amendment thereto, the】** If a municipality prepares a redevelopment  
35 plan directly, the municipal governing body shall refer the proposed  
36 redevelopment plan to the municipal planning board for review.  
37 Such referral may be by resolution. The municipal planning board  
38 shall transmit to the governing body, within 45 days after referral, a  
39 report containing its recommendation concerning the redevelopment  
40 plan. This report shall include an identification of any provisions in  
41 the proposed redevelopment plan which are inconsistent with the  
42 master plan and recommendations concerning these inconsistencies  
43 and any other matters as the board deems appropriate. The  
44 governing body, when considering the adoption of a redevelopment  
45 plan or revision or amendment thereof, shall review the report of  
46 the planning board and may approve or disapprove or change any  
47 recommendation by a vote of a majority of its full authorized

1 membership and shall record in its minutes the reasons for not  
2 following the recommendations. Failure of the planning board to  
3 transmit its report within the required 45 days shall relieve the  
4 governing body from the requirements of this subsection with  
5 regard to the pertinent proposed redevelopment plan [or revision or  
6 amendment thereof]. Nothing in this subsection shall diminish the  
7 applicability of the provisions of subsection d. of this section with  
8 respect to any redevelopment plan or revision or amendment  
9 thereof.

10 f. The governing body of a municipality may direct the planning  
11 board to prepare a redevelopment plan [or an amendment or  
12 revision to a redevelopment plan] for a designated redevelopment  
13 area. After completing the redevelopment plan, the planning board  
14 shall transmit the proposed plan to the governing body for its  
15 adoption. The governing body, when considering the proposed  
16 plan, may amend or revise any portion of the proposed  
17 redevelopment plan by an affirmative vote of the majority of its full  
18 authorized membership and shall record in its minutes the reasons  
19 for each amendment or revision. When a redevelopment plan [or  
20 amendment to a redevelopment plan] is referred to the governing  
21 body by the planning board under this subsection, the governing  
22 body shall be relieved of the referral requirements of subsection e.  
23 of this section.

24 g. Amendments to redevelopment plans shall be prepared and  
25 adopted in the same manner as provided for a redevelopment plan.

26 h. The redevelopment plan shall be adopted by ordinance of the  
27 municipal governing body. Prior to final adoption of the ordinance,  
28 the municipal governing body shall conduct a public hearing on the  
29 ordinance and all interested persons shall be allowed to speak.  
30 Notice of the public hearing shall state the date, time, and location  
31 of the public hearing, shall identify where the proposed  
32 redevelopment plan is available for examination and shall identify,  
33 by block and lot and street address, if any, the parcels that may be  
34 subject to eminent domain under the proposed redevelopment plan.  
35 The full text of the redevelopment plan to be considered by the  
36 governing body along with any maps or other exhibits thereto, shall  
37 be made available to the public in the municipal building and shall  
38 be posted on the municipality's Internet web site, if any, at the time  
39 such notice to such hearing is to be provided. Copies of the  
40 proposed redevelopment plan shall be available for purchase by any  
41 interested party. A copy of the notice of the public hearing shall be  
42 published in a newspaper of general circulation in the municipality  
43 once each week for two consecutive weeks, and the last publication  
44 shall be not less than 10 days prior to the date set for the hearing,  
45 and shall be posted on the municipality's Internet web site and in  
46 such other public places within or proximate to the proposed  
47 redevelopment area as may be available and appropriate. A copy of



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1 the notice shall be mailed by the municipal clerk at least 10 days  
2 prior to the date set for the hearing to the last owner, if any, of each  
3 parcel of property and any legal tenant of a residential rental  
4 dwelling unit, within the area according to the assessment records  
5 of the municipality. The municipal clerk shall make a diligent  
6 effort to ascertain the names and addresses of legal tenants of  
7 residential rental dwelling units by contacting the legal owner of the  
8 rental property or a management company identified by such owner,  
9 but if unable to do so shall have a copy of the notice posted on  
10 properties known to contain residential rental dwelling units. A  
11 notice shall also be sent by the municipal clerk to all persons at  
12 their last known address, if any, whose names are noted on the  
13 assessment records as claimants of an interest in any such parcel.  
14 The assessor of the municipality shall make a notation upon the  
15 records when requested to do so by any person claiming to have an  
16 interest in any parcel of property in the municipality. The notice  
17 shall be published and mailed by the municipal clerk. Failure to  
18 mail any such notice shall not invalidate the redevelopment plan.  
19 At such public hearing, the municipal governing body shall hear all  
20 persons who are interested in or would be affected by the provisions  
21 of the redevelopment plan, although the governing body may, by  
22 vote of its majority, restrict or limit the amount of time afforded  
23 each such person to speak. A record of the public hearing shall be  
24 kept by the municipal clerk. Upon the close of the public hearing,  
25 the municipal governing body may vote to finally adopt the  
26 ordinance.

27 i. Notice of final adoption of an ordinance adopting a  
28 redevelopment plan shall be served, within 10 days after the final  
29 adoption of the ordinance making such determination, upon each  
30 person who received notice of the public hearing in accordance with  
31 subsection h. of this section in the same manner as provided therein.  
32 Additionally, notice of final adoption of an ordinance making a  
33 determination shall be published in the official newspaper of the  
34 municipality, together with the date of the first publication of such  
35 notice and also a statement that any action or proceeding of any  
36 kind or nature in any court questioning the validity of the adoption  
37 of the ordinance or the determination contained therein, shall be  
38 commenced within 45 days after the first publication of such notice.

39 j. The municipality may not finally authorize and execute an  
40 agreement with a redeveloper until 60 days next following the final  
41 adoption of the ordinance adopting a redevelopment plan pursuant  
42 to this section.

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

44

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

47 8. Upon the adoption of a redevelopment plan pursuant to  
48 section 7 of P.L.1992, c.79 (C.40A:12A-7), the municipality or

1 redevelopment entity designated by the governing body may  
2 proceed with the clearance, replanning, development and  
3 redevelopment of the area designated in that plan. In order to carry  
4 out and effectuate the purposes of this act and the terms of the  
5 redevelopment plan, the municipality or designated redevelopment  
6 entity may:

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

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

12 c. Acquire, by condemnation, any land or building which is  
13 necessary for the redevelopment project, pursuant to the provisions  
14 of the "Eminent Domain Act of 1971," P.L.1971, c.361 (C.20:3-1 et  
15 seq.); provided, however, that for properties to be acquired under  
16 the terms of an agreement entered into pursuant to a redevelopment  
17 plan adopted after the effective date of P.L. , c. (C. )  
18 (pending before the Legislature as this bill), the valuation of such  
19 properties shall take into account the uses permitted for such  
20 property under the redevelopment plan and shall be based on the  
21 date the municipality files the declaration of taking or the date of  
22 adoption of the redevelopment plan, whichever yields the higher  
23 valuation.

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

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

32 f. Arrange or contract with public agencies or redevelopers for  
33 the planning, replanning, construction, or undertaking of any  
34 project or redevelopment work, or any part thereof; negotiate and  
35 collect revenue from a redeveloper to defray the costs of the  
36 redevelopment entity, including where applicable the costs incurred  
37 in conjunction with bonds, notes or other obligations issued by the  
38 redevelopment entity, and to secure payment of such revenue; as  
39 part of any such arrangement or contract, provide for extension of  
40 credit, or making of loans, to redevelopers to finance any project or  
41 redevelopment work, or upon a finding that the project or  
42 redevelopment work would not be undertaken but for the provision  
43 of financial assistance, or would not be undertaken in its intended  
44 scope without the provision of financial assistance, provide as part  
45 of an arrangement or contract for capital grants to redevelopers; and  
46 arrange or contract with public agencies or redevelopers for the  
47 opening, grading or closing of streets, roads, roadways, alleys, or  
48 other places or for the furnishing of facilities or for the acquisition

- 1 by such agency of property options or property rights or for the  
2 furnishing of property or services in connection with a  
3 redevelopment area.
- 4 g. Lease or convey property or improvements to any other party  
5 pursuant to this section, without public bidding and at such prices  
6 and upon such terms as it deems reasonable, provided that the lease  
7 or conveyance is made in conjunction with a redevelopment plan,  
8 and that the selection of the party has taken place subject to the  
9 provisions of section 11 of P.L. , c. (C. ) (pending before  
10 the Legislature as this bill), if applicable, notwithstanding the  
11 provisions of any other law, rule, or regulation to the contrary.
- 12 h. Enter upon any building or property in any redevelopment  
13 area in order to conduct investigations or make surveys, sounding or  
14 test borings necessary to carry out the purposes of this act.
- 15 i. Arrange or contract with a public agency for the relocation,  
16 pursuant to the "Relocation Assistance Law of 1967," P.L.1967,  
17 c.79 (C.52:31B-1 et seq.) and the "Relocation Assistance Act,"  
18 P.L.1971, c.362 (C.20:4-1 et seq.), of residents, industry or  
19 commerce displaced from a redevelopment area.
- 20 j. Make, consistent with the redevelopment plan: (1) plans for  
21 carrying out a program of voluntary repair and rehabilitation of  
22 buildings and improvements; and (2) plans for the enforcement of  
23 laws, codes, and regulations relating to the use and occupancy of  
24 buildings and improvements, and to the compulsory repair,  
25 rehabilitation, demolition, or removal of buildings and  
26 improvements.
- 27 k. Request that the planning board recommend and governing  
28 body designate particular areas as being in need of redevelopment  
29 or rehabilitation in accordance with the provisions of this act and  
30 make recommendations for the redevelopment or rehabilitation of  
31 such areas.
- 32 l. Study the recommendations of the planning board or  
33 governing body for redevelopment of the area.
- 34 m. Publish and disseminate information concerning any  
35 redevelopment area, plan or project.
- 36 n. Do all things necessary or convenient to carry out its powers.
- 37 o. Authorize and execute a written agreement designating a  
38 redeveloper or redevelopers to undertake a project or projects in  
39 accordance with the redevelopment plan; provided, however, that if  
40 such project or projects will involve the conveyance of land owned  
41 by the municipality or any project, 20% or more of which will be  
42 constructed upon land subject to acquisition by the municipality  
43 pursuant to the redevelopment plan, such designation shall be based  
44 upon the results of a competitive process undertaken in accordance  
45 with section 11 of P.L. , c. (C. ) (pending before the  
46 Legislature as this bill).  
47 (cf: P.L.1992, c.79, s.8)

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

3       14. a. A delineated area may be determined to be in need of  
4 rehabilitation if the governing body of the municipality determines  
5 by resolution that a program of rehabilitation, as defined in section  
6 3 of P.L.1992, c.79 (C.40A:12A-3), may be expected to prevent  
7 further deterioration and promote the overall development of the  
8 community and that there exist in that area conditions such that:

9       (1) a significant portion of structures therein are in a deteriorated  
10 or substandard condition and there is a continuing pattern of  
11 vacancy, abandonment or underutilization of properties in the area,  
12 **【with】** which may be reflected in a persistent arrearage of property  
13 tax payments thereon; 【or】

14       (2) **【more than half】** a significant amount of the housing stock  
15 **【in the delineated area is at least 50 years old, or a majority of the**  
16 **water and sewer】** or infrastructure in the delineated area, or both, is  
17 **【at least 50 years old and is】** in need of repair or substantial  
18 maintenance; **【and】**

19       (3) **【a program of rehabilitation, as defined in section 3 of**  
20 **P.L.1992, c.79 (C.40A:12A-3), may be expected to prevent further**  
21 **deterioration and promote the overall development of the**  
22 **community】** (Deleted by amendment, P.L. , c. .) (pending before  
23 the Legislature as this bill);

24       (4) areas with buildings or improvements evidencing  
25 dilapidation, obsolescence, overcrowding, faulty arrangement or  
26 design, lack of ventilation, light and sanitary facilities, excessive  
27 land coverage, deleterious land use or obsolete layout, or any  
28 combination of these or other factors; or

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

33       The resolution determining that the area is in need of  
34 rehabilitation shall be based upon a written report documenting the  
35 conditions that provide the basis for the determination that the area  
36 is in need of rehabilitation. Where warranted by consideration of  
37 the overall conditions and requirements of the community, a finding  
38 of need for rehabilitation may extend to the entire area of a  
39 municipality. Prior to adoption of the resolution, the governing  
40 body shall submit **【it】** the proposed resolution together with the  
41 report that provides the basis for the determination to the municipal  
42 planning board for its review. Within 45 days of its receipt of the  
43 proposed resolution, the municipal planning board shall submit its  
44 recommendations regarding the proposed resolution, including any  
45 modifications which it may recommend, to the governing body for  
46 its consideration. Thereafter, or after the expiration of the 45 days  
47 if the municipal planning board does not submit recommendations,

1 the governing body may adopt the resolution, with or without  
2 modification. The resolution shall not become effective without the  
3 approval of the commissioner pursuant to section 6 of P.L.1992,  
4 c.79 (C.40A:12A-6), if otherwise required pursuant to that section.

5 b. A delineated area shall be deemed to have been determined  
6 to be an area in need of rehabilitation in accordance with the  
7 provisions of this act if it has heretofore been determined to be an  
8 area in need of rehabilitation pursuant to P.L.1975, c.104 (C.54:4-  
9 3.72 et seq.), P.L.1977, c.12 (C.54:4-3.95 et seq.) or P.L.1979,  
10 c.233 (C.54:4-3.121 et seq.).

11 (cf: P.L.2003, c.125, s.5)

12

13 9. Section 15 of P.L.1992, c.79 (C40A:12A-15) is amended to  
14 read as follows:

15 15. In accordance with the provisions of a redevelopment plan  
16 adopted pursuant to section 7 of P.L.1992, c.79 (C.40A:12A-7), a  
17 municipality or redevelopment entity may proceed with clearance,  
18 replanning, conservation, development, redevelopment and  
19 rehabilitation of an area in need of rehabilitation. **【**With respect to  
20 a redevelopment project in **】** In an area in need of rehabilitation, the  
21 municipality or redevelopment entity, upon the adoption of a  
22 redevelopment plan for the area, may perform any of the actions set  
23 forth in section 8 of P.L.1992, c.79 (C.40A:12A-8), except that  
24 **【**with respect to such a project**】** the municipality shall not have the  
25 power to use eminent domain to take or acquire private property by  
26 condemnation in furtherance of a redevelopment plan, unless **【**: a.  
27 the area is within an area determined to be in need of  
28 redevelopment pursuant to this act; or b.**】** exercise of that power is  
29 authorized under any other law of this State.

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

31

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

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

39 b. The master plan shall generally comprise a report or  
40 statement and land use and development proposals, with maps,  
41 diagrams and text, presenting, at least the following elements (1)  
42 and (2) and, where appropriate, the following elements (3) through  
43 **【**14**】** 15):

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

1 (2) A land use plan element (a) taking into account and stating  
2 its relationship to the statement provided for in paragraph (1)  
3 hereof, and other master plan elements provided for in paragraphs  
4 (3) through (14] 15) hereof and natural conditions, including, but  
5 not necessarily limited to, topography, soil conditions, water  
6 supply, drainage, flood plain areas, marshes, and woodlands; (b)  
7 showing the existing and proposed location, extent and intensity of  
8 development of land to be used in the future for varying types of  
9 residential, commercial, industrial, agricultural, recreational,  
10 educational and other public and private purposes or combination of  
11 purposes; and stating the relationship thereof to the existing and any  
12 proposed zone plan and zoning ordinance; and (c) showing the  
13 existing and proposed location of any airports and the boundaries of  
14 any airport safety zones delineated pursuant to the "Air Safety and  
15 Zoning Act of 1983," P.L.1983, c.260 (C.6:1-80 et seq.); and (d)  
16 including a statement of the standards of population density and  
17 development intensity recommended for the municipality;

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

22 (4) A circulation plan element showing the location and types of  
23 facilities for all modes of transportation required for the efficient  
24 movement of people and goods into, about, and through the  
25 municipality, taking into account the functional highway  
26 classification system of the Federal Highway Administration and  
27 the types, locations, conditions and availability of existing and  
28 proposed transportation facilities, including air, water, road and rail;

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

40 (6) A community facilities plan element showing the existing  
41 and proposed location and type of educational or cultural facilities,  
42 historic sites, libraries, hospitals, firehouses, police stations and  
43 other related facilities, including their relation to the surrounding  
44 areas;

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

47 (8) A conservation plan element providing for the preservation,  
48 conservation, and utilization of natural resources, including, to the

1 extent appropriate, energy, open space, water supply, forests, soil,  
2 marshes, wetlands, harbors, rivers and other waters, fisheries,  
3 endangered or threatened species wildlife and other resources, and  
4 which systemically analyzes the impact of each other component  
5 and element of the master plan on the present and future  
6 preservation, conservation and utilization of those resources;

7 (9) An economic plan element considering all aspects of  
8 economic development and sustained economic vitality, including  
9 (a) a comparison of the types of employment expected to be  
10 provided by the economic development to be promoted with the  
11 characteristics of the labor pool resident in the municipality and  
12 nearby areas and (b) an analysis of the stability and diversity of the  
13 economic development to be promoted;

14 (10) A historic preservation plan element: (a) indicating the  
15 location and significance of historic sites and historic districts; (b)  
16 identifying the standards used to assess worthiness for historic site  
17 or district identification; and (c) analyzing the impact of each  
18 component and element of the master plan on the preservation of  
19 historic sites and districts;

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

22 (12) A recycling plan element which incorporates the State  
23 Recycling Plan goals, including provisions for the collection,  
24 disposition and recycling of recyclable materials designated in the  
25 municipal recycling ordinance, and for the collection, disposition  
26 and recycling of recyclable materials within any development  
27 proposal for the construction of 50 or more units of single-family  
28 residential housing or 25 or more units of multi-family residential  
29 housing and any commercial or industrial development proposal for  
30 the utilization of 1,000 square feet or more of land;

31 (13) A farmland preservation plan element, which shall include:  
32 an inventory of farm properties and a map illustrating significant  
33 areas of agricultural land; a statement showing that municipal  
34 ordinances support and promote agriculture as a business; and a  
35 plan for preserving as much farmland as possible in the short term  
36 by leveraging monies made available by P.L.1999, c.152 (C.13:8C-  
37 1 et al.) through a variety of mechanisms including, but not limited  
38 to, utilizing option agreements, installment purchases, and  
39 encouraging donations of permanent development easements; **[and]**

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

44 (15) A redevelopment plan element identifying all areas that  
45 have been designated in need of redevelopment or rehabilitation in  
46 the municipality as well as additional areas that may be so  
47 designated in the future, the goals and objectives of projected  
48 redevelopment activities in those areas during the time period

1 covered by the master plan, the manner in which those activities  
2 further the social, economic, and physical improvement of the  
3 municipality, and the manner in which redevelopment activities are  
4 linked to other activities being carried out by the municipality  
5 pursuant to the municipal master plan, including improvements to  
6 infrastructure, transportation improvements, and the construction of  
7 public and community facilities.

8 c. The master plan and its plan elements may be divided into  
9 subplans and subplan elements projected according to periods of  
10 time or staging sequences.

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

22 In the case of a municipality situated within the Highlands  
23 Region, as defined in section 3 of P.L.2004, c.120 (C.13:20-3), the  
24 master plan shall include a specific policy statement indicating the  
25 relationship of the proposed development of the municipality, as  
26 developed in the master plan, to the Highlands regional master plan  
27 adopted pursuant to section 8 of P.L.2004, c.120 (C.13:20-8).  
28 (cf: P.L.2004, c.120, s.60)

29  
30 11. (New section) a. Whenever a redevelopment project or  
31 projects involve the conveyance of land owned by the municipality,  
32 or any project, 20% or more of which will be constructed upon land  
33 subject to acquisition by the municipality or redevelopment entity  
34 pursuant to the redevelopment plan, the municipality shall approve,  
35 by ordinance, a written agreement designating a redeveloper  
36 selected in accordance with this section.

37 b. The municipality or redevelopment entity shall prepare or  
38 have prepared request for proposal documentation, which shall  
39 include: all requirements deemed appropriate and necessary to  
40 allow for full and free competition between potential redevelopers;  
41 information necessary for potential redevelopers to submit a  
42 proposal, including a copy of the redevelopment plan, a general  
43 description of the project or projects, and such municipal public  
44 records relating to buildings and improvements within the  
45 redevelopment area, including, but not limited to, services provided  
46 by public utilities, building permit, and assessment records; and a  
47 methodology by which the municipality will evaluate and rank  
48 proposals received from potential redevelopers.



- 1 c. The methodology for selecting a redeveloper shall be based  
2 on an evaluation and ranking which may include overall design,  
3 technical expertise, demonstrated experience on projects similar to  
4 the proposed project, the ability to finance the proposed project, and  
5 such other stated criteria as the municipality shall deem relevant.
- 6 d. At no time during the proposal solicitation process shall the  
7 municipality or redevelopment entity, or any employee or agent  
8 thereof, convey information to the public or any potential  
9 redeveloper which could confer an unfair advantage upon that  
10 potential redeveloper over any other potential redeveloper. If the  
11 municipality or redevelopment entity desires to change proposal  
12 documentation, the municipality or redevelopment entity shall  
13 notify only those potential redevelopers who received the proposal  
14 documentation of any and all changes in writing, and all existing  
15 documentation shall be changed appropriately.
- 16 e. All proposals shall be required to contain a statement of  
17 corporate ownership in accordance with the provisions of section 1  
18 of P.L.1977, c.33 (C.52:25-24.2) and specifications concerning  
19 equal employment opportunity and affirmative action pursuant to  
20 P.L.1975, c.127 (C.10:5-31 et seq.)
- 21 f. A notice of the availability of request for proposal  
22 documentation shall be published in an official newspaper of the  
23 municipality at least 30 days prior to the date established for the  
24 submission of proposals. Such notice shall provide the name,  
25 address, and phone number of the person who can provide  
26 additional information and a proposal document to an interested  
27 party. The municipality or redevelopment entity shall promptly  
28 reply to any request by an interested party by providing a copy of  
29 the request for proposals. The municipality or redevelopment entity  
30 may charge a fee for the proposal documentation that shall not  
31 exceed \$50 or the cost of reproducing the documentation,  
32 whichever is greater.
- 33 g. Each interested potential redeveloper shall submit a proposal  
34 which shall include all the information required by the request for  
35 proposals. Failure to meet the requirements of the request for  
36 proposals may result in the municipality or redevelopment entity  
37 disqualifying the potential redeveloper from further consideration.
- 38 h. The municipality or redevelopment entity shall review and  
39 evaluate all proposals only in accordance with the methodology  
40 described in the request for proposals. The review shall be  
41 conducted in a manner that avoids disclosure of the contents of any  
42 proposal prior to the selection of a redeveloper. The municipality  
43 or redevelopment entity may conduct discussions with a potential  
44 redeveloper submitting a proposal for the purpose of clarifying the  
45 information submitted in the proposal. The municipality or  
46 redevelopment entity may at any time revise its proposal document  
47 after the review of the submitted proposals if it notifies  
48 simultaneously, and in writing, each potential redeveloper that

1 submitted a proposal of the revision and provides a uniform time  
2 within which the potential redevelopers may submit a revised  
3 proposal for review.

4 i. The municipality or redevelopment entity shall select the  
5 proposal that received the highest evaluation and shall negotiate an  
6 agreement with the potential redeveloper that submitted the selected  
7 proposal. If the municipality or redevelopment entity is unable to  
8 negotiate a satisfactory agreement with the potential redeveloper  
9 that submitted the selected proposal, it may select the proposal that  
10 received the second highest evaluation from among those submitted  
11 and proceed to negotiate a satisfactory contract with the potential  
12 redeveloper that submitted the proposal. The process shall continue  
13 until a redeveloper is selected or the process is abandoned by the  
14 municipality or redevelopment entity. The decision to abandon the  
15 proposal process shall be by a resolution adopted by the governing  
16 body of the municipality or redevelopment entity.

17 j. After a redeveloper has been selected and a satisfactory  
18 agreement has been negotiated, but prior to the execution of the  
19 agreement by the governing body or redevelopment entity, the  
20 municipality or redevelopment entity shall prepare a report  
21 concerning the proposal selection process. The report shall list the  
22 names of all potential redevelopers who submitted a proposal and  
23 shall summarize the proposals of each potential redeveloper. The  
24 report shall (1) rank the potential redevelopers in order of  
25 evaluation; (2) summarize, in general terms, any unsuccessful  
26 negotiations with potential redevelopers that submitted proposals  
27 which were ranked higher than the proposal of the selected  
28 redeveloper; (3) recommend the selected redeveloper; and (4)  
29 summarize the project to be undertaken and the relevant terms of  
30 the proposed agreement. The report shall be made available to the  
31 public at least 48 hours prior to the introduction of an ordinance  
32 authorizing an agreement with the redeveloper.

33 k. The governing body of the municipality or redevelopment  
34 entity shall have the right to reject all proposals for any reason, but  
35 such reason must be given and the municipality shall not authorize  
36 another request for proposals concerning the same project or  
37 projects for a period of 30 days after the date of rejection or  
38 abandonment by the governing body.

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

46

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

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

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

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

6 c. a provision stating that the ability of the redeveloper to  
7 request acquisition by eminent domain shall lapse within five years  
8 of the effective date of the agreement, which provision may only be  
9 further extended by an ordinance adopted by the governing body  
10 after notice to any property owner whose rights will be directly  
11 affected by such an extension.

12 All mandatory schedules and time limitations within these  
13 provisions may be subject to tolling for any contingencies set forth  
14 in the agreement.

15

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

20 a. At such time residents are provided notice pursuant to the  
21 Workable Relocation Assistance Plan pursuant to rules and  
22 regulations of the Department of Community Affairs, they shall be  
23 provided with the opportunity to have their names entered into a  
24 registry of residents seeking the opportunity to purchase or lease a  
25 dwelling unit in the redevelopment project. The registry shall be  
26 maintained by the municipal relocation officer designated under the  
27 Workable Relocation Assistance Plan.

28 b. At such time that any residential development containing  
29 more than 10 dwelling units shall be constructed in any  
30 redevelopment area as a redevelopment project, the developer shall  
31 notify each individual on the registry, by registered mail and by e-  
32 mail to their last known mailing or e-mail address, as may be  
33 available, of their opportunity to purchase or lease a dwelling unit.  
34 It shall be the sole responsibility of the individual to maintain a  
35 current mailing address with the registry, and the developer shall be  
36 under no obligation to provide notice except as set forth in this  
37 subsection.

38 c. From the date of mailing of the notice, the individuals on the  
39 registry shall have eight business days before the units in such  
40 development are offered to the general public in order to enter into  
41 a contract of purchase or a lease for a unit in the development. Such  
42 contract or lease shall be on the same terms and at the same price as  
43 those on which the unit is initially offered to the general public.

44

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

47 6. Whenever any condemnor shall have determined to acquire  
48 property pursuant to law, including public property already devoted

1 to public purpose, but cannot acquire title thereto or possession  
2 thereof by agreement with a prospective condemnee, whether by  
3 reason of disagreement concerning the compensation to be paid or  
4 for any other cause, the condemnation of such property and the  
5 compensation to be paid therefor, and to whom payable, and all  
6 matters incidental thereto and arising therefrom shall be governed,  
7 ascertained and paid by and in the manner provided by this act;  
8 provided, however, that no action to condemn shall be instituted  
9 unless the condemnor is unable to acquire such title or possession  
10 through bona fide negotiations with the prospective condemnee,  
11 which negotiations shall include an offer in writing by the  
12 condemnor to the prospective condemnee holding the title of record  
13 to the property being condemned, setting forth the property and  
14 interest therein to be acquired, the compensation offered to be paid  
15 and **[a reasonable disclosure of the manner in which the amount of**  
16 **such offered compensation has been calculated]** a copy of the  
17 appraisal upon which the offer has been based and which was  
18 approved by the condemnor, and such other matters as may be  
19 required by the rules. Prior to such offer the taking agency shall  
20 appraise said property and the owner shall be given an opportunity  
21 to accompany the appraiser during inspection of the property**].** Such  
22 offer**]** and provide information, data or otherwise raise issues of  
23 concern to the owner relating to the valuation of the property and  
24 damages to the remainder arising from the proposed acquisition.  
25 The written offer made by a condemnor to a prospective condemnee  
26 holding record title to the property shall be served by certified mail  
27 by a private courier or in person along with a copy of the approved  
28 appraisal. In no event shall such offer be less than the taking  
29 agency's approved appraisal of the fair market value of such  
30 property. **[A rejection of said offer or failure to accept the same**  
31 **within the period fixed in written offer, which shall in no case be**  
32 **less than 14 days from the mailing of the offer, shall]** The  
33 prospective condemnee shall be afforded 45 calendar days from  
34 receipt of the written offer to review the offer and the approved  
35 appraisal upon which the offer was based, to seek clarification  
36 thereof as well as any other relevant information, to allow an  
37 opportunity to negotiate the compensation to be paid, and to request  
38 an opportunity to discuss the offer and the basis thereof with a  
39 representative of the condemnor in person. Prior to the expiration  
40 of this 45-day period, the prospective condemnee may request, in  
41 writing, an extension of this 45-day period for a period not  
42 exceeding an additional 25 days, for a total of 70 calendar days,  
43 which shall not be denied except for good cause shown by the  
44 condemnor. During this period, as it may be extended, the  
45 prospective condemnee may seek additional relevant information  
46 regarding the offer or regarding the project. Within the time period,  
47 as may be extended, the condemnor shall provide reasonable and

1 timely responses to requests for information and for explanations  
2 and shall afford an opportunity for the condemnee to meet in person  
3 on at least one occasion with a representative of the condemnor to  
4 discuss the offer and the basis thereof. The prospective condemnee  
5 may also obtain its own appraisal and share it with the prospective  
6 condemnor and seek a review thereof by the prospective  
7 condemnor. If the prospective condemnee rejects the written offer  
8 of the condemnor or otherwise does not affirmatively respond to the  
9 offer, the condemnor may then send in writing by certified mail,  
10 private courier, or in person, a letter setting forth an intent to  
11 commence condemnation proceedings in the Superior Court. Such  
12 letter, upon receipt, shall conclude bona fide negotiations between  
13 the prospective condemnor and condemnee. A disagreement over  
14 the amount of the offer, how the offer was calculated, or the method  
15 or manner in which the property was appraised shall not constitute  
16 grounds to continue negotiations or prevent the condemnor from  
17 successfully acquiring the property through the commencement of a  
18 condemnation proceeding and the appointment of condemnation  
19 commissioners. Nothing in this section shall be construed as  
20 requiring a condemnor to increase the amount of an offer during the  
21 review and negotiation period. A condemnor may file a complaint  
22 for condemnation in the manner provided by the Rules of Court  
23 anytime after expiration of the review and negotiation period  
24 provided for in this section, including any extension thereof,  
25 without the consent of the prospective condemnee, provided the  
26 condemnor is otherwise empowered to exercise the power of  
27 eminent domain and the condemnor has complied with the  
28 provisions of this section. Proof of the delivery of a written offer  
29 and a copy of the approved appraisal and the delivery of a letter of  
30 intent at the expiration of the negotiation period as set forth above,  
31 shall be deemed to be conclusive proof of the inability of the  
32 condemnor to acquire the property or possession thereof through  
33 negotiations. When the holder of the title is unknown, resides out  
34 of the State, or for other good cause, the court, upon application as  
35 a notice of motion as provided by the Rules of Court, may dispense  
36 with the necessity of such negotiations. Neither the offer, the  
37 amount thereof, nor the refusal thereof by the prospective  
38 condemnee shall be evidential in the determination of  
39 compensation.

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

41  
42 15. This act shall take effect on the first day of the fourth month  
43 next following enactment. Any final action taken by a municipality  
44 or redevelopment entity with respect to: a determination that an area  
45 is in need of redevelopment or in need of rehabilitation; enactment  
46 of a redevelopment plan; or designation of a redeveloper, prior to  
47 the effective date of this act shall have full force and effect, but any  
48 subsequent official action by the municipality or redevelopment

1 entity after the effective date of this act shall be subject to its  
2 provisions.

3

4

5

STATEMENT

6

7 This bill amends and supplements the provisions of the “Local  
8 Redevelopment and Housing Law” and the “Eminent Domain Act  
9 of 1971.” In June, 2005, the United States Supreme Court decided  
10 the case of Kelo v. City of New London, Connecticut, 125 S.Ct.  
11 2655 (2005), which dealt with the exercise of eminent domain by a  
12 local government to promote economic development. While the  
13 facts of that case are different than the law in New Jersey, the case  
14 sparked a great deal of debate on the propriety of the use of eminent  
15 domain by New Jersey municipalities exercising their  
16 redevelopment powers. The sponsor convened a working group  
17 comprised of various groups and individuals with interest and  
18 expertise in the area and the working group produced numerous  
19 recommendations to improve the accountability of and transparency  
20 in the redevelopment process and the use of eminent domain in New  
21 Jersey.

22 The New Jersey Constitution of 1947, Article VIII, Section III,  
23 paragraph 1, provides that “the clearance, replanning, development  
24 or redevelopment of blighted areas shall be a public purpose and  
25 public use, for which private property may be taken or acquired.  
26 Municipal, public or private corporations may be authorized by law  
27 to undertake such clearance, replanning, development or  
28 redevelopment; and improvements made for these purposes and  
29 uses, or for any of them, may be exempted from taxation, in whole  
30 or in part, for a limited period of time during which the profits of  
31 and dividends payable by any private corporation enjoying such tax  
32 exemption shall be limited by law. The conditions of use,  
33 ownership, management and control of such improvements shall be  
34 regulated by law.” This power was first implemented by the  
35 Legislature with the adoption of the Blighted Areas Act in 1949.  
36 The law was amended and modified several times and was last re-  
37 codified by the Legislature in 1992 as the “Local Redevelopment  
38 and Housing Law,” N.J.S.A.40A:12A-1 et seq.

39 As presently enacted, the “Local Redevelopment and Housing  
40 Law” is broader than the law first drafted in 1949. The sponsor  
41 believes that in many cases, this broadening was an attempt by prior  
42 Legislatures to respond to the changing needs of New Jersey  
43 municipal officials. In 1949, blight was largely an urban issue,  
44 characterized by abandoned factories and substandard housing. In  
45 the ensuing 50 years, the concept was broadened to include issues  
46 such as environmental contamination, faulty land use decisions, and  
47 underproductive land that could be found in urban, suburban and  
48 rural parts of our State. In turn, local government officials

1 representing all three types of municipalities have undertaken  
2 redevelopment projects permitted under existing law. Following  
3 the Kelo decision, these activities have fallen under greater public  
4 scrutiny and led to the reexamination of the law by the Legislature  
5 and the introduction of this bill.

6 This bill does not seek to prevent the exercise of eminent  
7 domain, but it does seek to ensure that it is used more judiciously  
8 and produces equitable results. The criteria for finding property to  
9 be an “area in need of redevelopment” would be reorganized and  
10 certain criteria would be amended to remove the possibility of a  
11 property owner losing their homes simply because a “better” use  
12 could be envisioned by a local government official. Further, the  
13 ability to include non-qualifying parcels in an area in need of  
14 redevelopment would be limited to 20% of the land mass within the  
15 proposed redevelopment area. If eminent domain is going to be  
16 used, the bill would require that the redevelopment agreement  
17 contain a timeframe for the acquisition of such property and a  
18 requirement that all requests for the use of eminent domain be made  
19 within five years of the date of the redevelopment agreement.  
20 Awards for eminent domain would be based on the highest value of  
21 the property, either at the time of taking or the time of the adoption  
22 of the redevelopment plan and would be based on the uses  
23 permitted under the plan. Additionally, any resident dislocated by  
24 the use of eminent domain would be granted a right of first refusal  
25 to purchase or lease a unit within the redevelopment project that  
26 resulted in their displacement.

27 The notice provisions for designing and undertaking a  
28 redevelopment project would be greatly enhanced under the bill.  
29 The bill would require an informational meeting before the process  
30 is formally begun for larger redevelopment projects. Notice to  
31 impacted property owners, including tenants, would be greatly  
32 expanded to include direct notice during, (1) the study of a  
33 proposed redevelopment area by a planning board, (2) the  
34 designation of an area in need of redevelopment by the governing  
35 body, and (3) the formulation and adoption of a redevelopment  
36 plan. For the adoption of a redevelopment plan, such notice would  
37 also be required to identify which parcels within the redevelopment  
38 area would be subject to acquisition by eminent domain.  
39 Additionally, the bill would require all significant steps of the  
40 process to be undertaken by ordinance so that public hearings are  
41 held by the governing body at each critical point in the process.  
42 Once a critical step is taken, the bill would provide a mandatory  
43 waiting period before moving onto the next step. This period would  
44 allow for proper planning and a chance for the impacted property  
45 owners, residents and neighbors to educate themselves about what  
46 has occurred and seek legal redress if they so choose. Once the  
47 waiting period has run, municipalities will be able to continue the  
48 process with a sense of finality and larger degree of certainty that

1 their previous actions are valid and safeguarded from judicial attack  
2 in the future. These amendments to the eminent domain and land  
3 use laws will add transparency to a process that is often subject to  
4 unnecessary miscommunication and will provide for the opportunity  
5 for greater public input and consensus.

6 The bill would also expand the scope of future redevelopment  
7 plans to identify, not just the benefits inherent in future  
8 redevelopment projects, but also the costs. In addition to an  
9 analysis of the land use controls, a redevelopment plan would be  
10 required to contain an inventory of environmental, historical and  
11 cultural assets within the redevelopment area, together with  
12 preservation and conservation strategies for such assets.  
13 Additionally, the redevelopment plan would need to quantify the  
14 impact of the plan on surrounding areas and the legal obligations  
15 applicable to low and moderate income persons within the  
16 municipality and the relocation needs arising from any displacement  
17 of residents or businesses as a result of the plan. Finally, the  
18 redevelopment plan would need to document consistency with  
19 smart growth planning principles. These amendments are designed  
20 to ensure that local governing bodies consider all relevant factors  
21 before adopting a plan.

22 The bill would also establish a process for selecting redevelopers  
23 for redevelopment projects that involve a significant amount of land  
24 that is either municipally owned or could be assembled by a  
25 municipality using eminent domain. Other changes include  
26 expanding the criteria for areas in need of rehabilitation. Areas in  
27 need of rehabilitation exist today and can be subjected to the  
28 controls and visions set forth in the redevelopment plan.  
29 Municipalities have the same powers to implement a redevelopment  
30 plan for an area in need of rehabilitation as a redevelopment area,  
31 except that municipalities cannot exercise the power of eminent  
32 domain. The proposed changes are designed to permit certain  
33 parcels to be designated an area in need of rehabilitation if they  
34 would be qualified for designation as an area in need of  
35 redevelopment under current law but would not support such  
36 designation under the proposed amendments. The bill would allow  
37 municipalities to identify areas that may be studied in the future for  
38 designation as redevelopment or rehabilitation areas when revising  
39 municipal master plans.

40 Finally, the bill amends the “Eminent Domain Act of 1971” in  
41 order to provide more protections to property owners and to codify  
42 current practices.

43 This bill would be effective on the first day of the first month  
44 that occurs at least 90 days following enactment. Recognizing that  
45 a redevelopment process contains three distinctive steps:  
46 designation of an area in need of redevelopment or rehabilitation,  
47 adoption of a redevelopment plan and authorization of a  
48 redevelopment agreement, this bill would grandfather existing



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1 redevelopment activities to the extent such activities are matured.  
2 Thus, if an area has already been designated as a redevelopment  
3 area under existing law, or a redevelopment plan has already been  
4 adopted, or a redevelopment agreement has already been authorized  
5 and executed, these actions would remain valid and given full force  
6 and effect. Future actions occurring after the effective date of this  
7 bill, however, would be governed by its provisions.